



CHINA

CAPITAL: Beijing

POPULATION: 1,318 million

GNI PER CAPITA: \$2,010

SCORES	2005	2007
ACCOUNTABILITY AND PUBLIC VOICE:	1.08	1.17
CIVIL LIBERTIES:	1.61	2.14
RULE OF LAW:	1.76	2.23
ANTICORRUPTION AND TRANSPARENCY:	2.18	2.49

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Thomas Gold

INTRODUCTION

The People's Republic of China (PRC) currently operates with a number of political and economic contradictions at its core. After nearly three decades of government-initiated market reforms, it formally remains a centralized, hierarchical, one-party state led by a Communist Party that is explicitly committed to building socialism as the forerunner of an ideal Communist society. But in practice, the central authorities in Beijing have a very difficult time compelling lower levels of the party and state to implement national policies, obey official rules, and provide accurate reports.

China is not a monolith by any stretch of the imagination. Geographically large and diverse, it has a population comprising fifty-six nationalities of widely divergent traditions, practices, and standards of living. Its history since the middle of the nineteenth century has been

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full of lurches, starts, and stops. Entire birth cohorts of people trained in a particular set of skills, values, and expectations have seen these discarded in favor of a new model, leading to enormous differences between generations, even among those brought up since the establishment of the PRC in 1949.

Since the end of 1978, the Chinese Communist Party (CCP) has been reshaping the PRC into a market-based and globally integrated economy, society, and culture. It labels this project “socialism with Chinese characteristics.” While producing gross domestic product (GDP) growth rates that are among the world’s highest, the party’s strategy has led to the sort of severe inequality, weak social-welfare system, worker exploitation, job insecurity, and environmental degradation that is associated with capitalism at its worst.

In place of the Marxist call for the proletariat to rise up and struggle against the bourgeoisie, the CCP has invited China’s new entrepreneurs to join the party, giving this class political legitimacy as an advanced social force. It has also passed a law protecting private property, and currently promotes the Confucian concept of building a harmonious society. Although the reforms have lifted tens of millions of rural and urban Chinese out of poverty, many people—especially those workers who have experienced a dizzying decline from their once-vaunted status as “masters of the country”—have greeted the changes with little enthusiasm.

Through the 1970s, the CCP tried to micromanage all aspects of Chinese life according to a blueprint for building socialism. By contrast, in the reform era that followed PRC founder Mao Zedong’s death in 1976, it has adopted a policy of “crossing the river by feeling for the stones,” improvising as fast as it can to keep the economy growing and material living standards rising. In this way, it hopes to buy off discontent stemming from the many contradictions noted above. The CCP’s willingness to experiment represents an astounding leap of faith for a Leninist party once committed to total control. It has retreated significantly from that goal, opening up space for individuals to make their own decisions regarding career, education, residence, marriage, taste, and belief.

A country that sought to export revolution in the 1960s now revels in its prestige as a prominent member of the UN Security Council and the World Trade Organization (WTO), its hosting of the 2008 Sum-

mer Olympics and the 2010 World Expo in Shanghai, as well as its self-styled “peaceful rise” and affirmation in September 2005 by the United States as a “responsible stakeholder” in global affairs. While China’s worldwide quest for natural resources to fuel its economy has attracted criticism for bolstering pariah regimes in countries including Sudan, Burma, and Zimbabwe, Beijing has also made concerted efforts to fulfill the responsible stakeholder role by helping to mediate the North Korean nuclear crisis and, after much prodding, agreeing to UN troop deployments aimed at stanching genocidal bloodshed in Sudan’s Darfur region.

The state constitution and laws provide for numerous rights and freedoms. While ensuring their implementation remains very problematic, it is also difficult to quantify the dynamism and change sweeping China, including in the realm of political practice. China is vibrant, undisciplined, and rollicking, yet simultaneously arbitrary, polluted, and oppressive. It is carving out a path of its own, one not traveled by other developing countries or states in transition from socialism. Its leaders and citizens are grappling with a relentless onslaught of unprecedented challenges, while also trying to construct and consolidate institutions to manage the new order.

Although the CCP no longer advocates revolutionary transformation, the past quarter-century of evolutionary reform has arguably brought about a more profound metamorphosis than any of Mao’s mass-mobilization campaigns. But the overlapping legacies of the imperial, nationalist, and Maoist periods still weigh heavily on Chinese society. This was quite clear in the summer of 2007. While touching off the one-year countdown to the Summer Olympics with a spectacular display of national pride and fireworks, Chinese leaders were dealing with a number of potentially explosive crises. Those include behind-the-scenes struggles over the selection of delegates and formulation of policies for the 17th Party Congress scheduled for the fall; concerns over the safety of Chinese food, toys, pharmaceuticals, and other products for both the global and domestic markets; mounting evidence of severe environmental degradation at home and its spread abroad; tightened restrictions on press freedom as media workers from around the world began to converge on China for the Olympics; and the cover-up of yet another public health threat.

ACCOUNTABILITY AND PUBLIC VOICE

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS:	0.25
EFFECTIVE AND ACCOUNTABLE GOVERNMENT:	1.75
CIVIC ENGAGEMENT AND CIVIC MONITORING:	1.67
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION:	1.00
CATEGORY AVERAGE:	1.17

China's booming economy has become increasingly privatized and market driven, and its urban and rural citizens have gained a significant measure of control over their economic, social, and cultural lives, but formal political life remains highly repressive and almost entirely monopolized by the CCP. There is no pretense of currently holding, nor does the regime plan to hold, regular, free, or fair elections above the village level. At a news conference on March 16, 2007, marking the conclusion of the Fifth Session of the National People's Congress (NPC), Premier Wen Jiabao reiterated that although "we must guarantee the people's rights to democratic election," the nation's priorities are "to develop our social productive forces . . . [and] promote social fairness and justice."¹ In an article published on February 27, 2007, Wen estimated that the "initial stage of socialism" said to lead to "socialist democracy" would take 100 years, and asserted that it required leadership by the CCP.²

As with other Marxist-Leninist parties, the CCP legitimizes its exclusive rule by claiming to be the vanguard of the leading forces in society. Previously this referred to the proletariat and poor peasants, but under the CCP's current formula of "The Three Represents," attributed to former general secretary Jiang Zemin, the party represents the interests of the most advanced forces in society, advanced culture, and the interests of the whole people (as determined by the party, of course). "Advanced forces" is seen as code for the new entrepreneurial elite. Entrepreneurs, the former targets of the dictatorship, are now being recruited into party, and legislative and consultative bodies at all levels. However, the entry of capitalists per se into the party and state should not be seen as an inevitable step toward a multiparty system or democracy. Scholarly researchers have found no evidence that China's new elite has any commitment to or desire for democracy.³ Indeed, many local entrepreneurs

are dependent on the largely unchecked power of local chiefs, with whom relationships based on crony capitalism are forged.

Except at the level of the village (which is not a unit of the formal government) and in urban neighborhoods, there are no elections for public office.⁴ The nomination of candidates for village chief remains a tightly controlled process, and even when non-CCP members win, they are often aggressively recruited into the party or subverted in carrying out their duties. Even then, the division of labor between the elected village head—often focused on economic development—and the appointed party boss has not been clarified, and relations can be hostile. Fraud, violence, and corruption have marred many of the elections.

There are eight “democratic parties” in China, mostly left over from the pre-PRC era. In the 1980s, they began to recruit new members. The main function of the parties is to “mutually supervise” the CCP, and they do not contest the limited elections that are held. Many of the parties’ members are appointed to the Chinese People’s Political Consultative Conference (CPPCC) at several levels, up to the national, where they conduct investigations and comment on pending legislation and other matters. The CPPCC meets at the same time as the People’s Congress. It has no power and serves primarily to co-opt well-known individuals from various sectors of society.⁵

There are closely managed elections for delegates to People’s Congresses at the local level,⁶ and some non-CCP members have stood and won, with victories reported in the media. These delegates select representatives to the next higher level of the Congress, all the way to the NPC, which is elected for a five-year term and has approximately 3,000 members. Common citizens thus have little influence over the selection of their government leaders. The process is managed in secret within the CCP, and there is no opportunity for the rotation of power among parties.

The only parts of China with a competitive multiparty system are the special administrative regions of Hong Kong and Macao, which Britain and Portugal returned to China under special arrangements on July 1, 1997, and December 20, 1999, respectively. On March 25, 2007, Hong Kong’s incumbent chief executive (CE), Donald Tsang, was reelected by an 800-member election committee whose members represent a range of professional and business communities, religious groups, and the local and national legislatures. He had originally been chosen in 2005 to replace the first CE, Tung Chee-hwa, who resigned before the end of his

second term. Unlike his predecessor, Tsang faced an opponent in 2007, meaning at least 100 of the electors had nominated his rival. Though the outcome was never in doubt, there was an actual campaign and public debates. According to its Basic Law, Hong Kong is supposed to be moving toward universal suffrage for the election of its leaders, but Beijing has so far delayed any major expansion of voting rights.⁷

The executive, legislative, and judicial branches of the PRC government do not oversee one another. Key figures are all appointed by, and accountable to, the CCP, where ultimate power lies. The political system is designed to ensure that the CCP remains in power by holding the top positions in all organizations of state, economy, and society, or through party structures parallel to and within these organizations. The party's Central Discipline Committee investigates and punishes wrongdoers among the membership, but these cases do not always make it to the formal legal system. Party branches monopolize the formulation of policy and appointment of personnel. That said, party control waxes and wanes, and dissent periodically emerges during meetings of the NPC. One instance of dissent arose during the recent passage of a Property Law.⁸ A draft was prepared in 2004, after years of discussion, and the law was expected to pass in 2006. But strong opposition from several corners delayed passage until March 2007. Opponents of the measure, who included intellectuals and party members, saw it, not without reason, as a stunning betrayal of the ideals they thought the CCP stood for, and argued that it sanctioned corruption and inequality. Ultimately, it passed with 97 percent of the vote, a less-than-perfect endorsement that indicated at least some ongoing disapproval.

The criteria for selection of civil servants have shifted along with the party's priorities. When the leadership's concerns were primarily political, demonstrated loyalty was the paramount qualification. With the change of focus to the Four Modernizations (agriculture, industry, science and technology, and national defense) since 1978, the party has sought out more technically skilled experts to join the party and staff state bureaucracies. The civil service exam was reestablished in 1994.⁹ Heads of ministries and subsidiary bureaus are almost universally CCP members, and their main commitment is to the party, or often to powerful patrons and factions within it. A major early achievement of the reforms was the introduction of a retirement system for party and state officials. This was illustrated by the requirement that Jiang Zemin retire

as CCP general secretary, state president, and chairman of the Central Military Commission between 2002 and 2004, although many members of his Shanghai faction remained in their jobs for several more years.

One of the most noticeable trends in China in recent years has been the growth of the nongovernmental organization (NGO) sector, and with it the makings of civil society, despite government efforts to restrict both. The state is of two minds about NGOs and civil society more broadly. NGOs are more likely to be welcomed when they supplement the work of the state, for instance by opening orphanages, delivering care to the elderly or disabled, or providing education and other forms of welfare to the rural poor, especially girls.¹⁰ But groups face suspicion when they adopt a more investigatory and critical stance or attempt to press their cases publicly, as have NGOs dealing with HIV/AIDS, environmental crises, and migrant workers.¹¹ Many of these groups and causes attract foreign support, heightening their sensitivity.

The government's policies toward NGOs pass through alternating periods of restriction and loosening, and the shifts are often unpredictable. In recognition of the significance of the emerging NGO sector, Beijing's prestigious Tsinghua University in 1988 established an NGO Research Center to investigate the topic, propose related legislation, and make policy recommendations to the government.¹² The restrictions on NGOs are clearly motivated by the CCP's concerns that groups in China, including foreign ones, might play the same sort of role as those in Georgia, Ukraine, and Kyrgyzstan in fomenting Color Revolutions. Nonetheless, numerous NGOs, especially in the environmental field, operate very actively in China. Although there are no established channels by which civic organizations can participate in the policy process, they comment quite forcefully on affairs of the day through their websites and blogs. They have had some successes, such as delaying (but apparently not canceling) dam building on the Nu River in the southwest and on a sacred Tibetan lake.¹³

The exact number of NGOs is not known because registration requirements are onerous and many groups prefer to avoid contact with the authorities. The Ministry of Civil Affairs reported 346,000 registered NGOs by the end of 2006, an 8 percent increase over the previous year.¹⁴ The All-China Environmental Federation, a GONGO (government-organized NGO), acknowledged that only 23.3 percent of environmental organizations were formally registered.¹⁵

The CCP views the media as an instrument to articulate and support its policies; to mobilize, unite, and divert the people; and to manage the impressions it gives to its own citizens and the outside world.¹⁶ Although the constitution's Article 35 guarantees free speech and freedom of the press, Article 51 warns that these cannot infringe on the "interests of the state." This deliberately vague guideline is an obvious impediment to media freedom. The party and the state own all media in whole or in part, and they are closely regulated by the authorities. However, with the advent of market-based reforms, even state-owned outlets must compete for audience and advertisers. This is done through sensationalized stories, articles about celebrities, and some degree of investigative reporting, but not through the free presentation of alternative viewpoints.

The party and state use a variety of tactics to control the media. In many cases they rely on "prior restraints," severely restricting the outlets that are allowed to operate and expecting journalists to practice self-censorship.¹⁷ The line between what is permitted and what is forbidden is never clear or fixed, but when the media are perceived to have crossed it, the authorities turn to various forms of overt intimidation and punishment. This may involve the use of the courts, police, or thugs; financial pressure; the closure of outlets; or the firing of individuals. For example, when Chinese reporters, including those from CCP mouthpiece *People's Daily*, were interviewing relatives of people killed in a bridge collapse, they were set upon and beaten by local toughs. Foreign journalists have likewise been detained and manhandled.¹⁸

There is general agreement that the situation for journalists in China has deteriorated in recent years.¹⁹ In one well-known case in September 2004, Zhao Yan, a crusading journalist for the rights of farmers and a researcher for the *New York Times*, was detained for "providing state secrets to foreigners" by revealing before the official announcement that Jiang Zemin would retire.²⁰ He was exonerated of this but was subsequently sentenced to three years' imprisonment on a fraud charge. Both of his trials were closed to the public.

Later that year, Shi Tao, an editor with the *Dangdai Shang Bao* (*Contemporary Business News*) of Changsha, Hunan, was arrested for divulging state secrets—namely, instructions from the Propaganda Department to his paper.²¹ In April 2005, Shi received a ten-year prison sentence. An additional disturbing aspect of his case was the revelation that Yahoo!

Holdings (Hong Kong), a division of the U.S.-based internet company Yahoo!, had provided information about his internet protocol (IP) address to the authorities.²² Subsequently, U.S.-based internet giant Google also admitted that it had modified its Chinese search engine to block sensitive topics including the 1989 Tiananmen Square massacre and the banned Falun Gong spiritual movement.²³ Ching Cheong, a Hong Kong citizen working for the Singapore-based *Straits Times*, was arrested as a spy in April 2005. As of December 2005, China had thirty-two journalists in jail, more than any other country.²⁴

The rapid growth of the internet in China, coupled with the extensive restrictions imposed on it by the authorities, is a revealing example of the contradictions currently permeating the country.²⁵ By the end of 2006, China had an estimated 144 million internet users, 23.4 percent more than the year before.²⁶ Although a visit to a typical internet café would indicate that a number of people (especially young men) use the medium primarily to play games, many Chinese surf the web in search of information about world or domestic affairs that they cannot get from official sources. They also use it to express their own opinions, with researchers at Tsinghua University predicting a total of 100 million Chinese bloggers in 2007.²⁷ The “blogosphere” may come to serve as a healthy safety valve for public debate as well as an important means of communication between the people and the state. However, the state continues its efforts to monitor, filter, and control the internet, erecting what foreigners call “The Great Firewall of China.”²⁸ Arrayed against the state’s surveillance are numerous “hacktivists,” who seek out or create ways to circumvent government controls.²⁹ In one recent example of the state’s influence, on August 22, 2007, the Internet Society of China, an offshoot of the Information Ministry, convinced at least twenty leading blog service providers to sign a “self-discipline pact,” encouraging them to register users under their real names and contact information. Reporters Without Borders condemned the pact, which Yahoo.cn and MSN.cn (a division of U.S.-based Microsoft) signed, though many bloggers did not appear to be terribly intimidated.³⁰

China’s journalists have actively protested acts of repression. For instance, in 2005 hundreds of reporters and staff at the outspoken *Beijing News* publicly demonstrated “against an editorial takeover by one of its parent publications, party mouthpiece *Guangming Daily*.”³¹ In February

2006, the top editors of *Freezing Point*, a weekly investigative supplement to the *China Youth Daily*, were removed after an article by historian Yuan Weishi criticized China's textbooks, though the paper had skirted the limits of what was permissible since its inception in 1995. A group of retired officials and intellectuals issued a public statement protesting the paper's closure, and a dismissed editor, Li Datong, went public with his criticisms.³² The shocking revelations of kidnapping and slavery at brick kilns in Shanxi province in the spring of 2007 prompted reflection on the responsibilities and shortcomings of the media by one of the more daring papers, *Southern Metropolis Daily*. Even *China Daily*, the official English-language paper, published a signed opinion piece stressing the need for investigative reporting.³³

Sensitive to global public opinion in the run-up to the 2008 Summer Olympics in Beijing, the Foreign Ministry in December 2006 announced new regulations permitting foreign journalists to conduct interviews anywhere in the country without prior permission from local officials. The rules were to expire on October 17, 2008.³⁴ International human rights groups including Human Rights Watch, Amnesty International, the Committee to Protect Journalists, and Reporters Without Borders have begun to test the limits of this policy, and their disconcerting findings indicate that it has not been successfully implemented.

Many official media outlets, concerned with public opinion and frustration regarding corruption, conduct hard-hitting investigations of wrongdoing at the local level. Here again, the authorities have not clearly defined the limits of what can be revealed, the proper selection of targets, and the autonomy of reporters to pursue their own stories rather than be used by officials to expose and bring down other officials.

Limits are similarly vague for other types of artistic expression, but control has softened considerably with the advent of market-based competition.³⁵ Television now offers a wide variety of program choices, and entertainment provides a way to divert the public's attention from politics and other sensitive topics. One television show that drew a great deal of scrutiny in 2005 was the *Super Girl* contest, a satellite broadcast out of Hunan that used the same format as *American Idol*. It became a matter of official concern not only because of the winner's androgyny, but because millions of fans nationwide voted by cellular telephone, clearly indicating that they were willing to express their opinions in a democratic contest.

Recommendations

- China's leaders should continue to expand and perfect village elections and experiment with township and urban elections. Institutions for positive working relations between elected officials and local party chiefs should be built.
- The leadership should continue to raise the quality of civil servants at all levels. Higher officials should regularly spend time at local levels to better understand the situation on the ground and in order to close the gap between the leadership and the people.
- Registration for civil society groups should be made easier, and the government should work to build channels for such groups to engage in public discourse with the party and state on important issues, such as the environment, corruption, and welfare. Moreover, the leadership should invite representatives of NGOs to testify before congresses or publicize their opinions in the media.
- The government should recognize the diminishing returns of its attempts to monitor the internet and encourage party and state officials to engage in competition and debate with bloggers and other internet users. Officials should not fear the expression of public opinion and diverse views.

CIVIL LIBERTIES

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE:	1.57
GENDER EQUITY:	3.50
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS:	2.50
FREEDOM OF CONSCIENCE AND BELIEF:	1.33
FREEDOM OF ASSOCIATION AND ASSEMBLY:	1.80
CATEGORY AVERAGE:	2.14

Even though political institutions in China have not undergone major change, the degree to which Chinese can manage their own lives has increased substantially in the reform era. This is a very significant development, but it should be emphasized that not all Chinese are pleased

with the reforms, which have also produced great economic inequality and made the fulfillment of basic needs less secure. And, as with so many things in China, the boundaries of what is permissible are arbitrary and constantly shifting.

It is worth noting that the 1982 constitution (amended several times) stresses the fundamental agency of the state rather than the individual, and the rights of citizens are listed along with their numerous duties and obligations. Article 33 was amended in 2004 to proclaim that “the state respects and preserves human rights.” However, the preponderance of the evidence, much of it from Chinese official sources, clearly indicates that these rights are commonly ignored in practice. Citizens have begun to demand that the organs of authority respect and enforce their constitutional rights. This includes not only the sophisticated urban middle class but, even more significantly, vast numbers of farmers. The call for the enforcement of rights already on the books, rather than any demand for electoral democracy, constitutes the core of popular political struggle in China.

In spite of obstructions, restrictions, surveillance, and intimidation, the UN Commission on Human Rights Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment effectively corroborated long-standing allegations of these practices during a visit to China in late 2005.³⁶ A number of international organizations regularly publish information about the brutal treatment of detainees and deplorable prison conditions in China. Even internationally known activists, such as the lawyers Gao Zhisheng and Chen Guancheng (who is blind), have been beaten.³⁷ Central authorities have also recognized some of these practices and announced measures to curb them. These include prohibiting the use of evidence obtained through coerced confessions, punishing officials who use or sanction torture, and passing laws on criminal procedure.³⁸ In 1998, China signed—but has yet to ratify—the International Covenant on Civil and Political Rights (ICCPR). It did ratify the UN Convention Against Torture in 1988. The absence of an independent judiciary is one major obstacle to implementing these covenants, as is the general problem of local authorities ignoring orders from the center, misreporting the situation in their jurisdictions, and receiving protection from patrons at higher levels.

In 2005, officials acknowledged an upsurge in protests of various kinds, some of which attracted the attention of the domestic and inter-

national media. One traditional form of protest that remains popular is the petition, by which individuals bring complaints against local officials to higher levels in the administrative hierarchy in a bid to resolve grievances such as corruption, forced resettlement, land grabs, and miscarriage of justice.³⁹ This use of the law by petitioners is referred to as “rightful resistance.”⁴⁰ Petitioners believe that higher-level officials, including the top leaders in Beijing, will support them and punish miscreant subordinates once their misdeeds are exposed. In reality, petitioners are commonly sent back home, where humiliated and furious local officials exact revenge both through the formal legal system and the use of thugs.⁴¹

Other protests are defined as “mass incidents,” which include “riots, protests, demonstrations, and mass petitions.”⁴² The Ministry of Public Security stated that there were 58,000 such incidents in 2003, 74,000 in 2004, and 87,000 in 2005, with a decline in 2006, although the criteria for categorizing various types of disturbance remain confusing.⁴³ One major protest took place in early December 2005 in Dongzhou, a farming and fishing town in Guangdong, 125 miles northeast of Hong Kong. The proximate cause was inadequate compensation for land confiscated to build a power plant; villagers had failed in their efforts to utilize the petition system. Ordinary police and members of the paramilitary People’s Armed Police (PAP) suppressed them violently, killing between ten and twenty.⁴⁴ The use of police, the PAP, and hired thugs to deal with such protests reveals a distinct lack of respect for the civil liberties of the participants, who generally begin their pursuit of justice with nonviolent petitions. The crackdowns result in arbitrary arrests, torture, and an atmosphere of terror.

The regime in 2007 missed a chance to dismantle the reeducation through labor (RTL) system (*laojiao*), adopted in 1957. The system permits police to sentence people to a maximum of four years’ incarceration for petty crimes, although it originally targeted counterrevolutionaries. A Chinese legal expert acknowledged in early 2007 that the practice violated the state constitution, the Criminal Procedure Law, and the International Covenant on Civil and Political Rights.⁴⁵ Sentences under RTL may be stiffer than those under the criminal law, and detainees in RTL facilities face torture and harsh conditions. Although a proposal to abolish RTL was on the agenda for the 2007 meeting of the National People’s Congress, it did not pass, largely due to opposition from the Ministry of Public Security.⁴⁶

The CCP made the liberation of Chinese women a top priority from its earliest days, and it achieved a great deal, particularly in freeing many women from arranged marriages and getting them into the wage-earning workforce. Nearly all girls receive some primary education. Article 48 of the constitution grants women “equal rights with men in all spheres of life,” and they are supposed to receive “equal pay for equal work,” but as in most societies, gender inequality in China is entrenched and very resistant to change.⁴⁷

Since the late 1970s, the state has implemented a draconian family-planning policy, generally limiting urban families to one child and rural families to two. Given China’s traditional preference for males, which no legislation can eradicate, an unintended consequence of the single-child policy has been the selective abortion of female fetuses and even the revival of female infanticide. Ninety-nine cities have more than 125 boys for every 100 girls, and there are already “18 million more men than women of marriageable age.”⁴⁸ Ironically, this has in turn resulted in an upsurge in trafficking in women to supply the market for brides and female labor, including sex work. NGOs have been active in addressing this problem, and the government has severely punished traffickers, tried to reunite victims with their families, and cooperated on the issue with other countries in the region.⁴⁹

The Chinese government is a latecomer in paying attention to the special needs of people with disabilities, estimated at eighty-three million in the country. China still lacks many facilities and programs to ensure their full participation in society, and poverty and unemployment rates among the disabled are high,⁵⁰ despite increased activity by NGOs.

The constitution declares that “all nationalities in the People’s Republic of China are equal” and protects their “lawful rights and interests.” There are officially fifty-five minority nationalities, with populations ranging from 15.5 million (Zhuang) to 2,300 (Lhoba) people. Some maintain distinct cultures, including folk religions, while others have assimilated to the culture of the majority Han, who make up 92 percent of the population. Minorities are exempt from the single-child family policy in their regions, which has bred resentment among some Han.

The minority nationalities that have attracted the most foreign attention are the Tibetans and the Uyghurs; the latter, along with several other Muslim peoples, populate the far western region of Xinjiang. The

Tibetans and Uyghurs both have elaborate religion-based cultures that are quite distinct from the Han culture; these are not suppressed *per se*. In fact, the state in recent decades has rebuilt temples and mosques, many of which were destroyed under Mao, though such restorations stem from a desire to co-opt the people and earn tourist income as much as from any respect for the cultures themselves.

The state is most concerned with Tibetan and Uyghur separatist movements, which receive various forms of support from abroad. The authorities take a rigid and punitive position on these movements, vilifying Tibet's exiled leader, the Dalai Lama, and characterizing dissident Uyghurs as Islamist terrorists. The Dalai Lama has in fact renounced independence as a goal for Tibet, saying he seeks only to broker more autonomy for the people who still venerate him. Within his movement, however, there are restless members who do advocate a more extreme, even violent approach.

Under a policy of developing the western regions of the country, Han Chinese are flooding into Tibet, Xinjiang, and Inner Mongolia, where they now dominate the economy as well as political and cultural life. Some foreign critics have condemned this as a thinly veiled form of cultural genocide. The opening of the last link of the Beijing–Lhasa railway in mid-2006 has been both hailed as a pipeline for the development of the Tibetan region and condemned as a funnel for outside influence.⁵¹

The state operates affirmative-action programs for minorities, recruiting many to top schools so that they can return to their home regions as loyal officials. Communist Party members cannot be religious believers, as communist ideology regards religion as nonscientific and a tool of the old exploiting classes and foreign imperialists. However, many CCP members do practice religions, mainly Buddhism, and some were open followers of Falun Gong until it was suppressed in 1999. Open believers cannot rise to the top of the political system, although they occupy important lower posts in the bureaucracy.

One disadvantaged group that has drawn attention in recent years is the so-called migrant or floating population. Until the 1990s, Chinese without official urban residence permits (*hukou*), typically farmers, could not live in the cities. Movement from city to city was also quite difficult. With the dismantling of collective agriculture and the rise of the market economy, rural people began migrating to cities to seek

employment. However, the migrants, estimated to number over 130 million, still live in a sort of legal limbo. They are regularly cheated out of their wages, and have little recourse to claim them. Many work in very difficult and dangerous fields, such as construction, suffering high accident rates without insurance. They often live in appalling conditions, and if their families join them, the children are not eligible for schooling.⁵² The recent brick-kiln enslavement scandal in Shanxi province—and the collusion of local officials and police in this brutality—focused attention at least briefly on the exploitation of migrant labor. The case also revealed the weakness of the legal system.⁵³

Article 36 of the constitution protects “freedom of religious belief.” There are five officially recognized religions: Daoism (Taoism), Buddhism, Islam, nondenominational Christianity, and Catholicism. Each has a state-run association to manage and monitor its affairs. According to the constitution, the state cannot “compel citizens to believe in, or not to believe in, any religion” and cannot discriminate against believers. The state protects “normal religious activities,” which it defines and manages through the Religious Affairs Bureau. In March 2005, the government passed regulations on religious affairs; the official goal was to better protect religious freedom, but critics claim that the vagueness and arbitrariness of the term “normal,” as well as strictures against using religion to “disrupt public order,” give the authorities wide scope to suppress any behavior that raises their suspicions.⁵⁴

Officials have fueled resentment by demolishing so-called house churches, buildings where Catholics and other Christians choose to worship outside the state-managed congregations for various reasons. Some Catholics remain loyal to the pope instead of the Chinese Catholic Patriotic Association, provoking government friction with the Vatican, which insists it has ultimate authority over doctrine and the appointment of church officials (and which maintains diplomatic relations with Taiwan). The state sees this as interference in China’s internal affairs. In truth, many foreign religious groups do support Catholic and other Christian “underground” congregations. Their activities sometimes go beyond the defense of human rights and civil liberties and aim at religious conversion. Many Chinese outside the government resent this and associate missionary work with past imperialist aggression against China.

In February 2006, Pope Benedict XVI provocatively made Bishop Joseph Zen of Hong Kong a cardinal. Zen, a Shanghai native, has fre-

quently criticized the CCP. But in July 2007, the pope issued a letter to Chinese Catholics trying to reconcile the official and underground churches, without relinquishing the Vatican's right to appoint bishops. As older bishops die off, this may become a greater source of conflict.⁵⁵

While Buddhism as a whole is not terribly problematic from the regime's point of view, Tibetan Buddhism is extremely sensitive. A particularly contentious case of state involvement in the appointment of religious leaders involves the Panchen Lama, Tibet's second-highest ranking religious figure. The tenth Panchen Lama died in 1989, and a competition began between the CCP and independent believers to find his reincarnation. In May 1995, the Dalai Lama recognized a six-year-old boy as the reincarnation, but in November the state named another. The first boy disappeared, and his whereabouts remain unknown.⁵⁶ In 2006, the state-approved Panchen Lama made his first major public appearance at an international Buddhist convocation in China.⁵⁷ In August 2007, in a patently bizarre move analogous to the policy on naming Catholic bishops, the atheistic state's Religious Affairs Bureau issued a set of fourteen regulations requiring that all reincarnated lamas receive government approval through the official Chinese Buddhist Association. Beijing is clearly positioning itself to assert authority over Tibetan Buddhism as the Dalai Lama ages.⁵⁸

While Christianity is associated with imperialist aggression and Tibetan Buddhism with separatism, China's leaders link Islam to both separatism and terrorism. As noted above, the state has built new mosques and restored older ones that had been confiscated and used for other purposes. There is state-sponsored and private Islamic education, and many Chinese Muslims study abroad in such countries as Egypt, Syria, Pakistan, Iran, and Saudi Arabia, sometimes bringing back intolerance toward local practices. Nonetheless, women play an active role in Islamic education in China.⁵⁹

The numbers of religious believers have increased steadily, although reliable figures are hard to come by. This is true of Christians in particular. Officially, there are about 5 million Catholics and 15 million other Christians, but some estimates suggest 10 million Catholics and anywhere from 30 to 90 million Protestants.⁶⁰ Muslims are "conservatively estimated" to number 20 million.⁶¹

Article 35 of the constitution grants citizens "freedom of assembly, of association, of procession, and of demonstration." Again, Article 51

trumps these freedoms, stating that their exercise “may not infringe upon the interests of the state,” without clearly specifying what that means. The limited channels for expression of discontent and the redress of grievances tends to lead to protests, which the state often violently disperses.

The state does not permit free and independent trade unions, and it suppresses attempts to organize them.⁶² All unions are arms of the CCP and function as much to control workers as to represent their interests. Such is the attraction of China’s market and plentiful, cheap labor supply that two staunchly antiunion U.S. companies, Wal-Mart and McDonald’s, acceded to the government’s pressure to unionize their stores in 2006 and 2007, respectively. In 2006, the state began to draft a Labor Contract Law to crack down on sweatshops, protect workers, and empower unions; while these steps provoked opposition from foreign investors, U.S. unions organized a campaign of support.⁶³ The Standing Committee of the National People’s Congress passed the measure in June 2007, and it is due to take effect January 1, 2008.⁶⁴

The days of China’s strict organization into mass associations or rural collectives are over. Membership in the Communist Youth League and the CCP still conveys certain benefits, whether it is a direct career boost or the establishment of more subtle *guanxi* (connections). But more and more Chinese are participating in civic life on their own, such as in NGOs or via internet chat rooms and blogs. Chambers of Commerce, with local and foreign members, have also begun to assume an important role in Chinese life.

Recommendations

- The government should increase planning and resources devoted to enforcing constitutional provisions and existing laws guaranteeing civil liberties, and punish officers of the state who violate those rights.
- The authorities should open channels such as town-hall meetings and expand current experiments with “consultative democracy,” which allow citizens to both express grievances and offer constructive opinions. The leadership should also prevent officials from interfering with this process or exacting revenge on those who participate.
- The government should work more actively and directly with religious groups in China to enrich spiritual life for believers and non-believers alike.

- Additional efforts should be made to protect girls and women from trafficking, and to address the gender imbalance that helps fuel the practice.

RULE OF LAW

INDEPENDENT JUDICIARY:	1.80
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS:	1.17
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES:	2.50
PROTECTION OF PROPERTY RIGHTS:	2.67
EQUAL TREATMENT UNDER THE LAW:	3.00
CATEGORY AVERAGE:	2.23

The CCP routinely acknowledges the need for China to become a society characterized by the rule of law as opposed to the rule by law. In the former, every person and organization is equal under the law, whereas in the latter, dominant groups or individuals use the law as a malleable tool to maintain their position.

Implementing the rule of law in China is extremely difficult for several reasons. Traditionally, Chinese officials, as supposedly morally superior men, were above the law, which was seen as an instrument to enforce the rule of the state. The CCP inherited this basic approach, adding the justification that party members, as the vanguard of society, needed to use laws to protect the achievements of the revolution against class enemies. During the Cultural Revolution under Mao, the legal system collapsed along with much of the social order, adding to the current challenge.

The first laws passed in the reform era were aimed at suppressing the criminality that was still rampant following the breakdown of social order. Since 1983, the CCP has utilized “strike hard” campaigns to round up and severely punish, often with mass trials and executions, large numbers of people, particularly young people. The public, remembering the chaos of the Cultural Revolution, continues to support these harsh measures. China reputedly leads the world in executions, although

exact and verifiable numbers are not available. From January 1, 2007, the Supreme People's Court regained the right to review all death penalty decisions, and the state reported that in 2006 it had meted out the fewest death sentences since 1997, without revealing any hard figures. Human rights activists put the number of executions at between 10,000 and 15,000, more than the rest of the world combined.⁶⁵ There is no plan to abolish the death penalty. After the initial period of anticrime legislation, laws to regulate the market-oriented economy were passed, along with administrative and criminal procedure codes.

Despite skepticism about the sincerity of the reform project and cynicism regarding its practical application, propaganda supporting the rule of law is ubiquitous. The print and broadcast media run detailed pieces on civil and criminal cases, as well as opinion articles, lectures, and discussions by experts and officers of the law. There are more than ninety specialized law journals. Television dramas regularly depict the legal system, police, lawyers, and judges, all with a pedagogical as well as entertainment goal. Instructional books offer help in navigating the evolving legal system,⁶⁶ and discussions in internet chat rooms address legal issues.

Nevertheless, the judiciary remains a tool of the CCP, and it rarely shows signs of independence or autonomy. The courts, including the Supreme People's Court, are answerable to the National People's Congress. At the lower levels, judges are appointed by local officials, further reducing their independence. Corruption is rife within the judicial system, but in the economic realm, particularly in cases involving foreign interests, the law is administered in a more impartial fashion.

Training of qualified judicial officials remains a work in progress. In the early reform era, police and military officers were assigned to staff the newly reconstituted legal system. They had only rudimentary training or familiarity with the law. The revival of law schools and the assistance of foreign experts, along with the support of the leadership, have helped improve the professional standards of judges, but structural constraints on the system remain significant.⁶⁷

Suspects are not presumed innocent until proven guilty, and confessions are regularly coerced. Illegal detentions and the use of RTL are still common. Although Article 125 of the constitution guarantees public trials, this comes with a vague exception for cases involving "special circumstances," meaning many cases deemed sensitive are inaccessible even

to family members of the accused. Citizens have a formal right to counsel, but many attorneys feel too intimidated to represent clients in sensitive cases. Moreover, lawyers are often treated almost as accomplices of defendants, and they are frequently prevented from meeting with their clients. In a promising development, a new cohort of activist lawyers and law professors has emerged to take on sensitive cases as part of their larger reform agenda. Additionally, with backing from the Ministry of Justice, legal aid centers to provide counsel for indigent clients have sprung up rapidly, although the number of cases handled is small. Lawyers in China are required to perform pro bono work, but enforcement is problematic.⁶⁸

Prosecutors are also agents of the party and state and thus lack independence. However, public officials and party members are regularly prosecuted for a range of crimes, most notably corruption. As in the 2006 case of Shanghai party secretary Chen Liangyu and the 2007 case of former State Food and Drug Administration director Zheng Xiaoyu, they are often detained, investigated, and punished by the party's own judicial and discipline organs before facing the ordinary courts. Zheng, whose case was linked to the international scandal of tainted Chinese food products, was subsequently sentenced to death in the formal court system. In July 2007, Chen lost his membership in both the Shanghai People's Congress and National People's Congress, though his case had yet to come to trial. In the run-up to the 17th Party Congress, the leadership wants to be seen as determined to root out and punish corruption in its ranks.

The People's Liberation Army (PLA) is the military of both the party and the state; it is overseen by the respective Central Military Commissions of the party and state, whose leaders are identical. There is a Ministry of National Defense, but it is subordinate to the state Central Military Commission and does not have direct control over the PLA. President Hu Jintao, like Jiang Zemin before him, heads both the CCP and the two Central Military Commissions. Aside from the top leadership, there is virtually no civilian control or oversight of the police, military, or internal security forces. They are rarely held accountable for abuse of power, although cases of torture have been brought to light, such as the 2003 beating death of graphic designer Sun Zhigang in a Guangzhou detention center. That case demonstrated the power of the

media and especially the internet in exposing misconduct and exerting popular pressure on the state to punish violators. Nonetheless, these are exceptions, and the agents of law enforcement are not perceived as respectful of human rights.

Private property rights in the PRC have undergone a major transformation in the reform era. The state took tentative steps toward opening a space for private business, at the level of microenterprises, in 1978, and it has expanded and deepened tremendously since then. The constitution has been amended several times to reflect the standing of the private sector and to guarantee the rights of private business and property ownership. Many laws to manage the newly privatizing, market-based economy were designed to attract and reassure foreign investors, as well as to facilitate China's entry into the WTO.⁶⁹ The Private Property Law, passed by the NPC in March 2007, was a major—although not universally applauded—step toward protecting private property more generally. The related issue of housing ownership is highly contentious. As China continues to remake its urban and rural landscape, housing, which has only recently become privatized, is regularly marked for demolition. The Chinese character for demolition, *chai*, is ubiquitous in the cities. Owners complain of inadequate compensation for their property, victimization by corrupt officials involved in development deals, and compulsory eviction to distant suburbs. Meanwhile, wealthy owners of luxury flats and homes in gated communities have organized homeowners' associations to defend their property rights.⁷⁰

Recommendations

- The government should continue to reform the legal system to comply with international standards as set out in the ICCPR, which should be ratified.
- The government should consistently implement the constitutional provisions for the legal system at all levels. These include the inviolability of the freedom of persons (Article 37), and the rights to criticize and expose wrongdoing by officials (Article 41).
- The government should strengthen and monitor the system for seizure of land and compensation, ensuring that those evicted are provided with adequate time, resources, and options for resettlement.

ANTICORRUPTION AND TRANSPARENCY

ENVIRONMENT TO PROTECT AGAINST CORRUPTION:	2.80
EXISTENCE OF LAWS AND ETHICAL STANDARDS BETWEEN PRIVATE AND PUBLIC SECTORS:	2.50
ENFORCEMENT OF ANTICORRUPTION LAWS:	2.50
GOVERNMENTAL TRANSPARENCY:	2.14
CATEGORY AVERAGE:	2.49

While China today has linked itself to the global communications system, with information flowing rapidly through multiple domestic and international channels, the CCP retains much of its habitual secrecy and is disinclined to share information when it is not seen as absolutely necessary. The central government has been promulgating decrees and laws that lay the groundwork for more transparency, but actual implementation remains an enormous challenge. The authorities openly acknowledge that corruption is rampant. It is fueled by the CCP's structure and mindset; the control of significant economic assets by some party members, their families, and their client networks; and, as discussed above, the lack of an independent judiciary, a repressive media environment, and inadequate protections for petitioners and whistle-blowers.

Corruption intensified during the 1990s as economic growth accelerated and the opportunities for officials to profit from their positions multiplied.⁷¹ Officials' personal assets are not disclosed in a reliable way, and much of their corrupt activity is conducted through family members. Many cases have involved the collection of bribes for the procurement of licenses or the manipulation of regulations, but the most flagrant examples of corruption center on land deals. While less common than the mass protests in rural areas over corrupt land deals, protests also occur in the cities, where many officials use their power to exploit the booming real-estate market.

One of the most widely publicized cases involved Politburo member and Shanghai party secretary Chen Liangyu.⁷² In the fall of 2006, he was charged with involvement in corrupt land deals and misuse of the city's pension fund. Given that many bankrupt state-owned enterprises and

local governments claim they cannot afford to pay promised pensions to retired and laid-off workers, the latter aspect of the Chen case proved particularly grating. He was removed from office and punished within the party before his case entered the state legal system.

Although corruption cases are being investigated at all levels—more than 6,000 officials were punished between July 2005 and the end of 2006—powerful personal networks often have significant influence over who is pursued by the authorities.⁷³ Chen's downfall was interpreted by many observers as a sign that President Hu Jintao had accumulated enough clout to move against the remnants of former president Jiang Zemin's Shanghai faction, which opposed him on several issues. The previously mentioned execution of Zheng Xiaoyu, meanwhile, occurred in the context of China's attempts to restore confidence in its exports and was widely seen as a demonstration of accountability for the international community rather than the result of a standard corruption investigation.

Access to higher education is in large part meritocratic, based on a national entrance examination. In recent years, however, universities have sought ways to enhance revenues in the face of reduced state support, so students from wealthy families may be able to buy special favors.⁷⁴

The National Audit Office has been active in exposing and investigating corruption.⁷⁵ However, the sacking of the chief of the National Bureau of Statistics, Qiu Xiaohua, for suspected involvement in the Shanghai fund scandal raised doubts about the reliability of official statistics.⁷⁶

Of the CCP's recent moves in the direction of openness,⁷⁷ some have been a response to what are literally matters of life and death. Secrecy and deception regarding the SARS outbreak in 2003 had lethal consequences and drew international outrage. The government has been more forthcoming in revealing cases of avian influenza, but figures on HIV/AIDS and an outbreak of the highly infectious blue-ear pig disease in the summer of 2007 remain problematic. The cover-up around a November 2005 toxic chemical spill into the Songhua River threatened not only the water supply of the Chinese regions it passed through, but the Russian Far East as well. This similarly attracted international condemnation. Soon after, the government issued an emergency response plan, including for natural disasters.⁷⁸

Amid a series of revelations concerning defective, counterfeit, and unsafe Chinese products starting in the summer of 2007, the authorities issued nationalistic attacks on the safety of imported products from the United States and elsewhere, but also pledged to investigate malfeasance and provide accurate information to domestic and international consumers.

A recent decree set to take effect on May 1, 2008, recognizes the importance of transparency in its first article, and requires local governments to open their books and reveal the terms and compensation for land seizures to citizens who request the information. As might be expected, the decree also includes a catch-all clause stating that information harmful to state security and social stability cannot be disclosed.⁷⁹ If actually implemented, these regulations could have a significant effect on the behavior of local officials, to say nothing of public health and safety.

The official websites www.gov.cn, china.com.cn, and china.org.cn provide a great deal of information about the Chinese system, as well as numerous reports from the state media in a variety of languages. This means that government agencies face new requirements to disclose what they do, and are subject to popular scrutiny. Although the arrangement is hardly transparent, it is a significant breakthrough for a Leninist state, and considering the outcome associated with transparency (*glasnost*) in the Soviet Union, it is a very risky move.

One area where transparency is making some slow headway is the state budget process. While the constitution (Articles 67 and 99) grants people's congresses at all levels the power to examine and approve budgets, lack of expertise, limited time for review, and the legacy of a planned economy have made exercise of this power little more than a ritual. However, experiments with "consultative democracy" at the lowest level—township people's congresses—and the central government's collaboration with the Organization for Economic Cooperation and Development and World Bank are enhancing the capacity of delegates to perform these mandated tasks.⁸⁰

Recommendations

- The authorities should allow the petition and court systems to play a larger role in combating corruption at local levels, with freer rein also

given to the media, NGOs, and citizens to expose cases of corruption and adequate protection for petitioners, litigants, and whistle-blowers from officials who threaten them.

- More resources and autonomy should be granted to regulating agencies, both in terms of auditing state agencies and in regulating unsafe and unhealthy practices by private firms.
- The authorities should bring cases of corruption by party members into the state court system expeditiously and grant judges autonomy to adjudicate cases without political interference.
- The government should continue to disclose information about natural disasters and health risks and improve both the transparency of the information and the efficiency of its dissemination, thereby allowing Chinese and foreigners to take timely and appropriate protective measures.

NOTES

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- ¹¹ Dann Dulin, "China's Conscience," *A&U*, February 2006, 22–23, 34. In May 2007, the subject of this article, the activist Hu Jia, was detained and prevented from traveling to Europe to speak about human rights violations in China. This occurred the day after British foreign secretary Margaret Beckett called on the Chinese authorities to allow

more freedom of expression. Gao Yaojie, an octogenarian doctor who exposed the plight of poor villagers in Henan province who had become infected with HIV/AIDS by selling their blood, was initially refused permission by embarrassed local officials to go to the United States in March 2007 to receive an award for her work. International pressure and intervention from Beijing facilitated her exit, although she was subjected to house arrest upon her return. In August 2007, the government began a crackdown on AIDS organizations and international conferences. Jonathan Watts, "China Bars Activist From UK Visit in Pre-Olympic Crackdown," *Guardian*, 18 May 2007, <http://www.guardian.co.uk/china/story/0,,2082996,00.html>; Daniel Schearf, "China Stops AIDS Campaigner from Traveling to US to Accept Award," VOA News, 5 February 2007, <http://www.voanews.com/english/archive/2007-02/2007-02-05-voa35.cfm>; Human Rights Watch, "China: Harassment of HIV/AIDS Activists Intensifies," news release, 20 August 2007, http://hrw.org/english/docs/2007/08/20/china16708_txt.htm.

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¹³ Jim Yardley, "Seeking a Public Voice on China's 'Angry River,'" *New York Times*, 26 December 2005; International Rivers Network, "Chinese Prefecture Cancels Dam Project on Sacred Tibetan Lake," news release, 14 November 2006, <http://www.irn.org/programs/china/index.php?id=archive/061113cancel.html>. The area around the Nu is part of the Three Parallel Rivers (Jinsha, Mekong, and Salween), which was named a UN World Heritage Site, but in August 2007 the United Nations warned that the site was in danger of losing this status because local officials were going ahead with several hydroelectric projects. Separately, Wu Lihong, an environmental activist, was detained by police in Jiangsu Province in April 2007 on charges of racketeering. His major campaign was against factories polluting Taihu, a famous lake in that province. In August 2007, he received a three-year jail sentence and a fine for extortion. Sun Xiaodi, another environmental activist, was harassed by local officials in Gansu after receiving an international award for his work against radioactive contamination. Yongchen Wang, "A Yellow Card for the Three Parallel Rivers," *chinadialogue*, 3 August 2007, <http://www.chinadialogue.net/article/show/single/en/1200-A-yellow-card-for-the-Three-Parallel-Rivers>; Shai Oster, "Police Hold Chinese Foe of Polluters," *Wall Street Journal Online*, <http://online.wsj.com/article/SB117728245200178403.html>.

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