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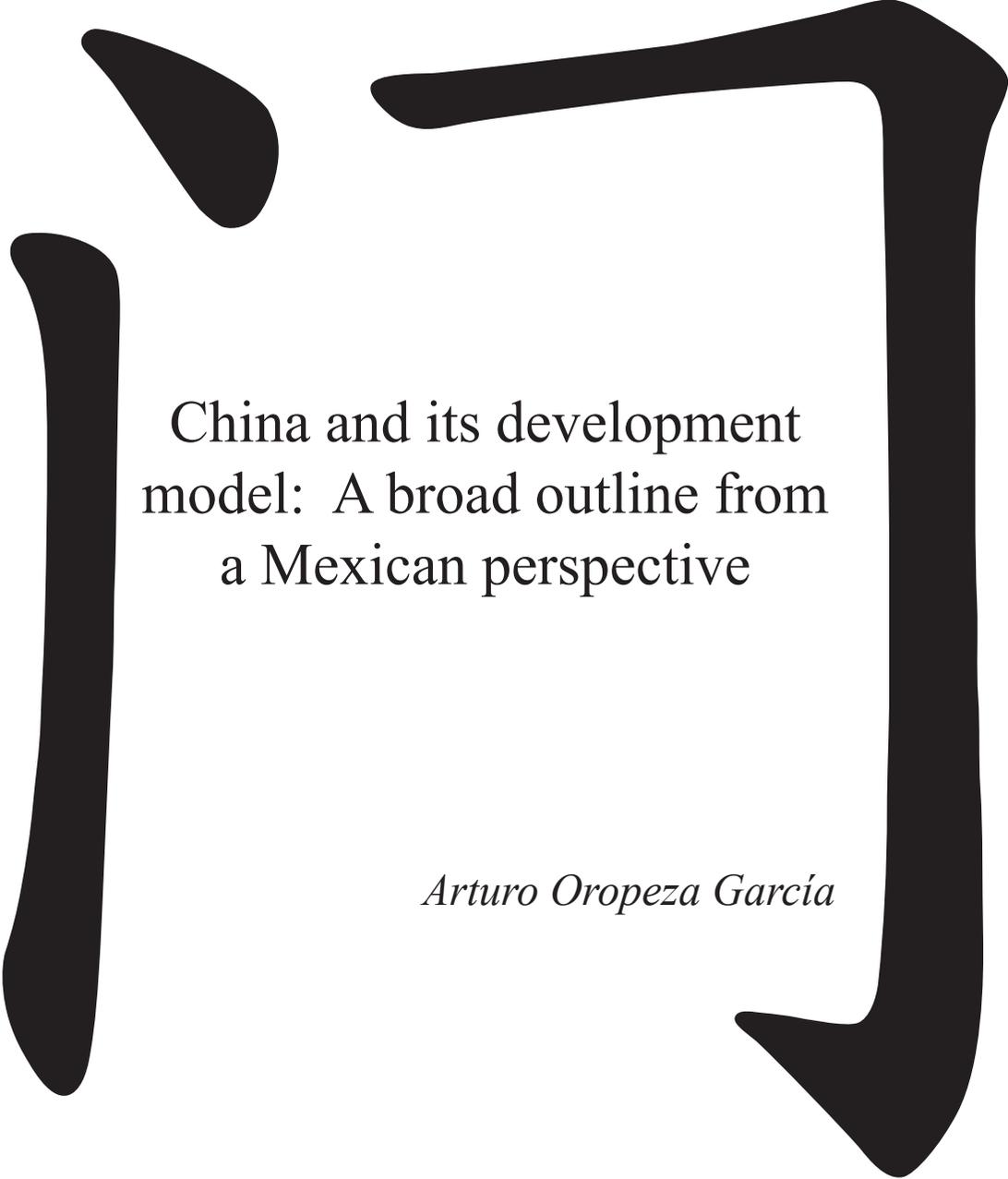


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China and its development  
model: A broad outline from  
a Mexican perspective

*Arturo Oropeza García*

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# China and its development model: A broad outline from a Mexican perspective

Arturo Oropeza García<sup>1</sup>

## Resumen

El éxito económico de China de 1978 a 2008, es verdaderamente sorprendente; como el crecimiento porcentual de su PIB (10% anual promedio durante treinta años; tercer lugar mundial en 2008; de 1978 a 2007 incrementó su PIB 14 veces). Sin embargo, también podríamos agregar que la historia económica de China está muy lejos de estar concluida, y en el futuro nos seguirá sorprendiendo con sus cambios, los cuales habrá que tener muy presentes, si se quiere tener una idea cercana con la mejor estrategia de desarrollo de las últimas décadas.

## Palabras clave

China, Modelo Económico, Desarrollo, Deng Xiaoping, Nueva China

## 摘要:

1978 至 2008 年，中国经济的成功确实是令人惊奇的。例如，其 GDP 在此 30 年里，年均增长 10%，并于 2008 年位列世界第三位。2007 年的 GDP 是 1978 年的 14 倍。但是，我们认为中国经济快速发展的历史远未终结，未来它还将继续带给我们惊奇的变化。如果中国想对过去几十年最好的发展战略有一个更清晰的认识，这些变化是必须要考虑的。

关键词：中国 经济模式 发展 邓小平 新中国

## Abstract

China's economic success from 1978 to 2008 is truly surprising, for example the growth rate of its GDP (an average of 10% a year for thirty years, third place in the world in 2008, 14 times its GDP from 1978 to 2007). However, we could also add that China's economic history is very far from being over, and in the future it will continue surprising us with its innovations, which it will have to keep in mind if it wants to have a close idea with the best development strategy of the last decades.

## Key words

China, Economic Model, Development, Deng Xiaoping, New China

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## Summary

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## Introduction

Despite the great success and extensive dissemination of the results from the economic reform carried out in China from 1978 onward, this continues to be a topic that is difficult for the Western world to interpret. This is true even though the model's author, Deng Xiaoping, warned since its beginning that the reform in modern China was a "great experiment" based on a broad outline that was subject to testing by trial and error. Although Deng made this clear in 1985, the trusting and overestimating Western world has not yet gained complete consciousness of this unilateral declaration from the main author writing about China's success. From the beginning, this success demonstrated to the world that a new China, in search of its development, was initiating an adventure of traveling unknown paths, in the face of the economic failure of its previous experience (the Maoist Period, 1949-1976) and the urgent need to feed around 900 million human beings (1978), of whom, only 18 years before, nearly 30 million had died of starvation.

In the same way, we find in the Western world that the different theories of development continue to compete between the prevalence of the political factor over the economic factor, and/or vice versa, in a never-ending search for hierarchies, that often complicate the analysis more than clarify it, by failing to remember the healthy partnership of politics and economics that is inherent to all successful economic development. Equally, within the very theories of economic development, the disputes throughout the 20<sup>th</sup> century over the different visions that have tried to impose themselves on the search for sustained development have been many. This is in spite of the fact that, as Douglas North points out, "...the similarity in the performance of economies and the persistence of disparate economies throughout time has not been satisfactorily explained by development economists, despite immense efforts carried out for 63 years. The simple fact is that the theory used is not up to the task."<sup>2</sup>

In this respect, if the Chinese model can brag about anything, it is that despite the fact that various economic development theories, formally speaking, were already appearing in 1943 (Paul Rosenstein-Rodán), the new political group responsible for initiating the task of re-thinking China's growth did not directly take heed of the theories at the moment (Clark, Nurske, Lewis, Rostov, etc.) in order to instrument their first changes. Although at that time China was aware of its enormous economic limitations—scarcity of resources, excessive population, enormous poverty, insufficient savings, economic deficiency, incompetent industry, lack of infrastructure, limited external exchange, abundant but unqualified manual labor, lack of modern technology, and political crisis, among others—its failure to adopt a previous model (the Soviet model) in an orthodox manner, led it to the experience that the reductionisms were not good counselors for obtaining good development. As Oded Shenkar points out:

The first 27 years (1949-1976) of the communist phase will continue to be cause for debate; although little by little the apologists from the Mao Zedong period are decreasing. However, regarding the economy and politics, there are no absolutes, and although the general results from the period are negative and at times were chaotic, such as the famine that presented itself in the middle of the period, it can be said that within this period some lessons were generated for the Chinese model that were greatly useful in its new boom from 1978 onward. The first theory among them that can be highlighted is the one that detaches from the Great Leap Forward and the Cultural Revolution, and consists of pointing out the facts that forcing the ideology of the economy produces catastrophic results, and that concrete results for development must be oriented toward this theory. At the very time that it was impossible to continue with the Russian model of investing and creating infrastructure in the entire territory in such a big country with so few resources, the advisable thing to do was to focus the effort on the areas with the greatest potential, in order to later disseminate the results, an experience that has been one of the most important points of the new development model. An additional lesson is that the viability of the political project necessarily requires economic success.<sup>3</sup>

For this reason, talking about China's new development model is not an easy task. Its political environment from the years that preceded it is charged with an enormous amount of nationalist content; its idiosyncrasy and its profound past are intertwined and confuse observers with their various backdrops; and its political-economic platform from a centralized model must be considered, not to mention the new implementation of a market economy. These are all elements which, due to their different natures, continue to distort the opinion of a Western world accustomed to a dichotomous paradigm in matters of economics (Communism-Capitalism). Even from 1989 onward, it was believed that a synthesis into a single paradigm was possible, in light of the fall of the former Soviet Union. In this sense, in order to try to analyze some of the qualities of the current Chinese development model, it is useful to follow the advice and precaution expressed by its author, Deng Xiapoing, that is, to start from the foundation that it is a "great experiment," which has not been deciphered in the important economic treaties. An experiment thought out and executed by a group of engineers (Deng and the main members of his group each had a career in some branch of engineering), that must be observed outside the paradigms, in the framework of the inauguration of a new global order.

2 González García, Juan, *Perfiles recientes del desarrollo económico de China*, Universidad de Colima, Universidad Autónoma Metropolitana, Mexico City, 2006, p.17.

3 Oded, Shenkar, *The Chinese Century*, Wharton School Publishing, 2005, p. 34.

For all these reasons, three sections are presented below: I. Economic Development as a Priority for the State; II. The Law as a Lever for Development, and III. Evaluation and Conclusion. The purpose is to frame the topic within the new development model of the People's Republic of China.

## I. Economic Development as a Priority for the State

*"Development by any means, without altering social stability."*

Deng Xiaoping

Within the political crisis at the end of the 1970s, the immediate challenge for China was to grow at any cost, with the aim of satisfying the urgent popular demands. The previous economic model had already failed, and outside of China the future of growth was debated between the "success" of the developed Western economies and an incipient panorama of globalization that was beginning to outline a new international order of development. In that sense, the starting point for the first reforms was well known due to the need to adapt a political-economic system that was oriented toward the outside, since internal growth had failed—reason for which Deng utilized all the State's power to structure a new development model that had the growth of its foreign commerce as a central point. For this purpose, Taiwan's economic model was analyzed in its operative aspect, from which it could be observed that its GDP had grown between 1960 and 1965 at an average rate of 9.5%, while China could not manage to surpass 4.7%. Between 1965 and 1972, when the Chinese GDP rose only one percentage point, Taiwan grew at a rate of 10.1%. In that manner, the Taiwanese example<sup>4</sup> was a starting point for the economic plan that Deng called, "the four modernizations," and whose main objective was, "economic development by any means."<sup>5</sup> In particular, the different commercial missions that were sent to Mexico at that time, with the aim of seeing first-hand the assembly plant model in the north of the country—which also played an important role in the integration of the new Chinese model—should be added to this process.

### • A Broad Outline of Economic Thought from Deng Xiaoping, Relating to the Chinese Development Model

At the beginning of the reform, Deng Xiaoping used to say, "We have to be more bold than before in order to carry out the reform and openness to foreign countries, and to have the courage to experiment. We should not act like women with their feet tied. Once we are certain that something has to be done, we should dare to experiment, to break, and to mark out new paths with it. This is the important lesson that we should learn from Shenzhen. If we do not have a pioneering spirit, if we are afraid to take risks, if we do not have energy and direction, we cannot break and mark out a new path, a good path, or carry out something new. Who is capable of declaring that he is 100% sure of success and that he is not taking risks? No one can be 100% sure from the beginning that what he is doing is right. I have never been so sure. Every year, the leaders should review what they have done, continue with the measures that have shown to be adequate, act immediately to change those that have shown to be erroneous, and face up to new problems as soon as they are identified."<sup>6</sup>

Deng's very life nearly spanned the 20<sup>th</sup> century (1904-1997), and occurred during one of the most chaotic stages of Chinese history. He was able to live the end of the Empire (1912), to face the different revolutionary movements (1912-1949), the Japanese invasion (1931-1945), and during the Maoist Period (1949-1976), it was necessary to face different movements which, like the Cultural Revolution (CR, 1966-1976), made him subject to strong political attacks on the part of more conservative groups.

From the triumph of the Revolution and in the face of different social challenges, Deng's discourse was distinguished by using reality as the starting point, with the purpose of finding the new paths that would take China out of poverty, and this clashed with the triumphalist and dogmatic discourse of the central power. In this regard, he pointed out in 1957 that, "In no way should we exaggerate our successes, nor paint our accomplishments with rose-colored glasses. Painting everything with rose-colored glasses and seeing things too simplistically is manifested in our propaganda work, in idealizing the current situation of our country, as if there were no longer any difficulty, and we only had to enjoy the amenities." And he added, "Our main task from now on is construction, which will be somewhat more difficult, at least not easier, than the Revolution..."<sup>7</sup> In the face of the challenges of his time he spoke of, "learning, of course, from all the advanced experiences of the world, learning how much they have advanced in different parts of the world, including the United States," although of course, in the 1950s, he was placing the Soviet Union in first place. He equally recognized that, "In China, many of the national capitalists opened their paths in the middle of arduous struggles, and they know more than we do about business management." This kind

4 In addition to looking at Taiwan, Deng observed the experiments that Sichuán, his native province, had carried out, with which it succeeded in multiplying the province's agricultural production, with a growth of 79% obtained between 1976 and 1979.

5 The objective of the new regimen was China's economic development by means of the four modernizations: agriculture, industry, national defense, and science and technology, areas in which, under the leadership of Deng Xiaoping, greater emphasis was placed with the intention of positioning China at the forefront of all the world's nations. J. K. Fairbank, wk. cit., p. 486.

6 Deng Xiaoping, Selected Works, Volume III, Beijing, 1995, p. 361.

7 Deng Xiaoping, Selected Works, Volume I, Beijing, 1995, p. 295.

of opinion, generated from the construction framework of the new growth, caused him multiple enemies and grave threats in relation to President Mao's orthodoxy and unique thought. For example, already by the difficult days at the beginning of the CR, in 1967, his confrontation with the steadfast part of the government led him to receive the label of, "demon-ox and snake spirit,"<sup>8</sup> in the official newspapers, for inciting the country on the capitalist path through his discourse and work in the Party.<sup>9</sup>

In spite of the aforementioned, given his incorporation into power upon Mao's death, Deng had the opportunity to put his ideas into practice, which, conceptually speaking, departed from the harmonization of three factors: Development, Structural Reforms and Political Stability. In this regard, he pointed out, "The solution to all China's problems depends on economic development," and, "Development is the absolute foundation and in order to achieve it, it is necessary to insist again and again on the reforms that make it possible." He added in 1985, "All our reforms are aligned with one single objective, which is to remove the obstacles that limit or inhibit the development of productive forces, which, in turn, should be directed toward creating a technological basis for development." Deng's theory always assimilated the reform-development link as a perfectible unit in time, subject to a trial and error model, the applicable reform for the best possible development. The reform or reforms, like a permanent public policy that corrects everything that does not add up to development, however, as already mentioned, always maintained that these two premises would not be possible without the country's stability through the social and political equilibrium of its participants. On this topic, Deng Xiaoping pronounced, "If there is no stability, brought on by political disparities, it will be impossible for us to move toward social construction."<sup>10</sup>

This simple reform-development-stability trilogy constitutes the theoretical basis of Deng's development model, of which the main challenge was to achieve the balance of the concepts in time, so their synergy would translate into a benefit and improve the different social classes. In this regard, he added, "The basic expression of the superiority of our socialist system is represented in the face of the possibility that the productive forces of our society grow rapidly at rates never before seen in the old China, and gradually give us the satisfaction of the cultural and material improvement that our people need."<sup>11</sup>

Connected to this development strategy, around which the different reforms for economic and commercial growth were being constructed, a very important addition appears, and is the long-term vision of the project: the knowledge of knowing what one wants and can do, and the clarity of knowing the direction toward which one is going. In 1978, Deng Xiaoping said, "The essence of the reforms is to construct the foundations for a sustained development for the next decade and the first 50 years of the next century." And he reasoned to do that through a strategy with vision for the future that he called, "three steps:" "In this century, we will take two steps, which represent the solution to the problems of an adequate food and clothing supply for our people. In the next century, we will spend another 30 or 50 years in order to achieve the goal of another step, which is to reach the level that the moderately developed countries of the world have."<sup>12</sup>

Deng was a visionary man with a great capacity to adapt himself not only to a new political period, which his country was beginning, after living largely walled in, but also to understand the great global transformation that the world was living at the end of the 1970s, and to lead China to take advantage of this situation. Regarding this particular detail, he declared in 1987, "Currently, there are two models of productive development. Insofar as each one of them serves our purposes, we will make use of it. If socialism is useful to us, the measures will be socialist; if capitalism is useful to us, the measures will be capitalist." In relation to this, in an unusual and pragmatic manner, he pointed out, "There are no fundamental contradictions between socialism and the market economy... The experience that we have gained throughout the last years demonstrated to us that we could not develop the productive forces in a rigid economic structure. It is for that reason that we have been implementing some useful capitalist measures. It is clear now that the correct approximation for opening oneself to the world is combining a planned economy with a market economy, to which structural reforms are implemented."<sup>13</sup> It was under this synergy of concepts that what is now denominated, "market socialism," was born.

"Surely the affirmation that the market economy only exists in the capitalist society, that there is only a capitalist market economy, is incorrect. Why can't socialism practice the market economy?"<sup>14</sup> This kind of posture is what defined and revolutionized the paradigm of his central planning model, in the same way that it faced the theory of the capitalist model. After all was said and done, what stood out was the pragmatic and utilitarian intention of transforming the economic models from *ends* to *means*, in the search for the prized development. It didn't matter if the cat was black or if it was white, Deng said, paraphrasing an old Chinese proverb, what mattered was that he hunted mice, and he added, "There is no fundamental contradiction between socialism and a market economy, 'both are means.'" Currently, the theories of both models (capitalist and socialist) continue to seek the answers that explain this new model with clarity—a model that has come to be validated on the basis of the success of its results.

With respect to the topic of structural reforms, which now worries the majority of countries, Deng indicated in the 1980s, "Without development, the reforms don't mean anything," adding that, "To reform was to remove the production relationships

8 Demoniical symbol in the superstition of Chinese mythology, which was applied to intellectuals and government leaders during the CR.

9 Deng Rong, *Deng Xioping and the Cultural Revolution*, Foreign Languages Press, Beijing, 2002, p. 35.

10 Wang Mengkui, *China's Economic Transformation Over 20 years*, Foreign Languages Press, Beijing, 2003, pp. 32-38.

11 *Idem*.

12 *Idem*.

13 *Ibidem*, p. 40.

14 Deng Xiaoping, *Selected Works*, Volume II, 2<sup>nd</sup> ed., 1995, p. 266.

and the superstructures that weren't driving the development of the productive forces."<sup>15</sup> Reform-development, development-reform, under a new apprenticeship that started from the world's successful experience, an apprenticeship that understood that the challenge was to cross an unknown river, for which, "One should proceed with caution, feeling the stones," a river that should lead to development, in benefit of the people. To do that, every reform and every development, in order to make sense and be approved, should comply with three objectives (three "favorables"): a) if it was favorable for the growth of the productive forces, b) if it was favorable for the strengthening of the Socialist State, and c) if it was favorable for elevating the people's standards of living. If it did not comply with these "three favorables," it did not make up part of the integral strategy of the new socialist market model. The simplicity of the approaches is correctly combined with the pragmatism of the positions. The clarity for understanding a globalization that was barely flourishing more than a quarter of a century ago, and implementing a winning strategy with regard to it, contrasts with the way a great number of economies still live, having gone off course.

The figure of Deng Xiaoping is characterized by having the rare talent that only very few statesmen have achieved in relation to their capacity to dominate both the political world, as well as the lines of economic construction in a historical stage of change within a global process that mutates every day. The challenges that lie ahead for the Chinese model are many, but beyond their future results, the stage from 1978 to 2008, due to the dimension of its results, will remain as one of the most successful economic achievements in man's development, with the personage of Deng Xiaoping as the central figure that made it possible.

### • A Broad Outline of the Economic Model

The combination of public policies assumed by the new Chinese model, independent of their origin, has led to a type of pragmatism that breaks with traditional analysis methods and benefits China's economic results. The West, after the fall of the Berlin Wall, consolidated its idea of a winning free market model that set itself up as highly superior to the central planning strategy instrumented by the former Soviet Union, which, it remained very clear, had demonstrated its incompetence with its Western counterpart. For that reason, when, in the face of its failure, both China (1978) as well as the former Soviet Union (1989) opened their borders and came out into the world, the most foreseeable conclusion was that they had to take the neoliberal model and wait their turn in an economic agreement that was already pre-determined. Although with a decade of difference, Russia understood it that way, which is why it followed a shock therapy strategy, under the IMF model, established a scheme of open (*laissez faire*) privatization that came about abruptly in a program called The 500 Days, which caused a massive closing of businesses and the loss of an important number of the State's strategic assets. This model implemented a total opening of its market and a free exchange of its currency, which ended in enormous indebtedness and a financial crisis that signified the loss of 4.2 times its gross national product (GNP), from 1992 to 1996, representing 2.5 times the total economic value lost by Russia during World War II. This strategy also caused 60% of the population to suffer a drop in their income, which generated 40% of extreme poverty. It also meant that only 10% of the population had access to levels of wealth, and that the Russian economy was thrown back in its development by 20 years.<sup>16</sup> Unlike the aforementioned, the gradualness, selective openness, and integral strategy implemented by the Chinese State in its economic development model generated completely different results.

Within the different lines of learning that are gathered from the new Chinese development model, and that surely will be profoundly analyzed in the future, one aspect that stands out is its prudence for not turning itself over in an impetuous manner to the offer of the paradigms of a free market, as Russia, the majority of Latin American countries, and the China of 1949 did in the face of the Soviet model. In the same way, to this caution, "for feeling the stones of the new river," something that will have to be added is the intelligence to put the national interest and reality ahead of the different strategies that were being implemented without inhibition for inventing new, non-proven formulas in the middle of a new free market dogmatism that turned the invisible hand of development into a cult. In this sense, some authors point out that, "It is precisely the success of Asian nations that allows the current free market theorists, especially the civil servants of the World Bank and International Monetary Fund, to highlight the goodness of the free market, and that, given its importance in adjustment and stabilization programs, brings about the resurgence of the neoclassic paradigm."<sup>17</sup> As far as China is concerned, at least, this idea is not married to a socialist market model that articulates all kinds of strategies in its own benefit, independently of their origin, with the only requisite being that they afford it development.

At the 15<sup>th</sup> Congress of the CCP, China defined its model in the following manner: "To construct a socialist economy with Chinese characteristics means to develop the market economy under the conditions of socialism and to constantly emancipate and develop the productive forces. In order to be more specific, we should maintain and improve the basic economic structure so that the market plays a basic role in the positioning of resources under the macroeconomic control of the State. We should maintain and improve distribution models in accordance with the dominant work, allowing certain people and certain areas to be prosperous at the beginning so that afterward they can help others and thus achieve prosperity step by step."<sup>18</sup>

<sup>15</sup> Wang Mengkui, wk. cit., p. 38.

<sup>16</sup> Wang Mengkui, wk. cit., p. 19.

<sup>17</sup> González García, Juan, wk. cit., p. 29.

<sup>18</sup> Wang Mengkui, wk. cit., p. 23.

The new Chinese model is defined, first of all, by its consciousness of historical change; by being present in the face of a decision that, in the event it is successful, would commit the people's effort for a lapse of around 100 years; by conceiving it as a gradual transition stage from an illiterate rural country into an industrialized country with high levels in science, technology, education, and culture; by combining its economic future with a market economy, in everything deemed favorable; by representing a historical period, that despite the free market, would not affect its vigorous socialist system on which a type of socialism with Chinese characteristics would have to be built, together with an economic socialist system, and a democratic socialist policy. This last part is the most difficult to understand for the Western observer, who, in his different focuses, forgets that in different stages of China's economic development, the State has never stopped taking direct responsibility for the various policies implemented, accompanied by its new-found private sector in every link of its contact with the Western economy. For that reason, at the 15<sup>th</sup> Congress of the CCP, the dominant position for public property and the parallel development of various forms of property is expressly declared; that is to say, the State's important economic role, as a pre-condition to private property, as the great controller of the country's economic life. In this sense, China never bought the easy notion of the "invisible hand of the market;" but rather, from its opening up to today, has opposed the "invisible hand of the State," which translates into its commitment and direct responsibility over the success of its sectors, its businesses, and its businessmen, which is one of the distinctive fundamental elements of the Chinese model.

### • Instrumentation of a Selective Political Opening

*Development requires getting rid of all the notions that hinder it,  
changing all the practices and regulations that prevent it,  
and liberating itself from economic burdens.*

Jiang Zemin

Development by any means, at all costs, was the great challenge in 1978. The direct struggle between the internal forces over the opening and its modulation was not decided and had to be handled gradually with open door policies. Above all, it had to be decided, as Deng Xiaoping used to say, in what field the battle would take place against the "flies" that would get in when the windows of the foreign market were opened. Above all, it was vital to not lose sight of the fact that the name of the game was development, development, and more development. In the face of this challenge, China bore in mind, remembering Sun Tzu, that an army that wished to fight the battle throughout the whole territory was condemned to defeat, and that it could not be strong in everything. It launched a policy of geographic regions (Pacific, Middle, and Western), deciding to put greater emphasis and resources on the first, for its qualities in relation to the Western market. In the same manner, the strategy expanded upon the focus and defined a selection of priority sectors to which it would give the State's support. In this sense, the Chinese newly made their own the words of Sun Tzu when he said that, "The enemy must not know where I propose to fight the battle, because if he does not know it he will be prepared in many places. And when he prepares himself at many sites, I will only have to fight a few men in any one of them."<sup>19</sup> In his first attempt to give a hierarchical structure to sectors, he started from a very general idea of what was called the "Four Modernizations," within which are included: the liberalization of agricultural production, the attraction of foreign investment, an aggressive exportation policy, and the creation of special areas. Subsequently, in 1981, under the National Program of Science and Technology, the sectors that would be prioritized were established: agriculture, energy, new materials, computing, space technology, genetic engineering, physical engineering and laser technology. In 1988, these priorities were redefined with a technological direction, including: microelectronics, semiconductors and hardware, information technology, new materials in technology, new energy and conservation technology, biotechnology, space and oceanic technology, laser technology, mechatronic technology, nuclear technology, and others of high technology. In 1996, with the success obtained in the previous program, a readjustment of sectors was carried out in the 9<sup>th</sup> Quinquennial Plan, as well as in the program named Profile of Long Term Objectives (2010), trying to focus even more strength from the State and its commercial strategy on the following areas: automotive, electronics, electric products and telecommunications, machinery, petrochemistry, chemistry, the iron and steel industry, and construction.

This focus on building fields of priority economic action is very far from the Latin American strategy in general, and the Mexican one in particular, with countries opening their economies and their commerce all along the length and breadth of their economic chains, losing strength and concentration of resources. Upon deciding in which fields to fight the battles, a competitive advantage is obtained by concentrating the financial, material and human resources on the fields of development in which being the winner within the global competition has been decided, considering beforehand that a hasty opening in all the sectors weakens the public and private line of support and disperses the State's resources and attention. An example of the aforementioned is the case of the Chinese automotive industry, which, upon being designated as a priority sector, attracted all the State's strengths (subsidies, research, development, education, raw materials, costs, etc.) with the goal of converting it into a winning sector- In effect this sector went from 200,000 units in 1995 to more than 5 million in 2004, and to nearly 10 million in 2010 (CSM WorldWide). This growth, which of course involves an increase in the sale of vehicles (for example, from 2002

<sup>19</sup> Sun Tzu, *El arte de la guerra*, Mercado, Buenos Aires, 1999, p. 52.

to 2003 sales increased 75%), also includes greater growth in the supply chain, as in the case of steel, which during the last years has seen its demand grow by 20% annually on average. This policy of preferences has also led the automotive sector to register an industrial integration of 70%, that is to say, it only requires 30% of foreign supplies in order to produce its vehicles. The degree of integration has also become superior in other sectors such as the electronics, textile and shoe sectors, in which this percentage has elevated from 90% to 100%.

Identifying development as the State's integral policy, selecting geographic areas as the basis for determining where to administrate the opening and globalization, and the hierarchical structuring of sectors as clear objectives of national growth, have given Chinese development a strategic advantage.

#### • Creation of special economic areas

*The birth of Special Economic Areas (SEAs) is the most important event within the opening policy and China's reform and the most evident sign of its change toward the outside world. Through the last shining fifteen years, an enormous amount of information derived from the SEAs, which have been considered a miracle by their great number of observers, has been accumulated.*

Chi Fulin

From the end of the 1960s, the Chinese model designed the strategy of creating different kinds of territories or privileged economic areas, with the goal, on one hand, of concentrating public support in strategic points within its territory, and on the other hand, with the idea of assigning them a differential competitive value that could be recognized by foreign investment, which would not be contaminated with the huge social, economic, and productive asymmetries of the rest of the country. In order to do so, it displayed a regional development policy by means of the creation of Special Economic Areas (SEAs), in which the greatest percentage of foreign investment was concentrated. The following may be included within the SEAs: Economic and Technological Development Zones (ETDZ), Free Trade Zones (FTZ), High Tech Industry Development Zones, Border Zones for Economic Cooperation, and Export Processing Zones (EPZ), which have resulted in the attraction of large volumes of foreign investment through the creation of international competition zones-regions that continue to grant all kinds of facilities and support for the entrance and exit of products, especially for those oriented toward technology.

In the period from 1978 to 1985 the first five SEAs were created in the provinces of Guangdong (Shenzhen, Zhuhai, and Shantou), Fujian (Xiamen) and Hainan. In these areas, through an ample offering of public stimuli, the incorporation of new undertakings was encouraged, in the same way that a wide promotion campaign toward foreign businessmen was carried out, with the goal being that they associate with Chinese businesses by means of Joint Ventures. In this same period, another six Priority Investment Areas were opened in Beijing, Tianjin, Bohai Bay, Shanghai, Wuhan, and the Pearl River Area; and the creation of Economic and Technological Development Zones was launched in fourteen cities on the eastern coast. During this same period, under this policy of resource focalization and concentration, three "Development Triangles" were set in order to accelerate economic growth in the Pearl River Delta. In the 7<sup>th</sup> Quinquennial Plan (1985-1990), it was decided that the SEAs and the ETDZs would be expanded inside the coastal region. During the 8<sup>th</sup> Quinquennial Plan (1990-1995), the modernization of the famous Pudong (Shanghai) District was projected, and given treatment as an SEA, strongly boosting its development through the creation of fifteen duty-free areas, 54 Economic and Technological Development Zones, and 53 High Tech Industry Development Zones. At the same time, the support policy focused on the capitals and provinces from the interior—such as Jilin, inner Mongolia, XingJiang, Yunnan and Guangxi—was expanded, beginning a gradual strategy of incorporation of the central area into the successful development of the Pacific coast, which, through this Plan, remained completely incorporated in special support public policy. Also, along the Yangtze River, 18 provinces were given treatment as coastal cities. In particular, this special support policy for the attraction of foreign capital was opened to the area that included the work of the three gorges (Chengdu and Chongqing). Given the success of this strategy, it was decided in the 10<sup>th</sup> Quinquennial Plan to open the central and eastern zones, which correspond to Tibet, Hubei, and Mongolia, to Foreign Direct Investment (FDI). The creation and differentiation of these areas has been accompanied, in a differential and strategic manner, by a complete battery of public support in infrastructure, subsidies, research and development centers, educational plans, and tax exemptions for foreign investment, among other elements, transforming the East Coast fishing villages, and the marginalized agricultural towns from the middle of the country, into global production and technological research cities, in time periods that range from ten to twenty years.

This resource focalization and value chain formation policy, through the sum of the segmentation of geographic areas, definition of priority sectors, and creation of special economic areas, has yielded the generation of a high level of competitiveness from Chinese producers, who easily surpass those from other countries. This concentration of strategic assets can be clearly appreciated when we see that cities like ShangYang and Nanchong manufacture around eight billion pairs of socks per year; Xiamen, 225 million pairs of jeans; Suzhou, 300 million ties; Fuzhou, 960 million pieces of underwear, etc. On the other hand, the creation of businesses like Hon Hai Precision Industry Co., which is the main contract exporting company of electronic appliances in the world, results in true manufacturing units with nearly 500,000 employees.

The idea of a country-wide boom, throughout an enormous territory and with an overwhelming marginal population, would have led to the failure of any development plan that had opted for growth of “all together and at the same time.” The criticisms that are made in this sense toward the Chinese model of privileging certain areas at the expense of others overlook this pitfall. This development model, which was initiated on the East Coast, has been extending itself during the last years to the central and western areas. At the same time, although priority was given to the coast for its geographic location and facilities for exportation, in the face of the success achieved the circulation of population from rural areas to urban areas has been a permanent labor phenomenon in view of the more than 300 million jobs that the model has generated up to 2006. As was mentioned previously, from Deng Xiaoping’s viewpoint, it was always thought that the economic advancement would be progressive, and the wealth and development generated in the Eastern-Pacific area would have to spill over to the central and western areas, which today represent one of the most enormous challenges to the political-economic stability of the Chinese model. In this sense, and in order to guarantee the institutionalization of this policy, in the recent 11<sup>th</sup> Quinquennial Plan of the National People’s Congress, the “Law on the Promotion of Development in the Western Area” was passed, mounted on a strategy of 50 and 100 years. The government’s investment in the region is already starting to be prioritized though 50% of the industrial value of the state businesses in 2002 (20% more than in the Eastern Zone), and 53% of the investment in assets of said businesses in the same year (14% more than in the East). A financial policy specialized for the area (banking, loans, development funds, etc.) is being added, as well as a more aggressive social policy.<sup>20</sup>

Through the admittance of China into the World Trade Organization (WTO) in 2001, the preferential treatment to the different kinds of strategic zones or regions has been losing the impact that it had on the first SEAs from 1980. However, China continues to grant them preferential treatment in the display of its public policy, within which the different facilities they grant to the provinces from the central and western areas are especially notable. These facilities, in an environment of free competition, rival in the offering of qualified personnel, technical innovation, fiscal advantages, governmental facilitation and a business environment, among other advantages.

On the other hand, the international pressure and institutional commitments signed during this century have made it more difficult for China to maintain its leeway with the SEAs, which have yielded such good results in terms of their development, growth, and employment. However, it should remain clear that China will not stop using this strategy, although it is adjusting it along the way. As Jian Zemin pointed out in his time, “The SEAs should be developed during the entire course of the construction of modern socialism,”<sup>21</sup> that is, for at least 100 years. Chi Fulin, one of the main economists and ideologists of the Chinese model, has also pointed out that the experience generated in the SEAs will be of great help and of exemplary importance in the model’s future reforms, which are quickly being oriented toward a market economy. However, he adds that it will be necessary and even obligatory that the economic policy of the SEAs continues in its most intact form possible.<sup>22</sup> It is within this framework of reference that the Chinese economy’s dynamic changes are unraveled: on the one hand, the compliance with the country’s international commitments (WTO) and its internal advancement toward a Rule of Law, and, on the other hand, the challenge of maintaining an economic model that for 30 years has enjoyed maintaining and privileging the State’s direct participation in its different economic stages and processes, giving it a special advantage with respect to the competition from other countries, such as Latin American countries, which since 1980 began an extreme withdrawal from the State through their models. In this State-market challenge, despite China’s important judicial advancements in the economic theme (in 2007 and 2008 it enacted Laws on Bankruptcy, on Property Rights, Monopolies, Business Taxes, etc.), the State’s direct participation does not entirely disappear in economic processes, and to the contrary, continues channeling the model’s movement toward the center and west of the country, through the maintenance of SEAs and special policies that motivate and support the Eastern area’s sustainability and the new development of the center and the west. In this sense, the classification of companies (“encouraged,” “restricted,” and “to be eliminated”) continues to be in effect, in order to determine the financial and fiscal support that their development and international competition allow them. At the same time, the State continues to generate a direct share position in “strategic industrial” sectors (military industry, power generation, petroleum, telecommunications, etc.), or in so-called areas of “basic industries” (machinery, automotive, technology, etc.), or by reducing and slowly “corporatizing” their participation in state-owned enterprises (SOEs), or maintaining some prices under the State’s control (approximately 4%), or maintaining some service prices (water, electricity, gas, etc.) lower than normal, in support of local or strategic businesses. This is in addition to maintaining tax prices and development policies for companies with activities in certain geographic regions or sectors that continue to be considered of national importance, such as those associated with research and development of Chinese or foreign companies.<sup>23</sup> These are only some examples that subsist between China as a country that advances in compliance with its international relations, and another China that continues to privilege growth strategies that give added value to its economic development, although they are not entirely adjusted to the global business world’s regulations.

20 Chi Fulin, *The Threshold*, Foreign Languages Press, Beijing, 2006, p. 178.

21 Gao Shangyuan, Chi Fulin, *New Progress in China’s Special Economic Zones*, Foreign Languages Press, Beijing, 1997, p. 41.

22 Chi Fulin, *Pressing Tasks of China’s Economic Transition*, Foreign Languages Press, Beijing, 1996, p. 261.

23 United States International Trade Commission: *China Description of Selected Government Practices and Policies Selecting, Decision making in the Economy*, 2007.

It is not an exaggeration to say that the Chinese model is changing at all times, this being one of its main virtues. Its flexibility and capacity for adaptation to new challenges place it at the forefront of the world economic scene. The Chinese model from 1980, charged with cheap manufacturing, has little to do with the model of intense exportation of electronics and technology from the 1990s. On the other hand, the model of the new century is already presented as a very solid outline, both for the strength of its exportation offering, as well as for the apparition of an internal market (currently 300 million people, and estimates predict 600 million people in 2020) that did exist in 1980.

In the same manner, priorities have been changing, and now the model spins its strategy toward the center and west of the country, trying to combine new and old formulas that give China a more stable and homogenous growth. In this sense, both the new Tax Law on company income (2008), as well as the new labor regulations of 2008 (Law on Contract Labor), that are tightening in favor of workers' regulations from the first Labor Law in 1995, obligating companies to sign contracts of undefined duration with workers with more than two years continuing in the company, in addition to insuring them and paying them overtime, increasing labor costs by approximately 20%. Both regulations make up part of an economic development reorientation strategy for China, which on the one hand, in the eastern area is starting to be put on the same level as the Western market with tax and labor climates, while recognizing the maturity and seniority of this economic-geographic sector of the country, and on the other hand, by deactivating some of the tax and labor privileges from attraction to the eastern area. This favors a movement of companies and investments to the central and western areas of the country, which are expecting to experience China's economic success. This change is not minor, since, for example, nearly 80% of the manufacturing companies located in the Pearl River Delta are based on a low-cost business model. In view of these measures, these companies are facing survival with low profits, having to close their doors, or move to more favorable areas for cheap labor, as they did 30 and then again 20 years ago in the same Delta region. In this regard, the vice-president of the Taiwan Business Association in Dongguan pointed out, "No one wants to leave, but we are forced to move due to the vertiginous growth of costs."<sup>24</sup> Within this business diaspora, motivated by adjustments in the model's own strategy (to which it is necessary to add the devaluing exchange rate and international pressure derived from the WTO and from the very success of Chinese trade), the Federation of Hong Kong Industries, one of the main economic participants in the area, estimates that 37% of its 80,000 companies have planned to move some or part of their activities outside the Delta. For its part, the Asian Footwear Association points out that approximately 50% of the moving of its manufacturing centers is taking place toward the interior provinces, 25% opt for some other Asian country, and the other 25% are in a wait-and-see mode. Authorities are betting, in this sense, that in the eastern area, the technology manufacturing plants motivate the sustainability of cleaner and more advanced industries, dedicated to technology or research and development. In the same manner, as far as the central and western parts of the country go, with the experience and success achieved in the Pacific, they expect to reproduce the model of 1980 and 1990, with support for investments and more relaxed regulations.

This policy of preferential customs duties, meticulously applied in the 20<sup>th</sup> century, and selectively applied in the 21<sup>st</sup> century, given its enormous success in China, has motivated a change in public tax policies on a global level. Pressure has even been exerted on the tax application strategy in some European countries, which in recent years have valued the convenience of reducing their income tax rate, with the goal of maintaining their level of competitiveness, in order to attract the arrival of international capital. For example, France and Germany decided in May of 2004 to reduce their corporate taxes in order to stimulate employment in their economies; the Finland government applied a rebate from 29% to 26% in May of the same year in order to compete with its neighbor, Estonia; Portugal announced a cut from 30% to 25%; and Greece from 35% to 25%. Brazil, for its part, is starting to operate special economic areas. In Mexico's case, it has been motivated by global competition to implement a policy of reducing its income tax rate, with a decrease from 35% in 2000, to 28% in 2008. However, in both the European case and the case of Mexico, the measures applied correspond to a general inertia in economic development that does not differentiate between sectors, products or regions, as the Chinese model does, thus decreasing the effectiveness of the measure in both its application levels (the Chinese exemptions are significantly superior) as well as its focalization and precision of the measures (China only applies them to its winning sectors and regions, and the other countries apply reductions in a general manner).

It is worthwhile to reiterate that as of 2001, China has suffered international pressure to stop applying this kind of special support, commonly referred to as "tax dumping." However, despite the fact that, as already pointed out, China approved a new Tax Law on the income from businesses in 2008—which already considers a 25% progressive tariff homologation for companies—this same law continues to include a battery of special discounts, such as: a 20% applicable tax tariff for small businesses with low profit rates, 15% for high-tech businesses, tax exemption for businesses oriented toward environmental protection, and "lower duties in general" completely discretionary for venture capital businesses in investments motivated by the State. Of course, businesses with field projects, or in the central and western areas of China, will continue to receive preferential customs duties not only on income tax, but also on sales tax, which may end up being completely extended in these cases (17%). (It is estimated that in China the annual sales tax evasion has risen to a level of 45% of the total collectable amount).<sup>25</sup>

It is also important to point out that China's current strategy of raising Foreign Direct Investment (FDI) is not the same one that was instrumented in the two previous decades. On the one hand, as the National Commission for Development and

24 Interchina Insight. ¿Dónde estará el próximo Dongguan? March, 2008, p. 3.

25 United States International Trade Commission, wk. cit., pp. 67-69.

Reform has pointed out, in the same way as the 11<sup>th</sup> Quinquennial Plan 2006-2010 indicated, from the priority for quantity, a certain quality criteria has been surpassed, giving priority to high tech, research and development, and high added value sectors. The latter are advised to not appeal to arguments of intellectual property rights to frustrate the Chinese search for innovation—in other words, that they are willing to share technology. In the same way, FDI is opening itself to services with the limitations of the strategic and national security sectors, closely watching the influence that the wholly foreign owned enterprises (WFOE) can have on China's economic security, and especially, on its industry.<sup>26</sup>

In particular, as already mentioned, investments will be encouraged from China's central, western, and northeastern regions, where it is hoped 80% of the new FDI is destined. On the other hand, foreign investments of low technological content or great consumption of natural resources, or that are highly contaminating, will be prohibited.<sup>27</sup> In summary, from the great facilitations of the 1980s and 1990s, when FDI was beginning in China (1978, scarce records of FDI), a selection outline that limits or prohibits unwanted investment has now been passed, and moves in the direction of a new elitist FDI for its technological value and for the region to which it applies. Despite these limitations, it has not caused a decrease in the amounts, which in 2007 recorded 75 billion dollars (World Bank).

Recent legal changes in the eastern area, along with the new criteria for FDI in China, are presented within a clear strategic line, which after 30 years continues to apply the “Deng” model, with Chinese characteristics. In this case, given the eastern region's development and success, certain supports are being released, so it can function more independently, and as far as the two geographical areas lagging behind the most are concerned, they are trying to reproduce, to the extent possible, the successful strategy of differentiated support to regions, sectors and cities, with the goal of strengthening them in the context of the global market.

### • Long-Term Vision

Currently, China already knows what it wants for the year 2020, and above all, it has a plan to achieve it. In accordance with the Economic Development Plan for 2020, its goals are to quadruple its GDP, grow at an annual rate of 7%, and reach a per capita GDP of between 4,000 and 5,000 dollars for approximately 1.5 billion people. Very importantly, it foresees its exports having an integration component of 50% of high-tech goods, and finally, it considers an internationalization program to place 50 transnational companies, 500 medium-sized companies, and 5,000 SMEs in the world market by the year 2015. In the middle of its communist stage, in 1953, China began its long-term programs with the 1<sup>st</sup> Quinquennial Plan, which was drawn up with advisement from then-Soviet Union, and privileged heavy industry and the agricultural sector. To date, that model of projecting the future has been respected, with the 11<sup>th</sup> Quinquennial Program including the period from 2006-2010 in effect. The importance and responsibility of the civil servant are emphasized, and not only will the country's success in economic growth be evaluated, but also, in particular, its advances in social development, education, environmental protection and employment. This general and systematic policy of working for the long term, foreseen in the 2020 Economic Development Program and the respective Quinquennial Program, is complemented with the elaboration of special plans for specific topics such as technology, income distribution, poverty reduction, etc., that focus on the State's development strategy. Within this strategy, China even reaches the point of planning for the coming 50 or 100 years, as currently taking place with the western area's development.<sup>28</sup>

The use of time and space is concomitant to the Asian culture in general, and to China in particular. The incorporation of these variants into the development model, and its business strategy, have given China a competitive advantage in relation to the annual programs for the majority of developing economies, which, in turn, design their yearly budget with great difficulties. The majority of Latin American countries, including Mexico, do not project their economic destination for the year 2020, in the same way that they lack clear strategies and specific plans for the manner in which they wish to confront it. The same is true for 2015 and even 2010. Planning work that starts from each country's strengths and aptitudes continues to be absent, and public and private policies that could be successful within the framework of global competition are not foreseen. The only visible route that is considered, in general, corresponds to the commitments established for 2015 at the Millennium Summit, when goals were set with respect to some indexes of human development and social improvement. China is the only country that has complied with these commitments to date. In the case of Mexico, the political struggle between powers (executive vs. legislative), in combination with short-term public criteria that have not been modernized, reduce development expectations to an immediacy that does not correspond to a policy of project maturation, as is required, for example, in the technology sector. China already knows what technological-content products it will be incorporating next into its exportation platform, in the same way that it has already defined what it is going to produce in which regions or areas of the country and by what dates this should be achieved. This integral long-term vision is a lesson that could be of great use for Latin American public policy.

<sup>26</sup> Interchina Insight, La actitud china hacia la inversión extranjera está cambiando, November, 2006.

<sup>27</sup> Idem.

<sup>28</sup> Oropeza García, Arturo, China entre el Reto y la Oportunidad, IJ-UNAM, Mexico, 2006, p. 290.

## • State-Owned Enterprises

In 1980, state-owned enterprises (SOEs) made up approximately 99% of China's productive sector, as a logical result of a central government. By the year 2007, this sector, in its various definitions, had decreased its participation in the total number of enterprises to 8%. However, by providing employment to 18 million people in 2006, and with its participation in the country's industrial value at 98,910.45 (100 million yuan), its strategic importance in the industrial sector is far from diminishing.<sup>29</sup> This important reduction in the State's ownership, above all during the last two decades, was the consequence of the adoption of the new economic model, and occurred along with the arrival of foreign capital, which in that same period progressively substituted the participation of public enterprises. In a parallel manner, an internal privatization process of public enterprises occurred, mostly in the decade from 1990 to 2000, during which the Chinese State afforded facilities to the executives and workers in medium and small enterprises so they could acquire said enterprises.

Despite its openness to the outside, the strategy implemented by the Chinese State has, from the start, followed a gradualist policy, through which it has privileged privatization over non-strategic sectors and respect for activities that generate an increase in exports or yield an apprenticeship in technology or some other area of added value. Within this process, the State was erected at all times as the referee for the different interests, as well as the equilibrium factor between privatization, foreign investment, strategic sectors and the strength of the development model. Unlike the aforementioned, there was no gradualism in Latin America and Mexico. On the contrary, in the majority of the countries a competition was established to see who could liquidate their public assets first. The difference in the results from the two strategies is evident. On the one hand, China appears as a modern State of great economic power, with large public enterprises, and the same time with a private sector that has been converted into the fundamental engine for the export process due to technological change and the incorporation of better administration practices. That is to say, by means of its privatization and openness, China consolidated a growth strategy that currently places it among the most successful countries in the world, and one that imposes guidelines and new paradigms on the global world.

Latin America in general presents weak States as far as their industrial chain is concerned, as a result of having lost important public assets that were applied in a type of developmentalism with no future, or because of an increase in their daily spending. The majority of Latin American countries, in the decade from 1990 to 2000, handled their privatization processes in an anarchic manner, without a strategic orientation that would have allowed them previous selection of the goods to be privatized based on a long-term development project that would strengthen their economic model. With only a few exceptions, as in the case of petroleum and the electricity industry in Mexico, the sale of public assets occurred under a mechanism of international demand, and not through a systemized offering from the State, that in and of itself included industrial, banking, service, or electricity industry enterprises (a process that was not exempt from acts of corruption). Unlike in China, privatization in Latin America States did not promote their political or economic growth. On the contrary, because of deficient implementation, Latin American nations currently present themselves as being more weak in order to comply with the task of promoting economic growth, as well as social development and the preservation of public order.

Privatizing millions of enterprises, and passing from a central planning economy to a mixed market economy, have not been easy for China. In the construction of "market socialism" without any historical reference at all, the problems and contradictions faced by the State have been many. Which enterprises are non-strategic? How to safeguard national interest? How to administer the resulting monopolies? In what manner does one prevent corruption? How to legally homogenize an SOE with a private enterprise? How to transform local SOEs without resistance from the provinces?

Today, as already mentioned, the process is quite advanced, but still a long way from having arrived at a point of conclusion. To begin with, an endless number of categories of companies continue to exist in China (Limited Liability Companies, Limited Private Companies, State-Owned Enterprises, Joint-Stock Companies, Foreign-Founded Enterprises, Wholly State-Owned Enterprises, Sino-Foreign Enterprises, etc.). However, in accordance with statistics from the Ministry of Industry and Commerce, in 2006 there were nearly 5 million private enterprises that, in their different forms, already represented 57% of the country's total number of companies, with 52 million employees. Despite the importance of this privatization movement, the Chinese model's strategy is very clear with regard to not caring how much the market economy advances, or how the privatization of its assets progresses, because these aspects will never be above national economic interest. In this respect, for example, it is indicated in the 2007 report on the evaluation of the Reforms carried out by China that, "...experience has shown that in the context of economic globalization, a passive resistance to foreign investments turns out to be counter-productive..." adding that, "in the current situation, the excessive relaxation as far as an irrational placement of the State's assets in the productive sectors should be halted."<sup>30</sup> This occurred to such a degree that, in spite of the privatization processes, the State's enterprises continue to participate actively in strategic sectors such as gas and petroleum, in which they control almost 100%. These enterprises correspond to 100% of basic telecommunications services, 55% of electric energy generation, 82% of civil aviation, 89% of water, 50% of automotive production, 60% of the steel industry, and 70% of the hydroelectric industry. At the same time, the SOE sector has been increasing its productivity over time, adapting rapidly to major free market competition, increasing its annual gross profits from 1,458.1 (100 m. yuan) in 1998, to 19,504.4 (100 m. yuan) in 2006.<sup>31</sup>

29 China Statistical Year Book, 2007, p. 520.

30 Chi Fulin, 2007 Evaluation Report on China's Reform, wk. cit., p. 83.

31 Jin Bei and Li Gang, Chinese Industrial Enterprises, China Economist, March, 2008, p. 55.

And in the case of the much anticipated Antimonopoly Law, to enter into effect in 2008, it leaves out, in theory, regulation of the rural sector, monopolies regulated by the State, and SOEs.

#### • Industrial Policy

*“The strategy of low prices on finished industrial products within the Chinese domestic market inevitably has been spread to the international market. This can provoke phenomena associated with the current industrialization stage in China, such as anti-dumping lawsuits, a large-scale trade surplus, reevaluation pressures for the RMB (Ren Min Bi, currency of the People’s Republic of China), as well as a hollowing out of the industry in some developed countries and neighboring countries as a result of the industrial transference. Fundamentally, these phenomena turn out to be imbalances in the economic trade relations, caused by the irrationality of the world economic order. They are also manifestations of the competitiveness of the Chinese finished industrial products, which have been moderated by the market competition between the ‘good and the cheap.’”<sup>32</sup>*

In 1978, the internal credit of China’s state banking sector was 51% in relation to the GDP. In 1985, this figure rose to 67%; in 1990, to 87%; and to more than 100% in 2000. Although the important increase in these flows ended in the most representative part of its corruption, upon having permitted the granting of loans in an arbitrary and fraudulent manner, its main intention of transforming an obese and inefficient industrial sector was carried out with complete success upon getting its participation in the economy to rise from 40% to 50%, in a period of 20 years. However, more relevant than the aforementioned fact, was the financial facilitation of the cost of its learning period, and, later on, the period of its industrial reconversion. Also important was the development of a modern and efficient platform of goods and capital that today gives support to its priority sectors, such as the case of the automotive sector, in which 50% of the machines and numeric control tools are already produced by Chinese companies. To this policy of preferential credits that was driven strongly in the industrial sector in 1980, we must add a strategy of custom duty benefits and duty-free benefits that in their time opened up the importation of machinery and capital goods exempt from any payment, with the goal of covering a learning stage. To date, the machinery that is destined for high-technology sectors or priority sectors continues to be exempt from payment or importation obstacles. Also, in order to support strategic industrial lines, monopoly policies were supported within the internal market and lines of access to international financial markets were concretized. Priority focus was given to the SOEs in the metallurgic, transportation equipment, and chemical industry sectors, and in the face of the opening, to foreign investment that was especially oriented toward export-oriented textile and manufacturing, electronics and telecommunications branches.

When one speaks of the “world factory,” and one thinks of the thirty or fifty cents on the dollar per hour paid to the Chinese workforce, it is without perceiving that although this cost is a strength (both for China and for all marginal developing economies), in order to make it possible for this workforce to generate an added value, an integral public strategy that transforms a weak manufacturing position into productive activity of international competition is required, by means of a permanent learning program, assimilation, and process reconversion. This change can be clearly admired in China if the composition of the Chinese industrial sector is observed. The manufacturing-assembly line represented 90% of its integration in 1978, and 70% in 2002, despite the important increase in the industrial sector within the GDP of the same period. On the other hand, just as the in-bond assembly and agricultural sectors endured the Asian development boom, the trade surplus that mature manufacturing branches generate, with Chinese integration up to 100%, as in the case of the textile and clothing industry, toys, sports, footwear, and furniture (that together added up to a trade surplus of nearly 90 billion dollars in 2002), currently supports the new sectors of technological content. We will see that these sectors have not just generated surplus balances, as in the areas of electronics, medical-surgical, electrical material, and photographic apparatuses, and strategic supplies such as fuels, mineral or steel.<sup>33</sup>

The policy of granting subsidies has also played a strategic role within this large chain of support for the industrial sector, and it has been carried out, like all Chinese public policy, in a manner focused on the quinquennial plans. Along these lines, in the 1990s, there were nine sectors that received nearly 100% of public subsidies: carbon 36%, petroleum 16%, machinery 10%, textiles 7%, tobacco 7%, metallurgy 5.3%, chemistry 5.0%, light manufacturing 5.0%, and ferrous metals 4.0%.

The industrial policy in China and Latin America (and in the case of Mexico) followed different patterns. The Chinese model, inside a mercantilist pragmatism, focused its opening first on the exportation of manufactured goods that would take advantage of its ample workforce, later passing to flexible specialization with strong State investment. This led to the creation of workforce-intensive industries such as textile, clothing, and electronics, in order to later pass to heavy industries (steel, petrochemistry, vehicles, aeronautics), and currently to high technology. This process was accompanied by a great

32 Jin Bei, *The Industrial Competitiveness of Chinese Industry*, Foreign Languages Press, Beijing, 2007, p. 32.

33 Oropeza García, Arturo, wk. cit., p. 308.

impulse given to infrastructure for development, and important resources in innovation and technological development with high rates of internal savings and investment. In a very important manner, this model followed a gradual and progressive route that allowed it to learn from its own experiences.

Unlike the aforementioned, the Latin American industrial model came about with an almost complete trade opening, lacking the experience to administer itself adequately, and with an extreme detachment from the State that led some Mexican politicians to declare that, “The best industrial policy was one that did not exist,” leaving the national production chain at the mercy of free market forces. In this regard, Jin Bei points out that, “The most powerful driver of the market economy is competition, which generates efficiency, promotes growth, and creates well-being.” However, he adds, “this market mechanism does not intrinsically have the ability to reach balance, security, and automatic innovation, and it is not in itself a mechanism that distributes the fruits of industrialization to all its participants. On the contrary, the competition of an imperfect market will always generate great disparities, even chaos, crisis, and polarization, creating an undesirable situation that is contrary to the accepted human values and that goes against long-term national interest and its basic values...,” which is why, “In summary, the industrial development strategy of a country will always be based on rational and national factors that include factors such as nationalism, ethics, and many other cultural values.”<sup>34</sup> National interest is precisely what some Latin American countries lost along the way to the free market, and what makes a big difference with respect to the Chinese model, that based on this fundamental principle of appreciating national interest in a priority manner, has always been on the side of its enterprises and its industrial project, both in its internal market, where it has successfully increased the production of its selected products quinquennially, as well as in the external market where its participation in world exportation in 1980 was 0.8%, or rather nothing, and in 2001 it reached 5.3%, surpassing this level in 2007 with 6%.

### Industrial Growth (1978-2006)

Table 1

Industrial Product	1978 Production	2006 Production	Industrial Product	1978 Production	2006 Production
Automobiles	0	3.8 million	Chemical Fibers	280,000 tons	20.7 million tons
Washers	0.04	35.6 million	Beer	400,000 liters	35 million liters
Refrigerators	2.8	35.3 million	Water Energy (100 million KHW)	4.4 million	43.5 million
Air Conditioners	0.02	68.4 million	Paper	4.3 million tons	68.6 million tons
Cellular Phones	0.0	480 million	Sulfuric Acid	6.6 million tons	50.3 million tons
Micro computers	0.0	933 million	Chemical Fertilizers	8.6 million tons	53.4 million tons
Clothing	1.1	5.9 million	Ethylene	380,000 tons.	9.4 million tons
Color TV	0.38	83 million	Cement	65.2 million tons.	1236.7 million tons.
Tractors	110,000 units	190,000 units	Crude Iron	31.7 million tons	419.1 million tons
Motor Vehicles	140,000 units	7.2 million	Pig Iron	34.7 million tons	412.4 million tons

Source: China Statistics Yearbook, 2007.

As can be appreciated in Table 1, China has never given up directing its industrial process, nor has it allowed that, in the interest of a “free market,” it would eliminate the weak and inefficient Chinese industry of 1978 in a time period of 30 years. On the contrary, using the free market, it created a lever of continuous improvement, achieving a strengthening of the greater part of its manufacturing sector. As Meza Lora points out, “The convergence of the market and the State in the industrial sector in China is an expression of an unquestionable fact: the recognition that the rules of the game should be governed by the market

and the necessary intervention of the State given the weakness of this Institution. A socialist market economy with Chinese characteristics does not presuppose the antagonism between the State and the market. On the contrary, it recognizes that the market and the State can perform a complementary role in industrial coordination activities. If the market is deficient in the resolution of coordination problems, then an explicit industrial policy is justified as an ex ante coordination mechanism that is not from the market.”<sup>35</sup> In this general framework of joint State-market work, among the actions the Chinese government has been applying within its industrial policy, the following are worth mentioning:

- Direct investment in infrastructure projects; financial and budgetary assistance in projects from regions that are lagging behind.
- Administrative intervention from the central authority in its enterprises in order to close, establish joint ventures, mergers, etc.
- Price control over basic supplies (for example, energy and water supply).
- Direct and long-term financing for key companies; favoring the assignment of capital to companies by way of the capital market, above all for new companies or companies that seek to increase their technological development.
- Establishment of customs duties and duty-free measures, import quotas, licenses, and local barriers to imports.
- Prohibiting foreign companies from distributing other products that have not been produced in China, as well as the policy of controlling its own distribution networks.
- Low interest rates in state banks and discriminatory credits to different industries.
- Tax incentives to companies oriented toward industry.
- Reduction in tax rates for high-tech companies in industrial areas of technological development.
- Zero taxes for companies of “urgent need for the State,” (fixed capital investment for the agricultural sector, water conservation, transportation, postal system, telecommunications, certain medical projects, and investment in machinery and electronics, etc.).
- State enactment of a Foreign Direct Investment Guide through which projects are established that will be delayed, allowed, restricted, and prohibited, etc.<sup>36</sup>

#### • Research and Development, also a State Policy

With a budget of more than 60 billion dollars for research and development for 2006 and with a staff of 3.2 million people, of which two million are scientists or engineers, China is growing in the intelligence sector (Jian Bei, 2007). In the 1<sup>st</sup> Quinquennial Plan (1953), the development of technology was already included in a significant manner. However, where it is finally emphasized with a market focus is in the 7<sup>th</sup> Quinquennial Plan (1979), in which technological growth by means of research and development is clearly emphasized. At the end of the 1970s, a planning system for science and technology activities was drawn up, and the implementation of technological innovations in public enterprises was launched in order to improve productivity. Also, federal research centers were established in different areas of the country. In the 7<sup>th</sup> Quinquennial Plan, the policy of reforming research and development centers (RDC), with the goal of responding to the market’s requirements, and not remaining in obsolete or bureaucratic outlines, was adopted. At the same time, the policy of merging manufacturing enterprises with the RDCs was accelerated in order to achieve improvements in technology and in line production. Business incubator programs were added to this kind of cluster, which resulted in improvements in productivity based on new technological development, but also in a significant manner, this supported the creation of new technological enterprises (NTEs) and the registration of new patents in science and technology.

During the 1990s, corresponding to the 8<sup>th</sup> and 9<sup>th</sup> Quinquennial Plans, the functioning of the RDCs was reviewed again, with the aim of improvement in performance. Also, in order to achieve greater competitiveness and motivation in personnel conducting research, the possibility was established for these centers to benefit economically from the generation of commercial rights derived from the registration of science and technology patents, if purchased on the market. One value to highlight from the efforts by the Chinese government in this area of knowledge is that its strategy has not been handled as an independent public activity, but has instead been aligned directly with the market, education, special areas and strategic sectors, as well as the other policies oriented toward development and public spending, while seeking maximum productivity from these efforts. During the 10<sup>th</sup> Quinquennial Plan (2000-2005), a boost was given to new technologies and to the so-called third generation products, making the topic of research and development one of the most important themes of the Quinquennial Plan. The outline of that Plan has been reproduced in the 11<sup>th</sup> Program (2006-2010) and the Development Plan for 2020. Regarding resources allocated for this area, in the year 2000 a significant increase to 1% of the GDP was decided on for the budget dedicated to research and development, increasing the item by approximately 100% in a period of ten years (World Bank). Currently, this percentage already surpasses 1.3% of the GDP.<sup>37</sup>

35 Meza Lora, José Salvador, *El rol de las Instituciones con las grandes transformaciones del sector industrial en China durante la Reforma Económica*, Porrúa, Mexico, 2006, p. 285.

36 *Idem*, p. 229.

37 Oropeza García, Arturo, wk. cit., pp. 310-311.

References to RDCs, inside the approximately 700 federal and provincial institutions that comply with this objective, usually correspond to state-of-the-art installations that grant all kinds of facilities to the public enterprises and enterprises mixed with foreign capital, which have the highest-level equipment in the world. One example is a technological development with integral management in the Shanghai area, the Zhangjiang Hi-tech Park. In an area of 25 km<sup>2</sup>, this Hi-tech Park brings together around 50 RDCs that attend to both public and mixed enterprises, as well as companies with foreign investment. This type of park operates with a cluster-type head office by means of which the entire value chain of technological development interacts: the RDCs, the enterprises, the educational centers, and the incubation programs from new production projects. In this case, along with the 50 centers, around 3,168 companies coexist, together with an endless number of specialized educational centers, facilitated by the necessary experts for their development (to date, this cluster works on approximately 400 research projects). Among the academic entities, the following are particularly worth mentioning: Microelectronic Research Institute of Beijing University, Shanghai Institute of Medical Material, Software School of Fudan University, Shanghai R&D Center of the University of Science of Technology of China, and Shanghai Hi-tech Industry Parks of universities. This particular park in Shanghai focused on production research and development has motivated to date an investment of approximately ten billion dollars, of which 70% corresponds to foreign investment (Beijing Investment, 2005). Also, this model of the “intelligence” center has generated the production of approximately 3,000 patents.

In this sense, the tasks carried out by China in the area of research and development continue to be a central part of a strategic policy that seeks development as its main objective, and uses the reality of the market as its starting point. However, in this innovation task, China is very aware that its strength, as well as its greatest weakness, lies in its enormous job offering. In this regard, while competitiveness and innovation in certain high-tech sectors in other areas of manufacturing goods improve, the challenge continues to be maintaining large factories with a massive workforce (the heavy industry, for example, employs almost 80 million people), with reasonable technological improvement in terms of efficiency. China cannot allow itself the luxury of generalizing robotics, for example, because it would provoke a social imbalance in its workforce. Nevertheless, growth in research and development is a priority for the Chinese model, which since 1985 registered 14,000 patents, and in 2003 that figure surpassed 300,000 registrations, signifying that China ranks third in this regard among the world’s countries, after Japan and Germany. Between 1995 and 2003 the high-tech industry has maintained an average annual growth of approximately 20%, while representing 18% of the national industry (Jin Bei, 2007).

## II. The Law as a Lever for Development

Although China is one of the oldest countries in the world (approximately 5,000 years), when it comes to legal matters, the Asian country is currently in a period of establishing the Rule of Law, after passing through a difficult and abrupt transformation of its feudal legal system over the last 170 years. For this reason, within the various new facets of the Chinese phenomenon, one of the least known in the world, and especially in Latin America and Mexico, is the facet corresponding to knowledge of its current legal system.

Latin American trade with China has already reached a level of more than 100 billion dollars (2007), and more than 30% corresponds to Mexico. However, in our times, there is not, in either instance, a minimal bibliography that legally drives and orients the exponential growth of the political-trade relationship with this new Asian participant, nor responds to questions on the Chinese legal order’s history or antecedents. Nevertheless, law in China is as old as its history, which, due to its wide dimension, is difficult to synthesize.

### • Brief Reference to the Legal Order in China’s History

The exact dates and origins of the Chinese culture vary, but some authors (Cornejo, 2007) place the beginning of Chinese writing in the Shang period, between approximately 1751 and 1122 B.C. One point on which the majority of researchers agree is that in 221 B.C., the first unified State in the history of China was established, under the command of Qin Shi Huang Di, first emperor of the Qin Dynasty.<sup>38</sup>

As far as the historical antecedent of its legal system, some authors (Xin Chunying, Li Lin, etc.) speak of its birth during the development of the Xia Dynasty (21<sup>st</sup> Century B.C.), and of posterior growth in written law during the centuries corresponding to 770 to 221 B.C. From the start, Chinese law was characterized, unlike the other legal schemes of its time, by having a secular influence, since it was directly related to the power of the ruling governors, more than to divine figures, focusing its rules on respect for a natural order of things. It was understood then, in China, that the law referred to “the rules of the natural order of things.” Also, in its origins, Chinese law was linked to the philosophical schools of thought at the time, such as Confucianism (551-479 B.C.), from which it was strongly influenced through its three cardinal rules. These same rules in some way continue to have a great effect on the social order in China, and are specifically: a) harmony between the subject and the monarch, b) harmony of the father over his son, and c) harmony of the husband over his wife. All orders, in order to result

in positive performance, should be based on five basic virtues: kindness, justice, good habits, wisdom and honesty. After all was said and done, these principles would be converted into the basis for the legal system of China's feudal society.<sup>39</sup>

"That the monarch govern as he should and that the minister be a minister as he should; that the father act as a father should and that the son act as a son should," is the Confucian postulate of a social order that should begin with the responsibility of its members, and from a pre-established order that granted each person his place and his obligations. The consequence to offenders would be a disastrous loss of reputation and self-esteem that could result in suicide due to social shame.<sup>40</sup> In this sense, the philosophical line tended to maintain the status quo, through the appropriate or virtuous behavior of the different participants or social layers that were integrated into the Chinese feudal organization.

The concept of law in China was different than the Western concept. Its perception of obligations and rights was not derived from a "Superior Law" but from a natural order of things, from a "harmonious society" that was administrated by the "wisdom" of the emperor or monarch. Thus, the first legal regulations had as their foundation a social "should be," backed up by a generalized concept of "the good habits," principles that emerged from philosophers such as Confucius or Tao, whose rules served for the legislation of a common conduct, where the regulations of law were an expression of this natural order.

Given the monarch's hegemony, the most visible legal expression corresponded to punitive law, which regulated and sanctioned, along with social discredit, the breaking of the established order. Sanctions especially worth noting include being beaten with a bamboo rod, light or heavy, in accordance with the offense committed. Corporal punishments were also applied, as were exile and death. Torture, in this scenario, was foreseen and accepted. As far as the administration of the Law was concerned, the monarch was completely in charge of this, just as with mediation, since there were no legal professions in China. With regard to the codification of this legal standard, Fairbank points out, "According to pre-modern standards, the Chinese legal codes were true monuments of their kind. The great Tang code of the 8<sup>th</sup> century and its successors from the Song, Yuan, Ming, and Qing periods, still merit an analysis. The first European observers were very impressed with Chinese justice."<sup>41</sup>

The Emperor's hegemony, which was at the same time the creative, punitive, and administrative aspect of the law, along with the philosophical influences of Confucianism and Taoism, were the characteristics that best identify the origin and application of the law in China, which, in some manner, continues to be a great influence up to our times.

This general panorama of imperial law, of feudal law, remained without great changes up to the middle of the 19<sup>th</sup> century, when the Asian country's direct contact with some Western powers led it to review and initiate some transformations in certain disciplines.

China was once the world's greatest civilization. Even from the 10<sup>th</sup> century to the 15<sup>th</sup> century, no comparison of agricultural productivity, industrial ability, commercial complexity, urban wealth, or standard of living (not to mention bureaucratic sophistication and cultural achievements) would place Europe on the same level as the Chinese Empire. In the same way, for over a thousand years, its economy was the largest in the world, managing to represent 30% of global participation. However, from the 16<sup>th</sup> century onward, and compared with other legal systems, Chinese law was characterized as not having a modern legal system that was in tune with the development of economies and democracies of the time, which were beginning to develop a strong legal evolution, the same evolution that deepened in the 18<sup>th</sup> century and has been continued up to our time.<sup>42</sup> On the contrary, from the 17<sup>th</sup> century onward, China initiated a stage known as the Late Empire (1600-1911), which accelerated in the 18<sup>th</sup> and 19<sup>th</sup> centuries.

The different internal rebellions were: White Lotus Rebellion, 1796; Taiping, 1851; Nian, 1853; and Boxer Rebellion, 1898. And the foreign invasions were: Turkistan, 1826; Opium War, 1839; Anglo-French Invasion, 1856; French Invasion, 1883; and the Chinese-Japanese Invasion, 1894; that took place in China during the 18<sup>th</sup> and 19<sup>th</sup> centuries. They directly incited the transformation of the established order, which, in spite of its different stages and challenges, had been able to preserve its main characteristics for around two millennia. Because of these rebellions and foreign invasions, that revealed the weakness of an empire in decline, and because of its impossibility to control its territory, a change in the legal framework also occurred, motivated by the presence of new participants in China's public life. For example, from 1842 to 1943 there was a period that has been called "the century of treaties" (Great Britain in 1842, the United States and France in 1844, Russia in 1858, etc.), during which the maritime powers of the time obliged China to recognize certain rights of an economic and commercial order, which reversed the established legal order and the Empire's central concept of exercising its power and full sovereignty within its walls. Based on hegemonic pressure and the signing of these treaties, China had to accept, first of all, the equality of other countries (Great Britain, France), which severely hit the Emperor's principle of superiority in relation to other governors, impeding his right to demand tribute and obedience. Also, China had to recognize the jurisdiction of other countries within its territory, to which the handling of the "most favored nation" clause and free trade for these powers within China should have been added.<sup>43</sup>

The meeting of an Empire in decline with the maritime powers of the time, in full expansion, provoked the forced opening of the Chinese Empire, which gave rise to the transformation of its established political, economic, and social order, but also, to a significant degree, of its legal order. This situation caused a division in the country between the group that aspired to the

39 Xin Chunying, *Chinese Legal System and Current Legal Reform*, Kas-Occasional papers, Beijing, 1999, p. 311.

40 Fairbank, John King, *China: una nueva historia*, Andrés Bello, Santiago de Chile, 1992, p. 78.

41 Fairbank, John King, *wk. cit.*, p. 225.

42 Xin Chunying, *wk. cit.*, p. 314.

43 Fairbank, John King, *wk. cit.*, pp. 245-248.

status quo reform, the revolutionaries, and the governing class of the Qing Dynasty that was fighting for the preservation of its interests and its power. This first discussion of the legal order in China, made known through Western presence and influence, was mainly focused on the elaboration of a Constitution that would be the starting point of a new legal system. For the first time, the following were included: a system of separation of powers, an open justice (oral) mechanism, new regulations regarding foreign trade, and a separation between civil and criminal law. These attempts at reform, supported by Western powers, had two moments of rapprochement to drawing up the first Chinese Constitution, which, at some time were even auspicated by Emperor Guang Xu himself. However, the interests of the time were of such a dimension that in the first attempt (1898), Empress Dowager Tza-hsi opposed, incarcerated and sentenced to death six of the reformers. In the second attempt (1905), a bomb exploded on the train in which a group of selected experts were traveling in order to study the constitutional project in other countries (Germany, Japan, etc.).<sup>44</sup>

In the end, the Qing Dynasty's rule came to a close in 1912, thereby concluding a lengthy and historic stage of the Chinese Empire. On a few occasions it had attempted to open up to the possibility of a new constitutional system, in order to remain in power and reduce the pressures from foreign powers against its government. As is the case with all social transformations, after a long period of more than two millennia of generally maintaining an established order (aside from the challenges brought on by the Mongol conquest of 1279 and other foreign interferences), the constitutional change project was not without its challenges. On the one hand, the group of sympathizers with the new legal order desired recognition of their prerogatives within the framework of the Rule of Law, which, as was the case with Japan (Meiji Dynasty), would also afford the country a modern platform from which to achieve financial success. On the other hand, conservatives stated that the constitution was not a requirement for the Chinese people, that it was not a part of their culture, and they were not ready to abide by it—which could give way to disturbances if not appropriately put into practice. Finally, in the midst of these struggles, during which profound political changes took place in the Chinese Empire system, it was in January of 1912 that the temporary governance of the Naging Chinese Republic brought an end to the prior feudal system. And in March of 1912, the temporary rulership of the new Republic of China adopted a political constitution for the first time. Although temporary in nature, inherently and independently from its transition and short duration (1912-1914), it provided a system for the separation of powers, the sovereignty of the power of the people, and an initial list of rights for the governed people. It spoke of a temporary presidency, a Supreme Court of Justice, and another set of powers that, as precedence, created a historic milestone in the country's legal context.<sup>45</sup> Albeit the year 1912 was a prototypal date in the history of China, during which its long imperial system came to an end, the beginning of the rulership of Yuan Shi Kai in 1914 brought with it a Chinese legal system defined by a revolutionary vortex that did not become stabilized until 1949, with the triumph of the Chinese Communist Party.

#### • Chinese Law 1949 - 1978

After a long season of political change that stalled the nation's financial progress (it passed from a global GDP of 32% in 1820, to 5% in 1952),<sup>46</sup> China began its path to reconstruction. It went from an imperial model, which was feudal in nature, to a communist government, which was totalitarian in nature.

As already stated, in the first, the monarch figure and a preconceived social order based on philosophic principles generally regulated the judicial relationship between the ruler and his subjects. Due to this preconceived order, the Chinese society did not have a need to develop a broad systematization of its legal context, as the vertical equilibrium of its social ties gave direction and meaning to its relations of duties and rights. Therefore, the transfer from a monarch's vertical order to that of the Party's, did not signify a fundamental change in the legal system of the Chinese society, and to the contrary, the property and power in the hands of the socialist State, as administrator of a proletariat dictatorship, avoided the need for the creation of a more complex legal system during the Mao Zedong period.

An analysis of the legal system in China, as of the victory of the CCP in 1949, can be tackled from various angles, including the political, financial, or strictly legal. As with every cultural product, Chinese Law has a good amount of all three elements, which have continued to interlock asymmetrically over the last 70 years.

From a political point of view, the legal system in China can be divided into two long periods. The first of the two spanned from the Mao Zedong era, from 1949 to 1976, which is the year of the death of the "great helmsman," and the second period began in 1978, year of the inauguration and political reform of Deng Xiaoping, and extends to present day. During the first period, the new legal system repeated the experience of the post-imperial transition phase, abolishing all forms of legal legacy.<sup>47</sup> It also equally repealed any type of judicial resolution resulting from the aforementioned, due to the opposing Kuomintang (KMT) law. And this gave way to a new legal system guided by the objectives and for the purposes of the Communist and totalitarian State which, according to its own idiosyncrasy, did not require the construction of a horizontal system to regulate relationships other than between the State and Proletariat. As Quigno Want points out, during this period, and especially

44 Xin Chunying, Chinese Legal System and Current Legal Reform, wk. cit., pp. 315-317.

45 Xin Chunying, wk. cit., p. 323.

46 Oropeza García, Arturo, Entre el Reto y la Oportunidad, wk. cit., p. 19.

47 Xin Chunying, wk. cit., p. 327.

the period that corresponds to the Cultural Revolution from 1966 to 1976, the law was not regarded as a necessary instrument and had no significant relevance within the new social order in China.<sup>48</sup>

About this time period, Li Lin points out, “The establishment of the People’s Republic of China in 1949 gave birth to a new era in China’s legal makeup. The time period from 1949 to mid-1950 was the initial stage, during which China enacted the **National Committee of the Chinese People’s Political** Consultative Conference, as well as other laws and decrees that played an important role in the consolidation of the new State, establishing the new social order and a revival of the national economy. The Constitution of the People’s Republic of China, adopted at the first session of the National People’s Congress, and other related laws, defined China’s political and economic system, as well as the rights and freedoms of citizens. They imposed the standardization of organizational structures, the functions and powers of the State’s governing body; and established the basic principles for the Chinese legal system, which provided the preliminary foundations for the Chinese legal structure. However, after the mid-1950s, and especially during the ten years of the Cultural Revolution (1966-1976), the Chinese legal system was severely destroyed.”<sup>49</sup>

This important political stage in the life of the 20<sup>th</sup> century in China, considered by some authors as the transition stage, although marked by scant judicial production (marriage laws and agricultural reform in 1950), also had the importance of adopting the first formal and permanent Constitution in the history of China in 1954. And this, aided by clear Soviet influence, established the basis for a State property system and centralized management, which by way of administrative resolutions guided the Maoist era’s legal system. The enactment of a second Constitution in 1975 should also be included in this time period. In the almost 30 years of the Maoist period rule, and throughout the various stages of the GLF, or CR, it was unable to consolidate a political model that would contribute toward the social and financial improvement of those governed. To the contrary, its various development strategies never reached the sufficient results that would, at a minimum, satisfy the basic food and clothing needs of the average 700 million people at that time. This situation led to a solidifying of the political and judicial model, which awarded greater power to the State and its vertical decisions, to the detriment of the progress of a law focused on regulating the conduct of said State, or the relationship between the State and its people. In addition, it should be added that in opting for a political and economic model closed to the outside world, the need for norms that are compatible with external participants was not an integral part of the agenda for a nation that at that time withdrew from the then General Agreements on Tariffs and Trade (GATT), immediately following the victory of the 1949 Revolution, and didn’t partially restart its institutional project toward the outside world until October 25, 1971, when China was once again admitted into the United Nations (UN), after having been expelled in the early 1950s.

#### • Chinese Law 1978 - 2008

Unlike the first stage, the second political period led by Deng Xiaoping is characterized by its economic and political openness toward the Western world, originating a new era in China’s relationship with the world, and as a consequence, in the construction of a new legal system. This period, as indicated, was born from the political decision to open China up to the world in 1978. Regarding judicial matters, and throughout close to 30 years, it can be synthesized into the enactment of two Constitutions, four Constitutional Reformations, 229 General Laws, 600 Administrative Regulations, 7,000 Local Regulations, and more than 600 Autonomous Regulations. This signifies a body of law spanning three decades that is greater than what China had generated in 5,000 years of history. This period was also characterized by its subjection to political stability, the financial project and legal system, to the centralized and prioritized objective of development. As already indicated, economic development is the central compass and at the helm that defines initially and ultimately the will of a State that bets on the well-being of its rulers and on the economic growth of a new global world. According to this viewpoint, the primary goals of judicial production in China during the last 30 years have been to chronicle the economic opening of the State, and to underpin the agreements with the outside world acquired along the way.

It would not be an overstatement to say that in 1978 China was practically bankrupt, with close to 70% of its population in extreme poverty, and with recent signs of famine that would have caused deaths numbering in the millions. Looking to the recent past in no way clarified the situation, and on the contrary, was a motive to look outside China for new answers that would provide the necessary economic development for a nation of close to 700 million poor people. Within that frame of reference, the Constitution of March of 1978 appeared first, and while it emerged amidst the great political debate between the great reformers and the still very strong conservatives, it was the background for the first economic changes in the nation, highlighting in Article 11 the importance of its financial development. Similarly, this beginning of reform led to the Constitution of 1982, and its four amendments (1988, 1993, 1999, and 2004), as they delineate economic openness, represent the present day’s foundational legal documents for the People’s Republic of China.

The Constitution of 1978 had the value of ratifying the principles of the Chinese Revolution, and sending a message of calmness in a country attentive to its future changes, to remain firm in Marxist-Leninist doctrine, as well as in the school

48 Quigno Wang, Evolution of the Chinese Legal System, in Jose María Serna de la Garza, Derecho Comparado Asia-México, Instituto de Investigaciones Jurídicas, UNAM, 2007, p. 98.

49 Li Lin, History of Chinese Law and the Contemporary Chinese Law System, in Oropeza García, Arturo (Coord.), Mexico-China, Sistemas Jurídicos Comparados, Instituto de Investigaciones Jurídicas, UNAM, 2008, p.

of thought of its recently-deceased leader, Mao Zedong (Art. 14). However, within a mere four years, a new Political Constitution was enacted on December 4, 1982, at the fifth session of the 5<sup>th</sup> National People's Congress, at the conclusion of the 12<sup>th</sup> CCP Congress, which took place in September of that same year. This took place during the most dangerous phase in terms of the political confrontation between the various factions in the country. As a contrast to the Constitution of 1978, the one from 1982 now represents a significant change in the direction of the Chinese model, as it effectively ratifies the rectorate of the State (Art. 1); within Article 11 it recognizes the workers' individual economy as a complement to the social sector of the socialist economy; adding in its Article 13 that the State protects the ownership rights of citizens of their rightful income, savings, residential homes and other legitimate goods. Nevertheless, the legal and economic change that is highlighted in this ordinance, and that delineates the opening of the new Chinese Development Model, is found in Article 18, which states:

Art. 18. The People's Republic of China authorizes companies and other financial institutions or foreign individuals to invest in China and to carry out diverse methods of financial cooperation with Chinese financial companies or organizations, according to the stipulations of the law of the People's Republic of China.

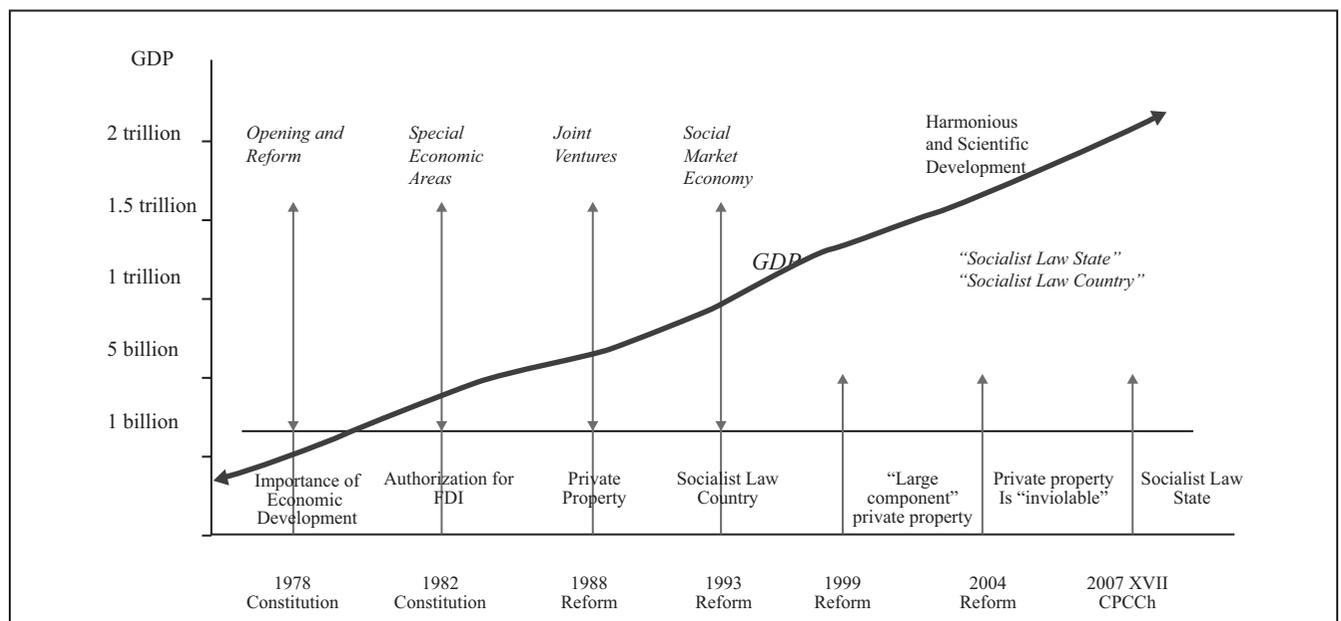
In turn, Article 11 of the first amendment of 1988 recognizes for the first time the existence of the private sector of the economy, taking a significant step toward a new "market socialism."

Art. 11 (4<sup>th</sup> Para.). "The State allows the existence of private property and its development within the parameters provided by the law. The private sector of the economy is a complement to the socialist public economy. The State protects the legitimate rights and interests of the economic private sector and exercises oversight, supervision and control over the private sector of the economy."

As can be appreciated, the Constitution of 1982 and its amendment in 1988 represent genuine dividing lines in economic, political, social and judicial life in China. They also begin to reflect the initial layouts of a new project that continues its progress to this day. Deng Xiaoping, for example, as of 1979, was already betting on the construction of an economic model that would include a free market with "Chinese characteristics," which is established at the 11<sup>th</sup> Central Committee of the Communist Party of China of December, 1978, giving way to the commencement of the project for reformation and openness. The first proposal for the creation of special economic areas was launched in 1980, projected for their integration with foreign direct investment, hence the important constitutional reforms of 1982. In congruence with the above, in 1981, for example, the market price concept was introduced, and in 1984 economic reform began to be embodied throughout the entire country. Also during this year, the 12<sup>th</sup> Central Committee of the Communist Party of China issued the "Decision to Reform the Economic Structure," in order to facilitate the application of the law and the new development of the socialist economy.

It is within this great dynamic of judicial changes, defined by the vision and reach of the economic project (Graph 1), that the year 1992 holds a special significance in its representation of an initial consolidation of political openness and economic reform. This was reflected in the 14<sup>th</sup> CCP National Congress, which officially declared the priority of a "Socialist Market Economy," and consequently, the importance of the construction of a legal system for this model. Therefore, that date can be signaled as the official approval for the construction of a modern legal system in China. For the first time, a level of institu-

Graph 1



Source: Developed by the author.

tional importance was awarded to such a legal system in order for it to be incorporated into the country's political, social, and economic development, as well as to be regarded as an important aspect of the State for its foreign relations. Along this vein, in 1997, the 15<sup>th</sup> Congress incorporated the "Rule of Law" within its basic principles, and the 1999 amendment defines China as a "socialist law country." Furthermore, in 2007, the 17<sup>th</sup> CCP Congress reiterated the need to advance toward a Socialist Law Country "with Chinese characteristics," to which it assigns an objective of judicial development attainable by the year 2010.

The second amendment of March 1993, exactly four years after the Tiananmen events, and 15 years after the beginning of the openness, plays an important role in representing the closure of the transition period from the centralized planning system of 1949 to the new socialist market model, which was already proclaiming its coming of age and its autonomy with respect to any other development model. Therefore, this amendment was a political message to the nation with the purpose of reiterating China's new path to the political groups, and also to the rest of the world, as it judicially made official public measures that would convey certainty and reliability to the foreign investor. Notwithstanding this message, in Article 7 it reiterates the State's role as being responsible for the growth of the state economy and defines its development strategy, by pointing out that, "The State practices the socialist market economy," (Art. 15). The 1999 amendment is an expanded reiteration of the 1993 constitutional message, and part of the advancement of the new China toward a "Rule of Law," and therefore, as was mentioned, it institutionalizes in Article 5 the Rule of Law as a commitment. Consequently, it emphasizes the need for the country's socialist legal construction, respectful of foreign relations and private property, which it already quantifies as a "great component" of the country's economy. In this context of economic determinism of the new legal order, the 2004 amendment arrived on a stage of marked prosperity and undeniable economic success of the development model. Therefore, its changes were focused more on the social and political order than on the economic order. With regard to economic matters, noticeable milestones include the characterization of the private property of citizens as, "inviolable," and the mention of "a non-public sector of the economy," (Art. 11). These are the clearest annotations of the consolidation of private property in China, which although provided for constitutionally since 1988, had to make a lengthy journey in order to reach suitable legislation (Right to Ownership Law), enacted no sooner than October 2007, that is, almost 20 years later.

Due to the focus on the economy, China has generated, over the last 30 years, what can be qualified as fine-tuned judicial production, in other words, with Chinese characteristics, with a focus on lending assistance to national development, and not in response to foreign pressures or interests. From this perspective, since 1979, one year after the beginning of the openness, we saw a Chinese-Foreign Equity Joint Venture Law, and in 1986 we saw the Foreign Capital Enterprises Law, two years before the constitutional reform pertaining to private property. As for Corporate Law, in 1993, after the second amendment, the first Corporate Law in China for the Regulation of New Foreign Companies was enacted, although the Private Sector Corporate Law did not appear until the year 2000.

Another clear example of the modulation of the management of legislative speed, in relation to the development model's economic priorities, is commercial and labor legislation. The former, because just as China embarked on an ambitious export project, that took it from 27<sup>th</sup> place to 3<sup>th</sup> in the international commerce ranking from 1978 to 2004 (China Today), and three years after its entrance into the WTO, it legislates its first international commerce law. As for the labor aspect, since the 1980s, China has maintained a broad tolerance policy toward new foreign capital companies. It wasn't until 1995 that it legislated the first labor law, which although it does synthesize some workers' rights, it continues to be a judicial body with broad criteria in support of employers. In 2008, with the successful economic development of the Pacific region, a new labor law is going into effect, in addition to granting the worker an accumulation of more effective rights, it is giving way to a massive transfer from the work centers to the lesser developed areas of the country, in line with what is specified in the dialectic vision of the development model. In correlation with the above, it could be said that up until today, the new judicial production in China has always been in direct correlation to its economic model, accompanying it as a tool in support of its growth, and never presenting an obstacle to it.

As was evidenced, China's judicial model practically started from ground zero as of 1949, when it initiated a long path of construction leading to an agreement with the very provisions of the Asian country, and expected to arrive at a more cohesive and integral platform by the year 2010. As Huang Lie points out, "...the construction of the legal system in China has been a tortuous path, in which at the start, upon the triumph of the Revolution, political change originated the cancellation of its entire Body of Law; and subsequently, the Cultural Revolution phase contributes toward the destruction of the legal institutions of its day." Huang goes on to stress importantly, "For a long period of time, various leaders and political figures have gambled the peace and prosperity of the nation, to the existence of a few good leaders; and have failed in understanding that the Law and its institutions are the crux of the matter. This has been the primary hindrance to the development of democracy and the legal system in China. Further, the existence of political power, operating above the law, is another indication that the legal system in China is far from perfect..." He adds, "...therefore, when we promote the Rule of Law over the Rule of Man, we are attempting to resolve these problems directly."<sup>50</sup>

Consequently, in the China of today, one cannot speak of judicial systematicness in a complete sense, and likewise one cannot describe China's system as a socialist legal system. China's new legal system, which is currently under construction, finds itself located between a totalitarian-style political system, and an economic model that has created deep roots within the free market system. Therefore, the current judicial panorama has the appearance of a hybrid set-up with "Chinese

characteristics,” and only time will tell how to decipher the various development paths with greater clarity. Notwithstanding the aforementioned, during this lengthy period of camaraderie and support for the economic priority, and faced with the requirement to equally alternate with the Western world, the current Chinese legal system is taking various courses that have caused it to simultaneously accumulate judicial influences of both a socialist type and a Common Law type, as well as from Civil Law:

*“After the reforms, Chinese laws suffered incredible changes. The primary tendency has been to absorb foreign legislation across the board, including legislative attempts, along with their legal concepts and backgrounds. Obviously, these laws brought with them the influence of “Common Law,” possibly as a result of the great influence the Chinese academics gained from countries and regions such as the United States, Canada, Australia, and Hong Kong. This did not mean that China abandoned its judicial tradition completely. Chinese law has frequently studied and copied the laws of countries that utilize “Continental Law,” including Taiwan. This dual rapprochement is illustrated in the 1993 corporate law legislation, the 1998 safety laws, and the 1999 contract law. As an example, corporate law legislation is similar to that used in “Common Law” countries and regions, such as the United States and Hong Kong. However, the modifications for supervisors and supervisory boards were based on countries with “Continental Law,” such as Germany. The safety law was influenced directly by its equivalent in Hong Kong, but with the addition of measures that would solve the recent judicial gaps and ineffective areas that had come to light during the Asian financial crisis.”<sup>51</sup>*

As is evident, China’s new legal system, in agreement with its financial, social and political transformation process, is also experiencing the vicissitudes of its environment, from the purging of its influences, to the definition of its own legal nature. In the same way, and according to its 2010 project, it should also complete its constitutional base and the regulatory laws, all the while relieving secondary regulations with the purpose of advancing toward a logical and coherent systematization between the various disciplines and branches of law that are currently still grouped together, in some instances, in a disjointed manner.

The current Chinese judicial pyramid is derived from the Constitution of December 4, 1982, and from its four amendments or reforms of 1988, 1993, 1999 and 2004, through which the political and economic development of the new Chinese model is executed.<sup>52</sup> The majority of the current judicial production has been generated from this constitutional foundation, with a few exceptions such as the Penal Code and the Chinese-Foreign Equity Joint Ventures Law, which are from 1979. It spans seven disciplines including: Administrative Law, comprising 79 laws; Economic Law, with 54 laws; Constitutional Regulatory Laws, 38 laws; Civil and Commercial Norms, 32 laws; Social Law, 17 laws; Procedural Law, 7 laws; and Criminal Law, 1 law. This same constitutional pyramid is itself divided into three levels or competencies which include, as stated above: 229 National Laws, which are the sum of all the prior disciplines; Administrative Regulations, which hold a second level hierarchy; and Local Regulations, which deal with the particular sphere of each one of the provinces. Also, China, given its expansive surface area and history, comprises 56 ethnic groups and five autonomous regions, and consequently there is a fourth level of regulations in reference to the particular norms of these districts. Certainly, in addition to the above, as a frame of reference, the constitutional precedents of 1954, 1975 and 1978 should be added, as an important part of its judicial evolution from 1949 to date.

According to Wang Zhenmin, the development of the Rule of Law in China can also be appreciated through the following three stages: the first, as an acknowledgement of the importance of the Rule of Law, evidenced by the 1982 Constitution; the second, from 1982 to 1991, as a period of legal construction; and the third, with Deng Xiaoping’s definition in 1992, referring to the direct relationship between socialism and the free market.<sup>53</sup> However, the above could be emphasized as the Rule of Law in China from a Western point of view, and continues to be an objective to be perfected. Judicial production has been marked by the shift in direction of the development model at its various stages, in which for example, in the 1980s, broad judicial production in the matter of foreign investment was motivated. However, with the advancement of capital gains (12% of the gross capital formation in the 90-04 period, Dussel, 2005), in the 1990s, fiscal regulations and an important part of the corporate regimen were established. We find that the section on International Commercial Law was established after 2001 as a product of China’s entrance into the WTO. Similarly, Social Law surfaced as one of the more recent judicial branches in China, with its 17 laws, specifically human rights, coming after 2001.

### III. Evaluation and Conclusion

China’s economic success from 1978 to 2008 is truly surprising. Step by step, the growth percentage of its GDP (10% annual average for 30 years, third place in the world in 2008, an increase in its GDP 14 times from 1978 to 2007), and its growth in foreign trade (third place in the world in imports and exports in 2008), plus the increase in its international reserves (1.8

51 Guigno Wang, wk. cit., p. 102.

52 Constitution of the People’s Republic of China, Foreign Languages Press, 2004, p. 3.

53 Wang Zhenmin, The Developing Rule of Law in China, in Cornejo, Romer, Las Constituciones de China en Contexto, China-Latinoamérica: Una visión sobre el nuevo papel de China en la Región, UNAM, 2008, p. 292.

billion dollars in 2008), and the decrease in extreme poverty<sup>54</sup> (a UN report points out that of the total decrease in world poverty from 1978 to date, 80% corresponds to China), all obey the implementation of a model that has been constructing itself in a permanent manner since the death of Mao Zedong by the new group of men of State headed by Deng Xiaoping, up to Hu Jintao.

Of course, the aforementioned does not mean that Chinese development has been a smooth process without problems. To the contrary, from the moment of its start-up to the present time, the main characteristic has been the profoundness of the scarcities that have surrounded it, such as generalized poverty, the demands of its enormous population, and its minimum per capita GDP (2,500 dollars annually in 2007, World Bank), which have played against its stability and the obtainment of positive results at all times. In the economic terrain, the strategic decisions made have not always been successful either. For example, during the 6<sup>th</sup> Quinquennial Plan, the fourteen coastal units from Economical and Technological Development Zones that were implemented, had to be reduced over time to four, in light of the administrative failure in their management. Also, the problem of corruption in its system could be addressed, and has maintained the model in check at all times, but has been a principal source of challenges for the Chinese economy. However, at a 30-year distance, the main criticisms currently made of the model are the varied results and high concentration of wealth generated between the different social layers and the different geographic areas.

**Table 2**

2005 (yuan)				
	Eastern Area	Central Area	Western Area	Northeastern Area
Rural Income per capita	4720	2956	2378	3378
Urban Income per capita	13374	8808	8783	8729
In relation to the national (100%)	127%	83%	83%	83%

Source: China Statistical Yearbook 2007.

The distance between poor and rich, in the different areas (Table 2), has been increasing significantly. For example, in health services, it can be observed that the percentage between the poorest families and the richest families, instead of decreasing, has been increasing in the last ten years (1996-2005), passing from a difference of 2.74 times to 6.34 times as great. Regarding education, culture and entertainment, the gap has also widened during the same period, passing from 3.84 times to 8 times as great. At the same time, the difference in income levels between urban groups in the period from 2000 to 2005 has been increasing from 3.61 times to 5.7 times as great between the poorest and those of the highest income, with Shanghai, Tianjin and Jiangsu appearing as the most benefited cities, and Tibet, Yunnan and Guizhou as the poorest. In the country, this same difference between low income and high income has expanded from 6.4 times to 7.2 times as great (China Statistical Year Book, 2007). All these differences are what today question the nature of the success obtained and increase the social instability of a people that 20 years ago was still getting used to the prevalence of economic equality (although it was presented as generalized poverty), and to not knowing the meaning of a middle class. For a great number of Chinese people, the economic success still seems distant to them, for which their uneasiness increases when they notice directly or indirectly the great differences between cities like Zhejiang, Shanghai and Beijing, which receive 27,703 yuan, 22,808 yuan, and 22,417 yuan, respectively, in annual per capita income; and Guizhou, Gansu and Xinjiang, which only receive 5,052 yuan, 9,586 yuan, 9,689 yuan, respectively (China Statistical Yearbook 2007). In summary, the economic success has not been even, and the differences make up part of the social uneasiness accompanying the figures indicating that in 2005 only 174 million people had senior citizens' insurance, only 137 million had medical assistance insurance, 106 million had unemployment insurance, 83 million had accident and job insurance, and 53 million had maternity insurance.<sup>55</sup>

However, the current challenges of the Chinese development model are not concentrated in only the social area. They are also manifested in a diversity of areas such as ecology and the economy, where a wide range of new challenges to be solved are appearing. On the subject of the environment, authors like Pang Zhongying speak of China's enormous "ecological

<sup>54</sup> The results obtained by China in this segment, as has been said, are truly surprising. The decrease in extreme poverty from 67% to 17% in a quarter of a century has caused general astonishment from global economic participants.

In 1978, China had an extreme poverty index of 67% that included 630 million people. In 2004, this problem had been reverted to a percentage of 17%, that is to say, 210 million people. The aforementioned has been the consequence of the success achieved in the implementation and sustenance of economic growth from 1978 to date, which has originated the creation of nearly 300 million jobs that have integrated the urban and rural population into economic activity. It has also been derived from the good results obtained in the application of public policies on the matter, such as the strategy and implementation of the National Poverty Reduction Program (1994), and the Program for the Reduction of Rural Poverty (2001-2010), as well as other development policies, such as the emigration method, by means of which the population located in the poorest areas of the country (remote mountainous regions, deserts, high regions, high plateaus of the southwest, and areas inhabited by national minorities) is motivated to move to places with more infrastructure and support for their social and economic development, thereby pulverizing poverty and multiplying social investment results. This presents to us a country with a successful economic policy, in combination with a healthy social development strategy (Oropeza García, Arturo, 2006).

<sup>55</sup> Desarrollo de China dentro de la globalización, Foreign Languages Press, Beijing, 2007, p. 59.

debt” caused by some facets of its economic success. Despite its great surface area (9.5 million km<sup>2</sup>), China is below the average in essential natural resources for development. For example, it has only 0.094 hectares of crop field per capita, placing it 40% below the global average; and 2.25 cubic meters of fresh water per capita, placing it 30% below the global average. And this situation is repeated in forests, mineral resources, and petroleum, with 20%, 60% and 11% of levels below the world average per capita.<sup>56</sup> At the same time, its accelerated economic growth has led it to consume 48%, 40%, 32% and 25% of the global production of cement, crude carbon, steel and aluminum oxide in the world, generating an imbalance in supply-demand, and contamination. According to statistical data, China’s volume of emissions of the main contaminants has already surpassed the environment’s self-purification capacity. Of its seven hydrological systems, more than half suffer from serious contamination (the Huang He, Huasihe and Liaohe Rivers are at 60% of the international line of environmental alarm, and the Haihe River is at 90%). Acid raid affects a third of the national surface area. Around 360 million hectares have water losses and soil erosion (38% of the country’s land surface area), a figure that increases by 15,000 km<sup>2</sup> every year. Desertification already affects nearly 20% of national territory, and consequently the problem of environmental deterioration in China represents a great challenge for its development and an annual cost of up to 8% of its GDP.<sup>57</sup>

Other topics could be added to the aforementioned, such as corruption, banking debt, problems of annual employment creation, and others. However, in the economic terrain, the most important challenge of China’s development model passes through the construction of new structural lines that will determine its fate in the coming years.

Beyond the deficits in China’s current economic growth, its successes in the matter of economic development are of such a magnitude that its recent past will continue to represent one the most important economic achievements of humanity. However, after 30 years, China paradoxically returns to the same starting point, where it will have to again validate its development model and decide on the best lines of growth. It will not only have to provide sustainability for what has been achieved, but will also have to grant a better distribution to two-thirds of the population that has not seen benefits in the same proportion as the “Chinese Miracle.” In this sense, as Deng Xiaoping used to say, the “great experiment” is not yet finished, and China will have to decide, just like it did three decades ago, what its future will be, at a moment in time when the only similarity with 1978 is permanent change.

Along these lines, the debate inside China has already begun, and just like 30 years ago, different groups intend to impose their own version of the next development. The common point from which all of them start is that what has been done is not enough, and the current reality demands greater and different results. It is not enough to grow at an average of 10% annually over the last three decades. Now, more social and human growth (harmonious and scientific development, 11<sup>th</sup> Quinquennial Plan) is necessary. Nor is it enough to produce more goods if doing so puts its own national sustainability at risk. In the same way, the best practices for controlling the threat of inflation, which since 1996 has been around 9% annually, are debated along with the new monetary phenomena of excessive liquidity and speculative capital. There is also debate around reviewing China’s export model in depth, with the goal of incorporating and expanding both the primary and tertiary sectors, as well as its internal model. There is debate around aligning and fine-tuning a vertical line of control that clashes permanently with a horizontal market dynamic. In this regard, a full solution has not been given to the role of local governments, which in many cases continue to distort and break with the general strategy. And there is discussion around modifying the role of the State’s monopolies, the special economic areas, and the enterprises with State participation. Today, these and other major topics are more present than ever on China’s agenda, in forums such as “The Third Great Debate on the Reform,” held in 2003, and of course, in the 11<sup>th</sup> Quinquennial Plan that marks, according to Chi Fulín, “a new historical beginning in the Development and Reform of China.” There are various documents and general opinions among those who will have to decide on whether or not a Social Market Model really exists, and if so, what its development strategy will be in the coming years. In addition, the question arises of whether or not the moment has arrived—once China’s economy has been strengthened and is under strong international pressure—to move toward greater degrees of free market; or if to the contrary, as some opinions maintain, it is time to recover part of the socialist economy.

Independently of the aforementioned, and after 30 years of success, we would have to point out that China, with its current strategy, has posed a new alternative to the world that is showing viability by reducing in a sustained fashion the massive poverty indexes that had characterized this country since the beginning of the past century. China’s experience has demonstrated that the problem of economic underdevelopment is a problem that can be faced successfully by the affected countries, and that the manner of resolving it has much to do with the institutional framework that accompanies the model, as well as the economic strategy chosen by each country.

In a global period in which growth has become every nation’s challenge, be it a developed nation or one on the road to development, the new Chinese model represents an alternative for handling efficient public policies. It’s true that the strategy’s initial launching platform is part of a combination that few countries could repeat, that is, the planning and political centralization in daily coexistence combined with free market capitalist policies. However here, where many of the benchmark analyses on the Chinese model end, is precisely where the differential engineering that has made it a winner in globalization begins. For that reason, the learning opportunity for developing economies should not be limited due to the confrontation of different political realities. This is, first, because the political aspect would be representing, in an arbitrary measurement, barely half of the model, and would leave out the analysis of the rest of its public strategy that corresponds to a free market global outline.

<sup>56</sup> Idem, p. 62.

<sup>57</sup> Idem, p. 68.

Secondly, because disregarding the comparison and the lessons of the Chinese model, due to its Communist foundation (and, as various authors have pointed out, even meaning its success was precisely due to the political component of its model), would be a tacit or express recognition of the superiority of said outline, against an entire bibliography that has always been characterized by privileging, especially from 1989 onward, the superiority of the Western democratic model.

It is clear that the political basis for the two models bears a different nature, but in the last example, and within this same theoretical framework, the political component, more than being an impediment to an analysis of the Chinese model's economic measures, would become a competitive advantage to the Western outlines. This is the same advantage from which one should begin, in order to compare the free market strategies applied by China, and which, since the beginning of the new century, tend to align themselves with the WTO's regulations. On the other hand, the results obtained from the Chinese experience over these last 30 years come to demonstrate to developing economies, especially Latin American economies and the Mexican economy in particular, that the possibilities for sustained growth are real and that they start in an important manner with the good decisions, efforts, and individual talent of each nation. It is also important to note that their main obstacles are found in the insufficiency of each country to achieve political stability and find its best development strategy. Sustained growth of 10% for more than three decades is great motivation for the various Latin American economies that have not been able to grow more than 2% on average in the same period (the average growth of 5% in the last five-year period bears a direct reference to China's development). This limited growth has taken place within an asymmetrical framework, characterized by the lack of direction and the continuous appearance of crises that have limited the development of these countries in different ways. It is also an exercise in reflection on the real possibilities that any country has to face globalization, without having to attribute to said globalization all the obstacles that are manifested, in order to achieve sufficient and sustained growth, indispensable requirements for the nations that aspire to obtain the per capita level of the intermediate countries. Such reflection does not, of course, imply belittling the networks and advantages with which developed countries operate.

Finally, as the Tofflers correctly point out, "China now makes up part of all of us."<sup>58</sup> However, we might also add that China's economic history is very far from being over, and in the future it will continue to surprise us, both with its changes as well as with its innovations. It will be worth keeping this in mind in order to have a precise idea of and an advantageous relationship with the best development strategy of recent decades.<sup>59</sup>

On the other hand, the newness of Chinese law and especially its circumstance of having to sanction legal criteria for a variety of economic and political systems—in a culture that for more than 5,000 years privileged customs and values above the written law—defines a reality of advancements and setbacks which are not unknown to Chinese experts. In this regard, Li Lin states that the legal construction in China continues to pose diverse problems, and that the development of democracy and the Rule of Law continue to lag behind in comparison to its economic development.<sup>60</sup> For example, with regard to this point, it can be indicated that despite the fact that the Penal Code is the oldest in its modern era (1979), new economic crimes are increasing, such as those referring to copyright infringement and intellectual property infringement, with some experiencing increments of 29% annually, challenging not only the purging, but also the updating of the entire system. In regards to labor, the new 2008 norms face an increasingly greater dispute of the relationships between workers and employers in a country where in 2007, 75,000 claims were made, involving 142,000 workers. Overall, it could be said that notwithstanding the achieved advancement, China's judicial system continues to build itself, and will require great efforts in the future, with the purpose of perfecting its constitutive norms and political order, all the while covering legal gaps in its various disciplines. By the same token, the systematization of the diverse judicial bodies should be carried out according to its own nature, in a coherent manner, safeguarding its contradictions and obsolescence, and overcoming its discretionary nature, with the purpose of favoring a more objective and efficient application of the law.

In regards to all of the above, Professor Li Lin concludes the following: "We cannot await the changes passively as we face the challenge of improving the legal system; however, we must also be careful in moving forward in an impertinent manner." Concerning these changes, he adds, "We should keep our minds clear."

58 Toffler, Alvin and Heidi. *La Revolución de la Riqueza*, Debate, Mexico, 2006, p. 449.

59 Hoffman, John and Euright, Michael, *China into the Future*, Wiley (Asia), 2008, p. 21.

60 Li Lin, *Chinese Law and Mexican Law from a Comparative Perspective*, wk. cit., p. 18.

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