



## An analysis of the relationship between economic growth and the rule of law: a lesson from China's experience

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*Since 1978, China's economic boom has attracted great attention from economists. However, it is perhaps too early to make any judgement over the lessons learnt from China's economic development. To presume China will overtake America to become the first economic superpower, or to presume that China will collapse due to increasing social problems would be somewhat slapdash. Nevertheless, a fact that must be faced is that in the past 30 years, both China's GDP growth and social problems have rapidly increased hand-in-hand.*

*It seems that there is a question that must be asked: is there a way to promote economic growth and social stability at the same time? Perhaps one of the answers is to establish rule of law. This paper is based upon China's experience of economic growth, and analyses the relationship between rule of law and the economy.*

**Keywords** | China; 21st century; modern China; economic growth; economic development; rule of law

### Economic reform and China's modernization

The economic reform in the People's Republic of China (PRC) began in the late 1970s, after the end of the Cultural Revolution, when the Communist Party of China (CPC) government faced serious economic problems and social instability. Since 1958, the Great Leap Forward slowed down economic development. The command economy was not able to function properly for a national population of around 700 million people (circa late 1970s). This led to great public dissatisfaction with the government, and in 1978, the second generation of the CPC leadership led by Deng Xiaoping started to reform the economic system in an attempt to shift China towards a market-based economy.

A command economy used to be considered as one of the core characteristics of a socialist state. Initially, a command economy was beneficial for China to rebuild and recover from the after-effects of the Second World War. As time went on, certain defects of the command economy became particularly pronounced. Firstly, the government maintained strong control over this economic management, and there was almost no difference between the affairs of the government and the affairs of state-run businesses. Ignoring the economic

regulations between supply and demand prevented the development of a market. Secondly, public ownership – which prohibited private ownership – ensured that all work was equally shared, which led to people not being pressured or interested to any great effort or quality in fields of work that were not in accordance with their interests. It is clear that – in the long term - in a command economy, there was lack of development.

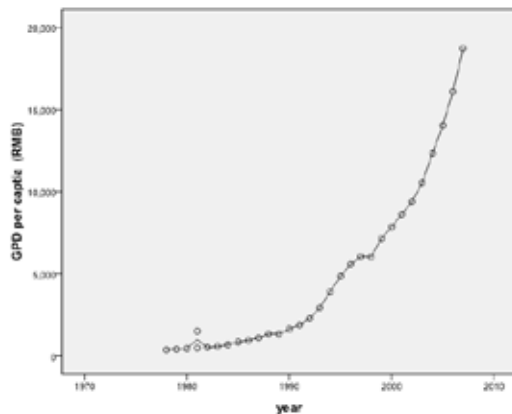
In 1978, for the purpose of quickly increasing economic growth, Deng Xiaoping employed the market economy system to bring China's markets to life. Deng's reforms included decreasing the government's control over the markets through the Communist Party's policies or orders. The reform also sought to alter the traditional ways of thinking that had resulted from Communist rule under Mao Zedong. The most important thing to consider about the reform is that it was not comparable with Gorbachev's revolution; in fact, it was almost completely and diametrically opposite.

Deng Xiaoping's reform was more similar to the 'East Asian Model' of reform; focusing on economic growth whilst maintaining the existing political system, and using the

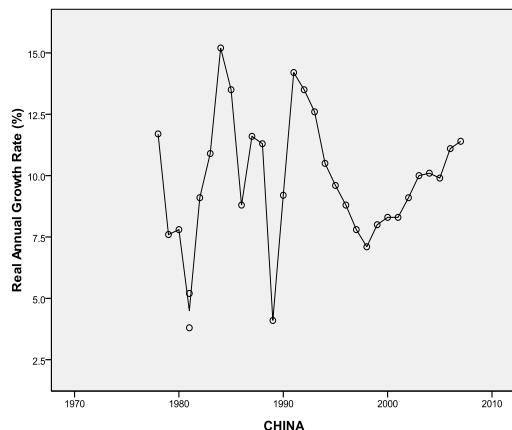
government's authority to provide a catalyst for development. In fact, maintaining the Communist Party's status and increasing China's social welfare were the most fundamental goals of the economic reform. Over three decades, China enjoyed significant achievements since the economic reform began. The restructuring of the economy and resulting efficiency gains have contributed to a significant increase in GDP since 1978 (see Figure One). In China in 1978 this was only RMB 379 per capita (considering inflation, in real terms this is about RMB 471.6 in 2007). In 2007 GDP per capita increased to RMB 17,909. In real terms, Chinese wealth has increased forty fold between 1978 and 2009. The economic growth rate since 2003 has generally stabilised at around 8%.

Figure One - Changes of wealth in China from 1978 to 2007

GPD per capita (RMB) in China



Real annual growth rate (%)



2008, Figures produced by Dr Peter Yaliang Xu)

Put into an international context using a Purchasing Power Parity (PPP) basis, in 2009 China stood as the second-largest economy in the world after the United States of America (see Table One). However, in per capita terms China is still lower-middle income class and nearly seven times lower than the United Kingdom. (See Table Two).

Table One - GDP rank in 2009 (purchasing power parity)

1	United States	\$14,260,000,000,000	2009 est.
2	China	\$8,789,000,000,000	2009 est.
3	Japan	\$4,137,000,000,000	2009 est.
4	India	\$3,560,000,000,000	2009 est.
5	Germany	\$2,811,000,000,000	2009 est.
6	United Kingdom	\$2,149,000,000,000	2009 est.

(Sources: CIA, 2009a)

Table Two - GDP per capita rank in 2009 (purchasing power parity)

11	United States	\$46,400	2009 est.
34	United Kingdom	\$35,200	2009 est.
102	World	\$10,500	2009 est.
128	China	\$6,600	2009 est.

(Sources: CIA, 2009b)

Table Three - Exports rank in 2009

1	China	\$1,194,000,000,000	2009 est.
2	Germany	\$1,121,000,000,000	2009 est.
3	United States	\$994,700,000,000	2009 est.
4	Japan	\$516,300,000,000	2009 est.
5	France	\$456,800,000,000	2009 est.

(Sources: CIA, 2009c)

China's economy has changed from a centrally-planned system that was largely closed to international trade to a more market-oriented economy that has a rapidly growing private sector and is a major player in the global economy. China was noted in the *Foreign Direct Investment Magazine* (Anderson, 2008) as, "the most attractive destination for foreign investment ahead of both Eastern and Western Europe", and already the largest country in exporting goods (see Table Three above). In 1978, there were almost no privately-owned companies. In 2007, privately-owned companies constituted 69% of China's economy (Chen, 2007). It is clear that after 30 years of Deng Xiaoping's reform, a form of market economy has been established and accepted in Communist China by the majority of Chinese people. Today, the sprawling modern cities of China demonstrate that Mao's age is a distant memory and very unlikely to return. However, new social problems have emerged following the economic boom, such as disputes between the government and people. The reform of agriculture brought 70% of the Chinese population out of poverty, but since China began economic reform in the urban cities, their development quickly surpassed that of rural areas. The gap between rich and poor citizens has increased significantly. Urban development has disrupted social harmony as old ideas have been challenged by the very visible and material benefits brought by the market economy.

In 2008, China held the Olympic Games, which are normally considered to be a privilege of developed countries. On another hand, the Sanlu milk scandal gave a very bad image of China around the world. In fact, there are two completely opposite views of today's China: one is of a high-tech, modern, developed and cultured economic powerhouse, and the opposite is of a centralised, oppressive state with a lack of human rights and democratic freedoms.

*In fact, "comparing China to much wealthier countries, leads to the unsurprising conclusion that China has more problems: there are more deviations from the rule of law, government institutions that are weaker, less efficient and more corrupt; and citizens enjoy fewer freedoms while living shorter and more impoverished lives...[However], China's performance across a range of variables from economic performance to elimination of poverty to the establishment of a functional legal system and government institutions*

*is on a whole demonstrably superior to the performance of most African, Middle Eastern and Latin American countries."* (Peerenboom, 2007, pp. 11, 20)

Clearly, China is still a developing country; there is significant 'breathing room' for the economy to develop. However, increasing social problems have hindered further economic development. For example, "the number of official recorded protests rose to high levels ... from approximately 10,000 'mass incidents' in 1994, in the words of the [Chinese] Ministry of Public Security to 74,000 in 2004, before declining to approximately 80,000 in 2005 and 2006 " (Perry and Selden, 2010, p. 26). Increasingly social instability has attracted great attentions of the CPC's leadership. As a result of this, a new dominant ideology serving as the guiding direction of social development - known as the 'Construction of Socialist Harmonious Society' (Social Harmony) - has been introduced by the fourth generation of the leadership of the Communist Party of China (CPC). The concept of building social harmony, according to President Hu Jintao (2006) is to provide for "...the needs of the development of democracy, the rule of law, justice, sincerity, amity and vitality as well as a better relationship between the people and the government and between man and nature."

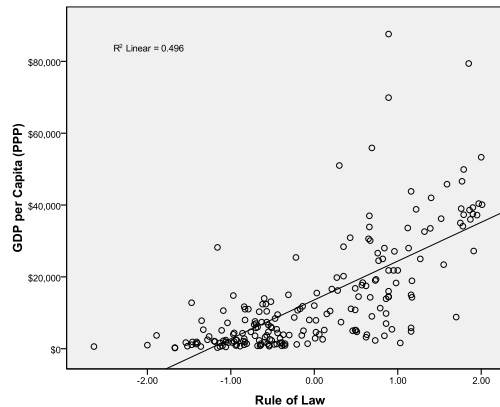
Therefore, it seems that China will take further account of not just economic reform towards market economy, but an overall social reform that could continue increasing economic growth and as the same time could also promote a balanced overall social harmony and general stability. Furthermore, as highlighted in President Hu's above speech, China's social reform projects have included the development of "rule of law and justice". Therefore, it seems that after decades of economic boom, Chinese government has acknowledged that, perhaps there is a significant mutually reinforcing relationship between rule of law and economic development.

## Is the rule of law important for economic development?

Economic reform has been taking place for 30 years; China is largely out of poverty but is also far from being wealthy. In the past few decades, many Chinese and Western legal scholars (e.g. Professor He Weifang, Jiang Pin, Professor Peerenboom, Selden etc.) have suggested that the CPC should take serious steps towards deeper and further political and legal reform with the aim of increasing the level of judicial independence and rule of law. Part of the reason given is that there appears to be a significant relationship between rule of law and economic growth. Historically, the idea of rule of law is generally considered to safeguard individual rights, private property, liberty and equality.

In fact, in the past few decades the idea of rule of law has become widespread. Some scholars believe rule of law “has become the motherhood and apple pie of development economics” (Anonymous, *The Economist*, 2008, p. 95), noting that rule of law is held to be not only good in itself, because it embodies and encourages a just society, but also is a cause of other good things, especially economic growth. Brian Tamanaha once stated that, “no other single political ideal has ever achieved global endorsement” (at St John’s University, New York, quoted by Anonymous in *The Economist*, 2008, p. 95). Clearly, there is an affiliation between rule of law and economic growth and this relationship is ever significant in the global era. The World Bank rule of law index has provided evidence (see Figure Two) that there is a mutually reinforcing relationship between rule of law and social wealth.

Figure Two - Rule of law rank and GDP per Capita



(Rule of law data Sources: World Bank Aggregate Governance Indicators 2007; GDP data sources: CIA the World Fact Book 2007, Figures produced by Xu.) From the distribution of the dots on the above graph, it is difficult to ascertain a clear relationship between rule of law and GDP per capita. However, if we apply linear regression to the graph we can see there is some evidence of a proportional increase in social wealth together with rule of law.

There is a common similarity amongst the countries or jurisdictions ranking in the top quartile on the World Bank’s rule of law index: developed, wealthy economies. North America, Western Europe, Australia, Israel, five East Asian countries and regions - Singapore, Japan, South Korea, and China’s two special administrative regions: Hong Kong and Macao – together with Chile, French Guiana and oil-rich Arab countries fill the top ranks of World Bank’s rule of law index. The top quartile consists of high or upper-middle income countries. This is considered to be due to the fact that the rule of law and economic developments are closely related, and tend to be mutually reinforcing (Peerenboom, 2007, p. 34). Notwithstanding theoretical arguments for and against the claim that rule of law contributes to economic development, the empirical evidence is surprisingly consistent and supportive of the claim that implementation of rule of law is beneficial for sustained economic development.

In the past three decades, China’s economic growth has drawn the most attention. Yet, concurrent with economic development, China has speedily increased its legislation agenda; vast numbers of laws pertaining to economic development have been adopted. There were very few laws before 1978 in China. By the end of 2007, 229 acts had been passed by the NPC, 600 national administrative regulations had

been adopted by the central government, and over 7,000 local acts had been passed. Out of 229 parliamentary acts, 105 acts were adopted between 2003 and 2007. Since 1982, the State Constitution has been amended four times (1988, 1993, 1999 and 2004). Notably, in 1999 for the first time the constitution added the term 'rule of law' and in 2004 prescribed that the "citizen's legitimate private belongings cannot be impinged".

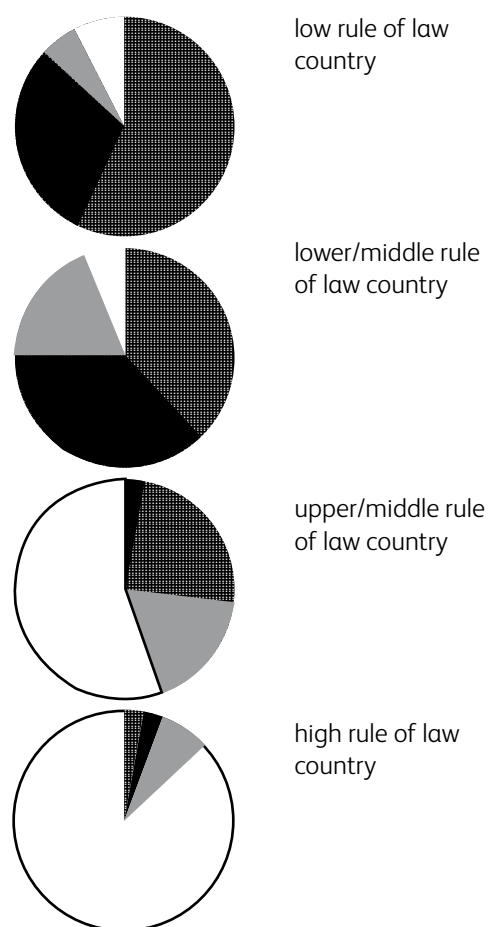
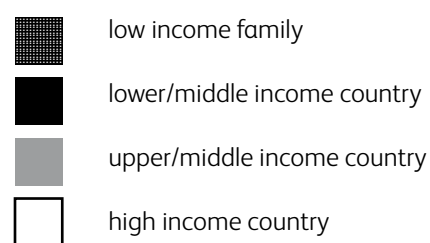
However, the "rule of law in economic development in China is frequently underestimated due partly to the tendency to elide rule of law with democracy and a liberal version of rights that emphasizes civil and political rights" (Paul, 2003, p. 310). The Chinese political regime is not considered to be democratic, and the Chinese legal system is considered to possess insufficient protection for civil and political rights. In addition, China's economic growth has generally not provided protection of economic interests and the facilitation of economic transactions. In other words, China does not seem to have great economic freedom.

Economic freedom includes the protection of the value of money, free exchange of property, a fair judiciary, few trade restrictions, labour market freedoms, and freedom from economic coercion by political opponents (Peerenboom, 2007, p. 34). It seems that there is still a room for further development in the aforementioned areas in China. It also follows that for further economic development, a better legal system is likely to be required. In fact, the World Bank rule of law index demonstrates that countries with better legal systems tend to have higher growth and more wealth, and vice versa. Some scholars note that the relationship between rule of law and economic growth also appears to be non-linear (Kurzewski and Sullivan, 2002, pp. 218-2). In order to provide a more detailed understanding of this relationship, I decided to separate countries into different groups of 'rule of law' ranks and then compare them with their position in economic ranks, and use the Chi-Square test to see the P value, and work out whether or not such a relationship is significant.

The World Bank divides nations into four different groups for economic difference. The groups are (by 'atlas method', according to 2007 GNI per capita): low income, \$935 or less; lower-middle income, \$936 to \$3,705; upper-middle income, \$3,706 to \$11,455; and high income, \$11,456 or more. The World Bank Aggregate Governance Indicators 1996-2007 measure nations' rule of law status.

The statistical compilation of a nation's rule of law position is between -2.5 to +2.5, with the higher value indicating greater rule of law. I divided nations into four groups in accordance their rule of law figure. The groups are: Low rule of law country, less than -1; lower-middle rule of law country, between -1 and 0 (including -1); upper-middle rule of law country, between 0 and 1 (including 0); high rule of law country, over 1 (including 1). Table Four illustrates how the two ranks – rule of law and economy – correlate with each other.

Table Four - Relationship between rule of law and economy



Status \* classification cross tabulation

## Count

		Low income countries	Lower middle income countries	Upper middle income countries	High income countries	Total
Status	Low rule of law countries	19	10	2	2	33
	Lower middle rule of law countries	28	31	17	3	79
	Upper middle rule of law countries	1	15	18	26	60
	High rule of law countries	1	1	3	29	34
Total		49	57	40	60	206

## Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-squared	123.530(a)	9	.000
Likelihood Ratio	136.619	9	.000
Linear-by-Linear Association	81.181	1	.000
N of Valid Cases	206		

A 0 cells (.0%) have expected count less than 5. The minimum expected count is 6.41.

As the Chi-Square test above shows (Table Four), the P value or asymptotic significance (*Asymp. Sig.*) is 0.000, which is less than 0.050, and therefore proves that the difference is significant.

According to the statistic, the chance for a high rule of law country to enjoy higher income is 29/34 (85.29%). The chance for an upper middle rule of law country to be a high income country is 26/60 (43.33%). The chance for a lower middle rule of law country to be a high income country is 3/79 (3.78%). The chance for a low rule of law country to enjoy high income is 2/33 (6.06%). The chance for a high rule of law country to be a low or lower middle income country is 2/34 (5.88%). The same chance for an upper middle rule of law country is 16/60 (26.67%) and the chance for a lower middle rule of law country to become a low or lower middle income country is 59/79 (74.67%). The same chance for a low rule of law country is 29/33 (87.88%).

Therefore, the chance for a country with a higher rule of law to be a higher-income nation is much higher than for a country that has a lower rule of law. However, it is true that the relationship between rule of law and social wealth is complicated and difficult to define. Despite this, the correlation between relative social wealth and rule of law is undeniable, even if it is not proven that they are explicitly interdependent.

Following economic growth, society becomes more complex since a formal legal system that meets the standards of rule of law provides a fair method of solving economic disputes. Moreover, dispute resolution is only one of the economic functions of a legal system. A legal system also creates the basic infrastructure for transactions, including markets, security exchanges, mortgage systems, accounting practices, and so on. In addition, particularly for China, a good legal system can also serve laudable functions other than promoting economic growth; for example, limiting arbitrary acts of government officials and thereby reducing social instability. Another form of evidence that illustrates the relationship between rule of law and economic growth has been provided by China's experience. Following 30 years of economic change, vast numbers of laws have been adopted by Chinese legislators. On one hand, these laws promoted economic growth, but on another hand economic booms demand increasing legislation for more advanced laws.

In fact, following economic reform in China, the role of the judiciary has naturally changed over time and is continuing to change today. Chinese judges no longer fight against the class enemies, but are more likely to act as arbitrary agents, though according to the Chinese constitution, Chinese judges' autonomy is highly limited. Following economic growth, Chinese society has become far more complex than it was in Mao's era. At the same time, increasing legal development requires the law enforcement body – particularly the judiciary – to have improved and relevant knowledge to deal with contemporary social matters. Therefore, in 1995, the first adoption of the Judges Act by the National People's Congress (NPC) required aspiring judges to pass an examination before judicial appointment. Following further economic growth, in 2001 the NPC amended the Judges Act to require more qualifications from applicants to judicial vacancies.

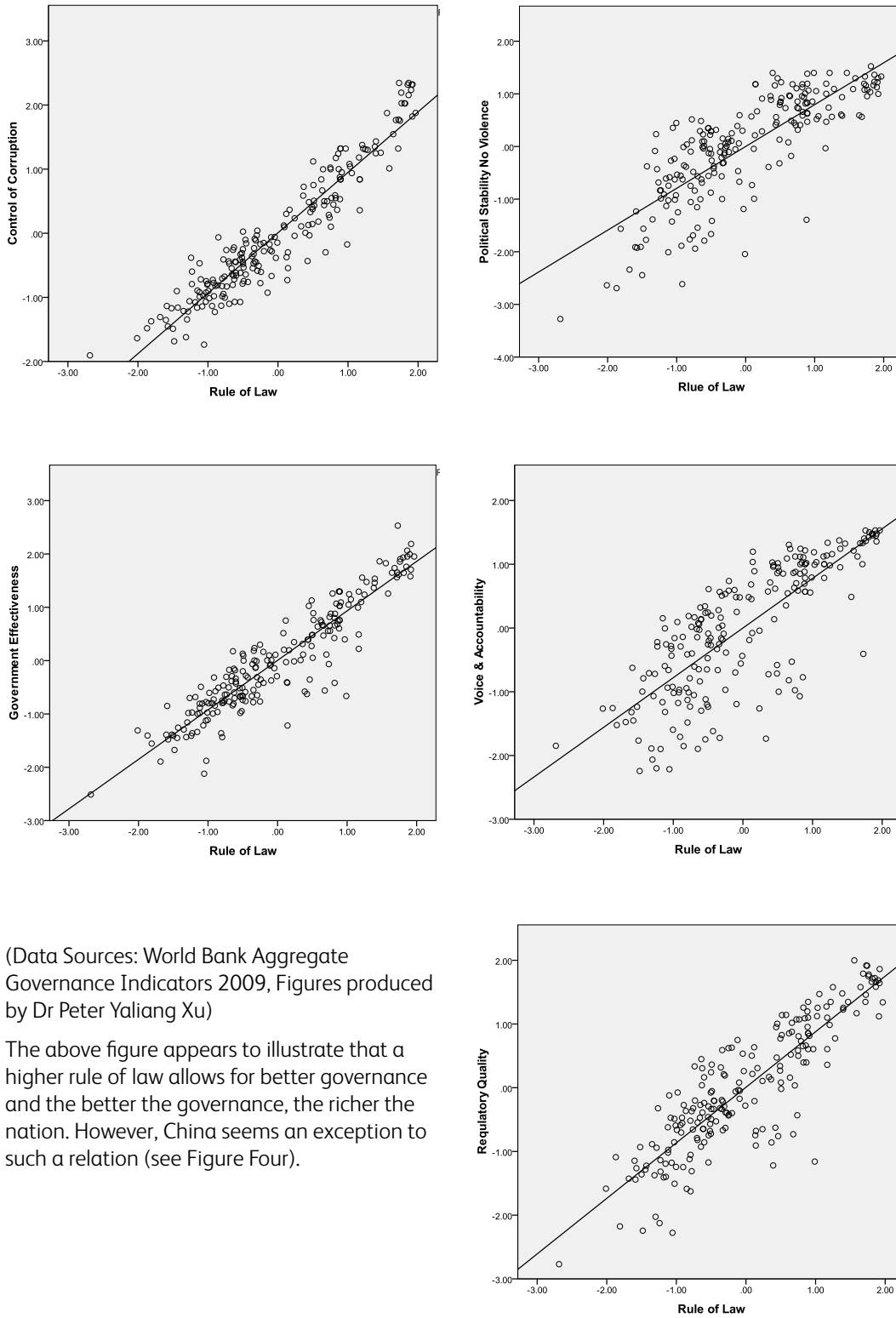
Without economic growth and its resultant changes, the NPC would not seek to pass the Judges Act. Conversely, without the Judges Act there may have been more impediments to China's economic growth.

Rule of law is also important for ensuring good governance, and it seems logical to assume that good governance in turn promotes economic growth. For example, unlike China, in many post-communist countries, well-intentioned policies were quickly established, but it soon became clear this was not enough.

*"I was a traditional trade and labour economist until 1992..." says Daniel Kaufmann head of the World Bank's Global Governance Group 2008, "...when I went to Ukraine, my outlook changed. Problems with governance and the rule of law were undermining all our efforts." (The Economist, 2008, p. 95).*

Perhaps, for economic matters, rule of law may not be as necessary or as significant in poor, rural based countries. However, for matters of governance, such as maintaining political stability, preventing violence, controlling corruption and maintaining effective government, the relationship between such issues and rule of law is much more linear and applies to all large societies (see Figure Three).

Figure Three - Relationship between rule of law rank and good governance rank

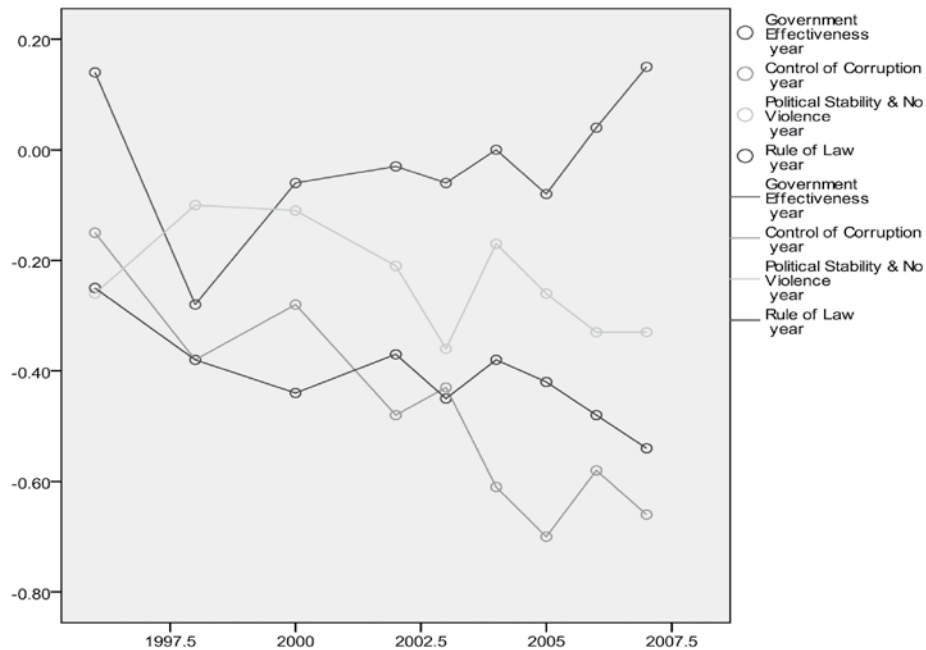


(Data Sources: World Bank Aggregate Governance Indicators 2009, Figures produced by Dr Peter Yaliang Xu)

The above figure appears to illustrate that a higher rule of law allows for better governance and the better the governance, the richer the nation. However, China seems an exception to such a relation (see Figure Four).



Figure Four - Changes of good governance rank of the PRC  
1996 - 2007



(Data Sources: World Bank Aggregate Governance Indicators from 1996 to 2007, Figures produced by Dr Peter Yaliang Xu)

The above image shows that following significant growth of the economy since 1978, political stability, control of corruption and rule of law in China has decreased. Yet despite this, a reduction in good governance has not damaged the country's economic growth. What does this mean? Perhaps it is because China has a very special system that does not demonstrate such a relationship between rule of law, good governance and economic growth. Or, perhaps the measure of China's good governance index is not very reliable. To complicate matters further, the rule of law agenda has continually expanded in China. As the world's second largest economy (in GDP per capita), China is already part of the global village, and plays a significant role. In this global era, to ensure future economic development, good governance, political stability and civil and human rights, China cannot continue to avoid promoting rule of law.

In fact, the lack of rule of law development is limited by the classic Marxist theory employed in the Chinese constitution. Law is considered by Marxists as a negative element used by capitalists in their rule over the proletariat. Once a proletariat society is established, law

should no longer be necessary. Given this, there is a significant need to develop classic Marxist theory to take account of this perspective. What happened in the USSR has shown that classic Marxist economic ideology – in the long term – fails to increase social wealth. Moreover, a lack of understanding of the notion of law and the concept of the rule of law seems to be the main thrust of Marxist legal theory, including the ignorance of law's economic, political and legal aspects. Marx attempted to show how historically, the rule of law has played an important but negative role in capitalist nations (for example, through land enclosures, confiscations, forced conditions of work, control of population movements). However, the main thrust of Marx's analysis is that – regardless of ideology – a state is not simply the direct servant of the ruling class, (for example, working-class political power and welfare provision have grown considerably since Marx wrote); in fact, in some states, law is rarely capable of being interpreted as the direct expression of the will of a dominant class (Collins, 1982, p. 66), and the state seems more like an institution that emerges to maintain order and stability with the context of the dominant mode of production in a society.

It seems there is a difference between rule of law and class power. History has already proven that disputes between people and government will always appear in a state regardless of ideology, and disputes can be resolved in some states, but can also be turned into conflict in others. Conflict theory failed to account for the fact that law does not operate as a purely repressive mechanism in all societies. Therefore, it is necessary to rethink the meaning of the rule of law, especially in nations that are or have been influenced by classic Marxist theory.

The core difference between rule of law and class power is given by E P Thompson (1985, p. 263) when he stated that,

*'...most men have a strong sense of justice, at least with regard to their own interests. If the law is evidently partial and unjust then it will make nothing, legitimize nothing; contribute nothing to any class's hegemony.'*

Of course, the ruling class may attempt to protect their own interests through the law. However, law should clearly stipulate that it applies equally to all citizens, and therefore cannot appear to the public to favour only the ruling class. Hence, the law must not only have an effect on normal individuals, but also produce the same effect on the people who made the law. Therefore, the "law" whether in capitalist or socialist states - as a body of rules - will only be respected and followed by the people if it has been applied with logical criteria, with reference to standards of universality, justice, impartiality and equity.

In fact, the effect of law, from its occurrence and operation throughout the history of the human race, has had at least two very clear effects on nations and people. On one hand, many nations have collapsed because unjust laws forced people to resort to violence against the state (this happened particularly under the dominance of Confucian theory in Imperial China and the Kingdom of Korea where both countries endured revolutions which marked complete changes of dynasty). On another hand, many nations prevented this from occurring with just laws. This can be evidenced in the United Kingdom whereby the rule of law was steadily increased over a long period of time, staving off the threat of a revolution which was commonplace in many other parts of Europe during the 18th century (e.g. see E.P. Thompson's work *Whigs and Hunters*, 1985).

Consequently, law cannot only be defined by classic Marxist theory that law simply equates to class power, but rather requires a more complex and perhaps contradictory

understanding. In fact it is more likely that law is a sword that cuts both ways; one side can 'harm' the government, preventing arbitrariness, and the other side can 'harm' the people by implementing law which will legitimize government. Therefore, the rule of law serves the need for the security of economic transactions and the general conditions of individual liberty. But, at the same time, it also serves the technical and ideological needs of the state and more generally, the efficient structuring of power. E P Thompson analysed 18th century England, challenging the classic Marxist assumption that rule of law is a negative element serving the objective of class control. E P Thompson (1985, p. 266) noted that:

*'...the rule of law itself, the imposing of effective inhibitions upon power and the defence of the citizen from power's all-intrusive claims, seems to me to be an unqualified human good. To deny or belittle this good ... is a self-fulfilling error, which encourages us to give up the struggle against bad laws and class-bound procedures, and to disarm ourselves before power.'*

In Thompson's view, rule of law is an unqualified human good. However, in my view, rule of law has historically played a successful role as a 'human good', furthering social stability.

As the result of the above theoretical analysis, the meaning of the rule of law can be concluded as the English jurist A. V. Dicey formulated in the late nineteenth century. The most celebrated conception of the rule of law involves three elements: firstly, the absolute supremacy of law over arbitrary power, including wide discretionary powers of government; secondly, that every citizen (particularly, including lawmakers), are subject to the ordinary law of the nation administered in the ordinary courts; thirdly, that rights are based not upon abstract constitutional statements but upon the actual decisions of courts. In this conception, law is regarded as the rules governing all society. Government, no less than citizens, is seen as subject to law. The state can change law freely as it requires, through recognised processes, but the actions of all state servants and agencies are to be subject to law. Thus, if the Chinese government wishes to maintain social stability, the application of rule of law will perhaps be an important contributing factor in doing so. In addition, this would appear to be beneficial for China's further economic development.

## The importance of judicial independence

The rule of law demands that law acts as the primary source of rules governing society. A society with rule of law must consist of at least two core aspects, which are:

- Legal professionalism, and
- Judicial independence

Out of the above two aspects, judicial independence seems to be the most crucial. This is because law is worth little more than the paper it is written on for too many people in China. In fact, most people may never be concerned about the law, until they enter a dispute with other citizens or the government and require a settlement by law. This is why, from many perspectives, adjudication and courts seem to be an obvious and necessary central institution of the legal system. In many people's view, the courts are the primary organs to represent the law, because judgements are passed by judges in the courts. According to this, the courts and the judges must appear as having a necessary level of justice and impartiality, in order to maintain credibility amongst the people. Therefore, judges must appear to the public to be making decisions independently and according to the law, and nothing more. As such, the concept of judicial independence is a keystone of the rule of law.

Judicial independence is an idea that has either internal (or normative) and external (or institutional) aspects. From a normative viewpoint, judges should be autonomous moral agents, who can be relied on to carry out their public duties independent of venal or ideological considerations. Independence in this sense is a desirable aspect of a judge's character. In fact, regardless of the ideology of a nation, similar requirements for judicial independence are normative features of most written constitutions of modern nation-states. However, historically, institutional support is far more important than moral autonomy. This is due to the fact that judges are human and the decisions they must make can have a great influence on people, so it is necessary to provide institutional shields against any possible threats or temptations that might come their way. Judicial independence in this common sense is a feature of the institutional setting within which judging takes place.

According to the above analysis, the principle of judicial independence is the ability of a judge to make a decision on a matter free from pressures or inducements. Furthermore, the institution of the judiciary as a whole must also be independent by being separate from government and other concentrations of public power. "If the judiciary is to exercise a truly unbiased and independent adjudicative function, it must have special powers to allow it to 'keep its distance' from other governmental institutions, political organizations, and other non-governmental influences, and to be free of repercussions from such outside influences." (Kelley, 1990, p. 2)

In order to ensure this occurs, many factors of judicial independence should be considered. As the Justice Thurgood Marshall (1981) of the US Supreme Court once said, "We must never forget that the only real source of power that we as judges can tap is the respect of the people." There is a famous adage: justice must not only be done, but must also be seen to have been done. A court can only be truly accepted as being just if it has the confidence of the public that it is just and fair. "For trials to be regarded as fair it is important that judges are regarded as independent and not subservient to political or other interests" (Davies, et al., 2005 p. 244). In order to inspire confidence from people that justice is being applied independently, judges must not be under the influence of any outside sources (which includes the government, political organisations, non-governmental organisations, state/public companies, private businesses and individuals). To avoid such a perception, judges must have no real or apparent contact with outside sources. If indeed they [judges] had such contact with outside sources, such as a political party, it would appear to be biased in favour of the policies of that party, or, if that party controls the current government, to be biased in favour of the state (Kelley, 1990, p. 5). If a court or an individual judge is subject to, or even appears to be subject to, inappropriate pressure or interference by the executive or administrative arm of government, this is considered to be an inappropriate interference with judicial independence. It must be so in order to limit the formal interaction between the courts and outside sources.

The history of the judiciary around the world demonstrates that the greatest danger of interference comes from other government institutions or political parties. This is because it is inevitable that there are some dealings between the courts and the executive branch or the legislative branch for financial and administrative purposes. To standardise the principle of the independence of judiciary, the government should only provide necessary security, finance and administrative support to the courts.

Therefore, according to the principle of judicial independence, the relationship between the government and the courts regarding the above issues is a relationship of support, not control. As such, if the government has the power to set judges' appointments or remuneration, or the power to set courts' administrative methods or operations costs, then the government has effectively set up a connection between itself and the courts. Judges, acting in their own interests must do all they can to acquire more support from the government. As the old proverb goes, 'Don't bite the hand that feeds you'. If courts protect the state-owned companies and government interests, the people will lose their respect for the judges. Judges will then lose their 'power' to find solutions to problems. Without public confidence, society as a whole is at risk of becoming less harmonious and stable.

Therefore, the institutional principle of judicial independence means that judges do not have contact with any other (non-judicial) sources, and particularly with other state institutions in matters which judges are concerned. This represents an idealistic view of complete judicial independence. However, history has shown that it is difficult to completely cut judges' connections with state bodies. Simply writing such a principle into codified law will not necessarily result in an independent judiciary. In fact, no country can claim to have a complete independent judiciary; the subject of real interest is the degree to which the judicial branch is separated from other state powers. However, the characteristics of rule of law are more likely to be established if there is a high level of judicial independence.

## Conclusion

Currently, in the case of China, the judicial system has improved significantly over the past three decades. However, the constitution establishes judges as belonging to the body of government officials, with lower relative ranks to their legislative and executive counterparts at all levels of the state hierarchy. Furthermore, the judiciary is solely dependent on the wealth of the local government. It has naturally created very close contact between the judiciary and the local authority. The level of judicial independence in China is not considered to be very high. As such, China's economic boom over the past three decades has not benefited much from the actions or role of the judicial system. It is therefore possible that China's future economic growth may require more considerations towards judicial independence, by increasing the separation between the judicial branch from the other state branches, as well as establishing an independent means of remuneration for judicial staff.

Thus the relationship between rule of law and economic growth can be an arguable and complicated issue. China's experience seems to illustrate that economic boom may not necessarily require rule of law as a catalyst. However, lack of rule of law may lead to social problems occurring which may decrease political stability. In fact, no-one can seriously doubt that the rule of law is a significant factor [in economic development], since it is now almost a truism to argue that an honourable justice system, maintained by independent legal institutions, underpins the economic and social advancement of any society. Indeed, it is part of accepted wisdom that judicial independence is central not just to the operation of the rule of law but, more generally, to the good ordering of a society too. Clearly, one of the key challenges that China faces today and in the future is how it can adapt and develop a Marxist-style rule of law and judicial independence.

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