Making China Strong

The Role of Nationalism in Chinese Thinking on Democracy and Human Rights

Robert Weatherley

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To Helen, Alice, Matilda and Susie

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List of Abbreviations

AJIL	American Journal of International Law
CASS	Chinese Academy of Social Sciences
CCP	Chinese Communist Party
CDL	Chinese Democratic League
CDNCA	China Democratic National Construction Association
CPPCC	Chinese People's Political Consultative Conference
CQCB	Chongqing Chenbao (Chongqing Morning News)
CQWB	Chongqing Wanbao (Chongqing Evening News)
IOSC	Information Office of the State Council
FZW	Fazhi Wang (Legal Network)
JFJB	Jiefangjun Bao (Liberation Army Daily)
KMT	Guomindang (Nationalist Party)
NPC	National Party Congress
OLVC	Organic Law of Villagers' Committees
PCC	Political Consultative Conference
PLA	People's Liberation Army
PPAs	Poor Peasant Associations
PPC	People's Political Council
PRC	People's Republic of China
PSC	Politburo Standing Committee
RMRB	Renmin Ribao (People's Daily)
RoC	Republic of China
UNCHR	United Nations Commission on Human Rights
UDHR	Universal Declaration of Human Rights
VC	Villagers' Committee
WHB	Wenhui Bao (Wenhui Newspaper)
XHNA	Xinhua News Agency (English Edition)
XZK	Xin Zhoukan (New Weekly)
XZX	Xinhuashe Zhongwen Xinwen (Xinhua News Agency)
ZJCB	Zhongguo Jiancai Bao (China Building Materials Daily)
ZXS	Zhongguo Xinwenshe (Chinese News Service)

Introduction

It might seem strange to start a book by immediately questioning the adequacy of its title. However, the reference in the title of this book to the "role" of nationalism in Chinese thinking on democracy and rights does not really tell the whole story because it does not really indicate just how integral nationalism has been to Chinese perceptions of democracy and rights. In truth, almost every time there is a debate in China about democracy and rights, it is closely tied to the national question and more specifically to the question of how to make China strong. This is often in reaction to a deemed threat from foreign imperialism. During the previous two centuries, this imperialism took a military form. More recently, it has taken what is perceived to be a cultural form. This book examines the different historical circumstances in which Chinese thinking about democracy and rights has been shaped by a foreign threat, spanning four successive periods – the late Qing, the Republic, Mao's China and post-Mao China.

Protecting China from military imperialism

There are, of course, numerous different theories of democracy and rights, some of which we will consider later in this chapter and it was this plethora of different theories that confronted Chinese thinkers during the nineteenth century Qing dynasty, as democracy and rights entered China's political discourse for the very first time. The wider domestic context for the importation of these ideas was the desperate quest for national survival. The incursions made by the British during the First Opium War (1839–42) and the ease with which China was subsequently sliced open by imperialist powers revealed an alarming disparity in national strength between China and the West. This

triggered a vigorous intellectual debate in China about the best way to resist any further foreign encroachments. Advocates of the long standing Confucian orthodoxy insisted that the only way to repel foreigners was to remain true to the principles of Confucianism. By contrast, reformers believed that a better method for dealing with foreign, specifically Western aggression, was to adopt and adapt Western ideas where appropriate. This included ideas such as democracy and rights.

Most Western scholarship identifies the 1880s as the time when Chinese thinkers first began to consider notions of democracy and rights. But Stephen Angle (2002, pp.104–7) has traced the first discussion of rights (which preceded discussions of democracy by some 40 years) to the early stages of the First Opium War when the beleaguered Imperial Commissioner of Guangzhou, Lin Zexu, authorised the urgent translation of a number of foreign texts, including a French text entitled 'The Law of Nations'. As we will see in Chapter 1, it was Lin's controversial attempt to halt the British import of opium that triggered the outbreak of the war, so his sole objective at this critical time was to reverse this humiliating situation before the Emperor found out. Lin thought he may have found the answer in 'The Law of Nations'. Of particular interest to Lin was a short section on the rights of nations, specifically the right of a nation to forbid the forced importation of foreign merchandise. Lin's thinking was to introduce legislation that would make it illegal for the British to continue selling their opium in China, as he grappled with the seemingly intractable domestic problem of opium addiction. History shows that Lin was unsuccessful in this objective. The British continued importing opium into China for some decades. But of significance for our purposes is that from the very moment the concept of rights entered Chinese political discourse it was valued as a mechanism for nation building and national salvation.

This instrumentalist approach was just as apparent when Chinese thinkers began discussing the broader notion of democracy during the 1880s and 1890s because the foreign threat had not gone away. China had suffered further humiliation in the Second Opium War (1856–60) and the Sino-French War (1884–5) and then the unthinkable happened – military defeat to Japan in the First Sino-Japanese War (1894–5). So the question of how to make China strong remained absolutely paramount and for high profile political theorists such as Yan Fu, Liang Qichao and Liang's tutor Kang Youwei, a Western system of constitutional monarchy provided a potential answer to China's woes. These scholars believed that a constitutional monarchy would generate

popular loyalty and obedience to the Qing court which it could then use to its advantage. The logic was as follows: if the people were allowed to participate in politics for the very first time by voting, standing for election and exercising their basic civil freedoms of speech and association for example, then they would come to respect and support those in authority who had invested them with these new found democratic rights and freedoms. This loyalty could then be channelled by the Qing regime into its broader nation saving objectives so that China would not perish in the international struggle amongst nations. Crucially, although it was now recognised that individuals as well as nations had rights, the long-term goal remained exactly the same – to make China strong.

The collapse of the Qing dynasty by the end of 1911 meant that a constitutional monarchy was never fully implemented in China. Instead, by 1913 the new Republic of China had its very own representative democracy comprising competitive multi-party elections, a new constitution, a president and a parliament. But the overarching aspiration of those who devised the new system was still national reconstruction because China was still under threat from outside. We will see in Chapter 2 how the number of "treaty ports" that were forced on the Qing after the First Opium War actually increased after 1911, as did the foreign military presence. Likewise, the five foreign "leasehold territories" ceded in 1898 remained intact. Therefore, advocates of democracy, including the founding-father of the Republic Sun Yat-sen, believed that now China was equipped with a full arsenal of democratic weaponry it would finally emerge as a unified fighting force and expel the foreign enemy. Sun's logic was the same as his late Qing predecessors – greater democracy would lead to greater public loyalty towards China's rulers and this could then be directed towards the patriotic struggle to rebut the foreign menace.

But any hopes that parliamentary democracy might save China did not last long. Political infighting, corruption, the political exclusion of the majority of the population and no fewer than five changes of constitution by 1923 meant that democracy was not succeeded in winning the people over and had failed to bring about the desired change in China's national fortunes, with neighbouring Japan looking increasingly threatening. Consequently, from around the mid-1920s many Chinese thinkers turned against democracy and towards authoritarianism, with a strong consensus emerging in favour of withholding democratic rights in case they were exercised in a way that eroded the national interest. Sun Yat-sen was one of those who became

disenchanted with the national utility of democracy. Famously describing the Chinese people as a "sheet of loose sand" (*yipan sansha*), Sun asserted that what China now needed was a period of autocratic control under the nationalist Guomindang (KMT) until China was strong enough to resist foreign aggression and until the masses were "ready" for full constitutional democracy.

This belief formed the basis of Sun's doctrine of political tutelage which was taken up (albeit without much vigour) by the KMT leader Chiang Kai-shek during the 1930s and 1940s. As we will see in Chapter 3, the theory was that multi-party, representative democracy should be placed on hold for a period of approximately six years, during which time the KMT would "educate" Chinese citizens in the practicalities of democratic self-government, beginning at the county level and working up. So the timing and pace at which democracy would be introduced had changed. Democracy would come later rather than sooner. In the meantime, the KMT would rule China single-handedly in an attempt to ensure that China became stronger and a more gradual introduction of democracy would facilitate this strengthening process. As such, the link between democracy and nation building remained constant except that democracy was no longer seen as a pre-requisite to a strong nation, but more of an accompaniment.

Despite this shift towards authoritarianism, the discourse of democracy and rights in China did not automatically dissipate. Indeed, the outbreak of the Second Sino-Japanese war in July 1937 intensified the debate about whether democracy could make China strong, with many thinkers insisting that Japan could only be defeated if China embraced a democratic system. One such exponent of this view was the Chinese Communist Party (CCP) leader Mao Zedong who, at this time, favoured a consensual form of democratic government founded on a broad-based coalition of politicians, intellectuals and other influential figures in society. Mao believed that if China wanted to defeat Japan it was imperative to draw on the accumulated wisdom of as many national allies as possible. This formed the basis of his "united front" approach. Japan's demise in 1945 and the subsequent outbreak of civil war, did nothing to change Mao's opinion on the national utility of consensual democracy. With the KMT replacing Japan as the perceived threat to national unity – the new "antagonistic contradiction" to coin a Maoist expression – Mao became even more convinced of the necessity for accommodation and compromise with potential nationalist allies.

But for Mao, democracy was not purely a "top-down" process. Mao also had a strong sense of grass-roots democracy and here again there

was a direct correlation with nation building. During the war against Japan, Mao had insisted that democracy was fundamental to the pursuit of national survival through its perceived capacity to mobilise the Chinese people into armed resistance. After 1949 Mao's emphasis on the mobilising potential of democracy became even more pronounced via his concept of mass participatory democracy or "big" democracy (*da minzhu zhuyi*) as he sometimes referred to it. This idea was linked to nation building in two ways. Firstly, it was seen as a means of enhancing popular loyalty to the new CCP regime and to the nation building objectives of the regime. Using the same logic as his late Qing predecessors (albeit applying a very different understanding of democracy), Mao believed that mass public involvement in decision-making (through the mass line) and policy implementation (through the mass campaign) would garner the support of the masses, welding them inextricably to the CCP and to its efforts to revitalise China after decades of foreign occupation and war. This objective was even more urgent given China's vulnerability on most of its borders in 1949 and the perceived inability of its war weary military to defend those borders.

As we will see in Chapter 4, it was this quest for popular loyalty in light of the foreign threat that lay at the very heart of the party's land reform policy (1947–52), a policy designed to be implemented not from above by aloof and distant party cadres, but through the direct participation of those who had suffered the most under the old tenancy system – the poor and landless peasants. Comprising the vast majority of the population, poor and landless peasants were invited to identify, criticise and overthrow their erstwhile landlord oppressors and then actively assist in the land re-distribution process. Although the process did not always run smoothly (far from it), in making the peasantry feel as though they were active participants in land reform rather than just passive recipients of it, the party's aim was to secure their fervent patriotic support in the event of an invasion by imperialist forces.

A second and more direct way in which mass democracy was linked to national reconstruction was by mobilising the masses towards projects that would make China "physically" stronger by, for example, increasing production or strengthening China's infrastructure. Again, this was in response to a deemed foreign threat. One reason for launching the Great Leap Forward (1958–60), with its overarching emphasis on mass participation, was to protect China from the pressing danger posed by the US in Taiwan and from the Soviet Union in the north. By getting the masses to carry out nation building campaigns

such as the backyard steel making campaign to help fortify China's industrial sector and the campaign to increase grain production to help feed China's rapidly expanding population, the aim was to build a country strong and self-sufficient enough to resist an attack from abroad.

Protecting China from cultural imperialism

Despite Mao's preference for mass democracy, there was very little open debate about any kind of democracy when Mao was alive. Indeed, it was not really until after the 1989 Tiananmen crackdown and the resultant international condemnation of China, that democracy and human rights noticeably re-surfaced as part of China's political discourse. Once again, the context for this discourse was how best to safeguard China from a foreign threat, as we will discuss in Chapter 5. But in contrast to earlier periods of Chinese history, this threat (albeit perceived) was no longer military imperialism, but cultural imperialism, an apparent attempt by the West to impose an alien political culture and belief system on to a country with a completely different way of thinking. This alien belief system comprises an authentically Western model of multi-party democracy and individualist human rights, allegedly imposed whenever the West criticises China for its preferred single-party system and controversial human rights practice and whenever the West attaches (or in most cases threatens to attach) human rights conditions to trade and military ties with China. According to the CCP, the long-term objective of this censorious Western approach is just the same as it was during the late Qing period – to keep China in check until it finally capitulates and accepts the Western way of doing things, in this case a Western-style political system.

These accusations of Western cultural imperialism provide a wider framework for what is often a very negative Chinese response to foreign censure of China's record on democracy and rights, which is referred to in Chapter 5 as defensive nationalism. This is manifested in three different ways. Firstly, China insists that its record on democracy and rights is its own business, a strictly internal, domestic affair. Any criticism on this issue is automatically rebutted as interference in Chinese affairs, a gross violation of China's hard earned right to national sovereignty. Secondly, China accuses its Western critics of gross hypocrisy. Using the emotive language of national humiliation by harking back to the so-called "century of humiliation" (from the

outbreak of the First Opium War in 1839 to the unification of China in 1949), China is quick to remind Western nations of their own shameful human rights legacy as imperialist powers, particularly when they were dividing up the spoils in China. Thirdly, China readily attacks the contemporary human rights record of critical Western nations, most notably the US, which publishes an annual report admonishing China's record on human rights. China's response to this is to publish its own annual report on America's human rights record, carefully documenting the various categories of rights violations that take place in the US on issues such as gun crime, racism and social inequality.

A more pro-active Chinese response to Western disapproval of China's democratic and human rights practises has been to construct a distinctly Chinese model of democracy and rights as set out in a series of official statements and government white papers. The Chinese model of democracy refers to, amongst other things, the system of people's and party congresses, the role of multi-party co-operation and consultation under the auspices of the CCP and the Chinese system of ethnic regional autonomy. The Chinese model of human rights focuses on the primacy of welfare and subsistence rights, as well as rights of national self-determination and development. Significantly, both models are presented as inherently linked to China's protracted struggle for national sovereignty and independence from foreign domination. Only in a country which is free from foreign control, can people genuinely enjoy their democratic and human rights.

In addition to presenting its own discourse, China has embarked on a wave of human rights diplomacy within the forum of the United Nations Commission on Human Rights (UNCHR). In an effort to circumvent further foreign criticism of its human rights record and prevent the passing of "anti-China" resolutions by UNCHR subcommissions, the CCP has often successfully formed human rights alliances with like-minded developing nations in Asia, Africa and Latin America.

Defining our terms

What we can see from the above summary is that, over the years, Chinese thinkers have put forward some very different perspectives on democracy and human rights. This highlights the important point that there is no universally accepted understanding of these concepts. It also necessitates a more in-depth discussion of democracy and human rights in order to provide a general conceptual framework for this book

and to see where Chinese conceptions fit into this framework. Following this, we will examine nationalism from a conceptual perspective.

Democracy (and legitimacy)

Starting with the theory of democracy, many people use this term as shorthand for liberal democracy, not unreasonably given the popularity of the liberal democratic political system throughout the world, so this is probably a good starting point. In practise, liberal democracy is characterised by, amongst other things, free, fair and competitive elections between different political parties, the right of all adults to participate in these elections as voters and candidates, the separation of powers between the executive, legislature and judiciary and the protection of human rights and civil liberties for all people and on an equal basis. These basic tenets of liberal democracy are invariably enshrined in a constitution, either formally promulgated or uncodified. Liberal democracies can take various constitutional forms such as constitutional republics (for example, the United States, France and Germany) and constitutional monarchies (Britain, Japan and Spain). Some democracies prefer a presidential system (Argentina, Brazil and Mexico), others have a semi-presidential system (Taiwan and France) and others use a parliamentary system (Britain, Australia and Canada).

Modern-day liberal democracies are often referred to as representative democracies because decisions are made and political power is exercised by elected representatives rather than the entire electorate. The ancient Greeks of the fifth century BC (acknowledged as the founding-fathers of democracy) preferred a form of direct democracy in which all citizens had a direct and active role in the decision-making process (Barrow, 1999; Thorley, 2004; Osborne, 2010). Under a two stage process, citizens were selected by lot to take up positions in the government and the courts and all citizens were entitled to articulate their views and vote in the public assembly, which set the laws of the city state. However, in reality Athenian democracy excluded the vast majority of the adult population because only men over 20 years old who were born in Athens were entitled to participate. Women, slaves, foreigners and adult males under 20 years old were not enfranchised because they were not classified as citizens, a category that was closely tied to the obligation to fight military campaigns.

Liberal democracy has attracted its fair share of sceptics (or perhaps "revisionists" is a better word), one of whom was the German multidisciplinary scholar Max Weber. Whilst Weber endorsed the idea of the electorate being entitled to vote for politicians and elect governments,

he had no faith whatsoever in their ability to understand and differentiate between the different policies of political parties and was actively opposed to the idea of popular participation in political life beyond identifying and voting for competent political leaders. For Weber, decisions of government were the exclusive domain of politicians and no-one else. In this way, Weber articulated a highly restrictive model of democracy. As David Held (2006, p.137) writes, 'it is restrictive because he envisaged democracy as little more than providing a way of establishing qualified political leaders. It is restrictive because the role of the electorate and possible avenues of extending political participation are treated highly sceptically'.

So Weber's focus was not on what representative democracy could do for the individual, such as creating the social conditions under which individual development and equality could be realised. Instead, he was interested in the extent to which democracy could bring about effective national leadership through the election of strong and capable leaders. Martin Albrow (1970, p.48) notes that Weber's support for representative democracy 'owed more to his conviction that national greatness depended on finding able leaders than any concern for democratic values'. Interestingly for our purposes, this is not so far away from the Qing position on democracy, although for Qing reformers it was more the process of electing representatives that would fortify the nation rather than the quality of those who were elected to office.

The Austrian economist and political scientist Joseph Schumpeter held similar views to Weber on representative democracy. Like Weber, he was not much interested in the realisation of individual freedom through democracy, although both thinkers did value democracy as a way of protecting the individual from political tyranny. In fact Schumpeter was probably even more cynical than Weber about the intellectual capacity of the average citizen to participate in government and make decisions of state, coming very close at times to the negative Hobbesian portrayal of the individual. For Schumpeter, democracy was simply a mechanism for endowing certain intelligent and qualified individuals with the power to decide all matters as a consequence of their successful attainment of the popular vote: 'democracy does not mean and cannot mean that the people actually rule in any obvious sense of the terms 'people' and 'rule'. Democracy means only that the people have the opportunity of accepting or refusing men who are to rule them' (Schumpeter, 1976, pp.284–5).

Karl Marx believed that genuine democracy was unattainable under capitalism because the democratic regulation of society could not be

realised under the constraints imposed by the capitalist relations of production. The capitalist state, by which Marx meant the entire apparatus of government including the police and military, claimed to represent the whole community in treating everyone equally according to principles which protect the freedom of individuals and defend their right to property. But in reality, Marx argued, the state favoured the property owning capitalist classes because it sustained, through legislation and if necessary coercion, the status quo under which those classes thrived and under which the working classes were disadvantaged (Held, 2006, p.103). Occasional multi-party elections under the principle of universal suffrage might appear democratic, but they did nothing to change the status quo because the elected government simply worked within the pre-existing parameters of class inequality. According to Marx, genuine democracy could only be realised following the elimination of capitalism and the creation of a class-free society.

In stark contrast to his detailed critique of capitalist democracy, Marx refused to elaborate on his own conception of democracy because of an aversion to creating "blueprints for action" under the post-revolutionary state. However, Held (2006, pp.113–16) believes that Marx would most likely have opted for the system of direct democracy used by the short-lived 1871 Paris Commune, based on his very positive comments in 'The Civil War in France' published during that same year. Under a system that was not dissimilar to the Ancient Greek model, the Paris Commune consisted of municipal councillors who were elected by universal suffrage in the various wards of the city and whose terms in office could be revoked at short notice by a majority vote. All members of the commune were entitled to articulate their views during public assembly meetings and raise any new concerns they might have. The smallest communities in the commune administered their own affairs and elected delegates to larger administrative units under a pyramid structure. The commune was not an unaccountable parliamentary-style institution staffed by privileged high dignitaries. It was a grass-roots working body, staffed by working men who were paid a working man's salary. The police were stripped of all political attributes and became answerable to the commune, as did officials from all other branches of government. The traditional separation of powers ceased to exist.

It was representative democracy that first caught the eye of Chinese reformers in the late nineteenth century as part of a system of constitutional monarchy. The rationale for embracing this form of demo-

cracy was certainly unusual. Democracy was not advocated because it was seen as desirable in itself (although some reformers may have felt that way), but for its perceived usefulness to the nation-building objectives of China's rulers. As noted already, the thinking was that a more participatory political system would serve to enhance the popular legitimacy of the Qing government, making it possible for the regime to galvanise the Chinese people into unified action against imperialist powers. The same logic applied when China implemented a multi-party system after 1912. A more participatory and therefore more legitimate political system would make it easier for government to bind the masses to the cause of national salvation.

Although national salvation might seem like an unconventional reason for advocating democracy, the link between political systems and regime legitimacy is certainly not unconventional and it is important to analyse this link given the perceived relationship in Chinese thinking between legitimate government and national strength. In his book 'The Legitimation of Power', David Beetham suggests that legitimacy is intrinsically tied to popular consent and he examines how different political systems seek to attain such consent. The multi-party system, for example, is characterised by what Beetham (1991, pp.150–2) defines as the electoral mode of legitimacy, consent for which derives from two inter-related beliefs which are bound to the individualism of the liberal tradition. The first belief is that no person has the right to give consent on behalf of another unless expressly permitted to do so. In many pre-modern societies, consent to rule was transmitted by a small privileged elite whose actions (for example, swearing an oath of allegiance to the ruler or participating in a consultative council with the ruler) were deemed to represent the views of the wider, political community. In contemporary democratic societies, the political community has expanded to include the entire adult population such that consent must be popular consent if it is to confer genuine legitimacy on those in power.

The second constituent feature of the electoral mode relates to diversity of choice. For Beetham, consent can only be voluntary if there is a genuine choice between political parties at the polls. This ensures that express consent is bestowed on the government that is elected:

> On the part of the majority, because they have voted for it; on the part of the minority, because by participating in the election they are assumed to have demonstrated their acceptance of the rules by which the government was chosen (Beetham, 1991, p.152).

In sum, therefore, the means by which a government is elected under the multi-party system (namely, the act of voting) is also the means by which the consent of the populace is expressed: 'elections thus perform two quite distinct functions simultaneously' (Beetham, 1991, p.151).

Although Qing reformers were not advocating a multi-party system back in the 1880s, they clearly recognised the need for the Qing regime to attain the consent of the populace through a more representative system of politics, which included the act of voting as well as other political rights such as standing for election and freedom of speech and assembly. Ultimately, it was thought that greater popular consent would provide the foundations on which to build a strong Chinese nation. In contrast to their late Qing predecessors, Republican thinkers did advocate a multi-party system, but as before they believed that the popular consent acquired through bestowing political rights on the people would serve as a potential source of national strength.

Just as Beetham's electoral mode is relevant to the nationalist logic of Qing and Republican representative democracy, so Beetham's mobilisation mode is relevant to the nationalist logic of Maoist mass democracy. Beetham explains how popular consent under the mobilisation mode is manifested not through the act of voting, but through the direct involvement of the masses in the implementation of a particular policy which is designated by and supportive of the ruling party, often under a single-party system. As Beetham (1991, p.155) puts it, popular consent is evinced through the 'continuous mass participation in political activity supportive of the regime and contributory to the realisation of its political goals'. Beetham (1991, p.155) also contends that, in most cases, a government which relies on the mobilisation mode as a means of legitimacy derives its power through revolutionary means and that the continuation of mass participation into the post-revolutionary epoch 'can be seen as a perpetuation of the revolutionary process'.

For Mao, the attainment of popular consent through 'continuous mass participation' as Beetham puts it, was fundamental to his conception of mass democracy and in particular the mass line and the mass campaign. We referred earlier to the all-inclusive nature of the CCP's land reform policy. The principal objective of this policy was to attain the consent of the peasantry so as to help legitimise the party in its quest to protect an increasingly vulnerable China from foreign attack. Beetham's second point in the paragraph above is also highly pertinent to the Mao regime which did indeed derive its power through revolutionary means. Moreover, the idea of continuous mass participation

after the revolution 'as a perpetuation of the revolutionary process' falls squarely within Mao's concept of continuous revolution (Schram, 1971).

Human rights

From our earlier definition of liberal democracy, we noted that the protection of human rights is a fundamental component of the liberal democratic system. Indeed, it is widely accepted that democracy and human rights go hand-in-hand to the extent that the two concepts are often referred to as one and the same thing. However, human rights is very much a concept in its own right (no pun intended), the protection of which is not, according to some observers, the exclusive domain of the liberal democratic state but can just as easily be achieved under a single-party system. This is a position frequently argued by the CCP.

The ideal circumstances under which human rights can best be guaranteed is one of several areas of debate and disagreement on this subject. We will discuss some of these in more depth shortly. But before doing so, it is logical to begin by examining the origins of human rights thinking. Early ideas about human rights, or more specifically natural rights, derived from the Hellenistic and Roman Stoic conception of natural law, a body of rules devised by God which guided the implementation of state law and restrained the exercise of state power. But whilst the ancient Greeks and Romans understood what was meant by "right behaviour", their understanding of natural law did not encompass any notion of rights. Instead, it simply required the fulfilment of certain duties. Later thinkers such as the English philosopher John Locke took this idea a step further, suggesting that natural law not only imposed specific duties on people to treat others respectfully, but also invested them with rights to the fulfilment of these duties. For example, the obligation that 'no-one should harm another in his life, liberty and possessions', which was fundamental to natural law according to Locke, meant that people logically had rights to the protection of their life, liberty and property (Locke, 1960, p.289).

Although a handful of twentieth century scholars remained loyal to the natural rights doctrine (Maritain, 1944; Finnis, 1980), most modern-day theorists have jettisoned the theological basis of natural rights, suggesting in a more secular tone that "human" rights are grounded in our very humanity. One of the most convincing explanations of this

position is provided by Gregory Vlastos, who posits the idea that human rights derive from our innate moral worth as human beings. This attribute, Vlastos argues, is different from other human qualities in that it is independent of individual merit and cannot be measured as such. In other words, although we often "measure" or "grade" people according to their personal merit – so that one person may be more or less generous or more or less honest than another – we do not take such factors into account when assessing their moral worth. Indeed, there are numerous types of moral response which are entirely irrespective of a person's individual attributes. As Vlastos (1970, p.90) points out, 'if I see someone drowning I will not need to satisfy myself about his moral character before going to his aid. I owe assistance to any man in such circumstances, not merely good men'. As such, Vlastos suggests that since each of us is equal in moral worth, we are by the same token entitled to equal treatment and respect in the form of equal human rights. So, for instance, we possess the right to vote, Vlastos (1970, p.88) insists, simply because we are equal moral beings. We do not 'have it for being intelligent and public spirited, or lose it for being lazy, ignorant or viciously selfish'.

Ideas about innate human worth are not exclusive to the modern liberal era. The eighteenth century German philosopher Immanuel Kant also believed that, as human beings, we possess an inherent moral dignity which makes us intrinsically important and for Kant this meant that we should be treated as ends 'not merely as a means for arbitrary use by this or that will' (Lukes, 1973, p.49). From this, Kant insisted that the purpose of human rights was to serve individual ends, enabling us to achieve our full potential and realise our goals. But whilst the Kantian understanding of rights has become an established feature of contemporary Western thinking, we have seen already in this chapter how the Kantian philosophy on rights does not necessarily accord with Chinese thinking. One of the underlying themes of this book is that, like democracy, human rights are not valued as ends in themselves, but are invariably seen as a tool with which to fortify and protect the Chinese nation.

This discussion of means and ends leads us to the related discussion about whether human rights belong to individuals or collectivities. One of the most basic liberal assumptions about human rights is that they are the rights of human individuals, an idea which has been popular since early European and American declarations of rights acclaimed the Rights of Man and the Rights of the Citizen. Accrediting human rights to individuals seems like a reasonable thing to do. Rights

necessarily have "possessors" and a human right, like any other right, must be somebody's right. This is broadly the position adopted by scholars such as Jack Donnelly (1989) and Ronald Dworkin (1978). Since human rights refer to the rights of human beings and only individual persons are human beings, it logically holds that human rights can only be the rights of individuals. Furthermore, if we accept the idea that human rights are grounded in our human dignity and moral worth, then this too is consistent with the belief that human rights are possessed exclusively by individuals.

Notwithstanding the popular conception of human rights as individual human rights, some liberal scholars have argued that human rights can also be ascribed to collectivities. Vernon Van Dyke (1982, 1985) believes this is so because collective rights are a pre-condition for the protection of individual human rights. He points out, for example, that in an individualistic and egalitarian type of democratic society which is also ethnically plural, the rights of minority groups may well be neglected. As such, by safeguarding the human rights of these groups, it is simultaneously possible to safeguard the human rights of its individual members. It has further been suggested that peoples or nations can enjoy human rights. For instance, Article 1 of both of the 1966 United Nations human rights covenants (the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights) state that 'all people's have the right of self-determination'.

Many Chinese thinkers have concurred with the idea that nations have rights. We have already alluded to Lin Zexu's enthusiasm for introducing legislation that would give China the right to prevent the forced importation of foreign merchandise, specifically opium. In more recent times, the rights of national development and national self-determination have become popular in China, particularly during the last 20 years or so as part of the emerging CCP orthodoxy on rights. Like Van Dyke, the Chinese orthodoxy sees national rights as human rights based on the belief that they are a necessary pre-requisite to the full enjoyment of individual human rights. According to this way of thinking, individual rights can only be guaranteed once the rights of the nation are guaranteed. Moreover, as we will see in Chapter 5, it is on these grounds that collective national rights are prioritised ahead of individual rights in Chinese thinking.

Another basic principle of human rights is its supposed universality, the popular conviction that we are all equally entitled to human rights. Article 2 of the 1948 Universal Declaration of Human Rights (UDHR) famously states that 'everyone is entitled to all the rights and freedoms

set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. Whilst such sentiments may be worthy in seeking to ensure that the rights of every individual are respected, there are several reasons for questioning the existence of universal human rights.

Firstly, who is that that possesses human rights? Scholars have often restricted the possession of human rights to rational persons in full control of their mental powers, but this immediately excludes the mentally handicapped and the very young who are surely as entitled to human rights as anyone else. Some people also maintain that foetuses and the comatose possess human rights and yet neither can be accurately described as rational beings (P. Jones, 1994, p.67). Secondly, statements about universal human rights often assume that there is a distinct set of moral values of which everyone approves. This is difficult to reconcile with the reality of cultural and moral diversity (Milne, 1986). Thirdly, questions arise about precisely whose values are embodied in universal pronouncements of human rights. Critics have often asserted that those who advocate a universalist approach are guilty of ethnocentrism or Western cultural imperialism in that the types of universal rights they propose are invariably Western liberal in origin (Zvogbo, 1979; Renteln, 1990).

Although support for universalism can be found amongst some of the more liberal minded Chinese scholars as we will see throughout this book, the official Chinese position has traditionally been hostile to the notion of universality. The KMT regime rejected the idea out of hand. Instead, as we will see in Chapter 3, rights were conditional upon an individual's loyalty to the nation building objectives of the state. Since the paramount goal of the day remained the survival and reconstruction of the Chinese nation, only those people who were loyal to these goals were entitled to enjoy rights. The CCP's position under the Mao era (1949–76) was equally inhospitable to a universalist theory of rights, as noted in Chapter 4. Entitlement to rights was instead dependent upon individual class status and overall membership of "the people" (*renmin*), constitutionally defined as 'the working class based on an alliance of workers and peasants'. During the last decade or so, the CCP has moved away from a rigidly class-based paradigm of rights towards a more universalist idea. However, this position is heavily qualified by the claim that a country's ability to fully enjoy human rights is dependant upon its level of socio-economic development.

Finally in this section we should note that differences of opinion on human rights have not only been confined to the concept of rights. Thinkers have also disagreed over the precise content of human rights, in other words the type or category of rights that qualify as human rights. The heart of the matter has been whether human rights consist exclusively of civil-political rights (for example, rights of political participation and freedoms of speech and movement) or whether they can also encompass socio-economic or welfare rights (for example, rights to work, education and employment, as well as more basic subsistence rights). A strong proponent of the former position is Maurice Cranston (1973) who proposes three human rights criterion – practicability, universality and paramount importance – each of which socio-economic rights fail to meet. Socio-economic rights are not practicable, Cranston argues, because many developing nations do not have adequate material and economic resources to provide them. Applying the same logic, Cranston insists that socio-economic rights are not universal because they are the rights of only some people in some situations (for example, members of wealthy developed nations). Finally, Cranston suggests that socio-economic rights are simply not as important as civil-political rights. A human right 'is something which no-one may be deprived of without a grave affront to justice' (Cranston, 1973, p.68). Socio-economic rights do not fall into this category, Cranston believes.

A number of objections can be raised against the validity of Cranston's human rights "tests" and the assertion that socio-economic rights do not pass them. Perhaps the weakest of Cranston's arguments is that socio-economic rights are not of paramount importance. By asserting that civil-political rights are of greater moral significance than socio-economic rights, Cranston fails to take into account that for many developing nations the reverse is probably the case (Nickel, 2007). For instance, whilst there is little doubt that certain "lesser" socio-economic rights such as the right to social security or the right to 'holidays with pay' (an article in the UDHR exhaustively cited by Cranston) rather pale in comparison with, for example, the murderous treatment of the Jews during the Second World War, it might equally be argued that the basic subsistence rights of a starving man are probably more important to him than his right to vote or his freedom of speech and expression. This point is frequently been made by the CCP and party-affiliated scholars.

In terms of the practicability of a right, Cranston's point that lack of adequate economic resources in many societies makes it impossible to

have a universal claim to socio-economic rights is a valid one and will be examined in the paragraph below. However, it has also been argued that certain civil-political rights are just as impracticable. For instance, Raphael (1967, pp.63–4) points out that the right to life cannot be completely guaranteed because no amount of legislation or provision of police is able to prevent murder. The better position is to insist that governments have a duty to do as much as they can to provide socio-economic rights given the level of their resources. Indeed, Article 22 of the UDHR makes this very point by stipulating that socio-economic rights can only be fulfilled 'in accordance with the organisation and resources of each state'.

Scholars have also questioned Cranston's two-fold "test" of universality – that a right is only a human right if it is the right of everyone in all situations and only if it can be claimed against everyone. Regarding the first point, Nickel and Martin (1980, p.176) note the importance of distinguishing between the conditions for "having" a right and the conditions under which one can actually "exercise" or "enjoy" the right. It might be argued that we are all entitled to a fair trial on the premise of being human individuals. However, that such a right can only be exercised if we are accused of a crime does not make it any less credible as a human right. On the second point, we should remember that whilst socio-economic rights can indeed only be claimed against the government of the day as Cranston suggests, the same also applies to certain civil-political rights such as the right to a fair trial. In fact, it would be peculiar to claim such a right against all people rather than against a government (Nickel and Martin, 1980, p.178).

Nationalism

Turning now to nationalism, as with our discussions of democracy and human rights, it is difficult to find a consensus definition of nationalism, despite (or perhaps because of) the abundance of scholarly literature on the subject. At the more esoteric end of the spectrum, Richard Handler (1988, p.6) defines nationalism as 'an ideology about individuated being. It is an ideology concerned with boundedness, continuity and homogeneity encompassing diversity. It is an ideology in which social reality, conceived in terms of nationhood, is endowed with the reality of natural things'. John Breuilly (1985, p.3) adopts a more straightforward perspective, describing nationalism as referring to 'political movements seeking or exercising state power and justifying

such actions with nationalist arguments'. Such arguments, he believes, can be broken down into three basic convictions. The first conviction is that there 'exists a nation with an explicit and peculiar character'. The second conviction is that the 'interests and values of this nation take priority over all other interests and values'. The third conviction is that the nation must be 'as independent as possible. This usually requires the attainment of political sovereignty'.

Adrian Hastings sees nationalism as arising from a perceived external or internal threat to a particular ethnicity or nation in a manner that draws obvious parallels to the kind of Chinese nationalism that we will discuss throughout the book. In his volume 'The Construction of Nationhood' Hastings (1997, p.4) writes that:

> As something which can empower large numbers of ordinary people, nationalism is a movement which seeks to provide a state for a given 'nation' or further to advance the supposed interests of its own 'nation-state' regardless of other considerations. It arises chiefly where and when a particular ethnicity or nation feels itself threatened in regard to its own proper character, extent or importance, either by external attack or by the state system of which it has hitherto formed part.

In the same way that there are different definitions of nationalism, so there are different types of nationalism. Much scholarly effort has been spent trying to identify various categories of nationalism, with thinkers such as Hall (1993) distinguishing between the liberal, culturally inclusive type of nationalism which is prominent in Western Europe from the illiberal, culturally exclusive types of nationalism found elsewhere in the world. Michael Hechter (2000, p.15) rejects what he calls 'these normative differences between nationalist movements' in preference for a typology 'derived from analytical considerations'. This leads him to identify four different types of nationalism: state-building nationalism, peripheral nationalism, irredentist nationalism and unification nationalism, each explained as follows.

State-building nationalism is characterised by the assimilation of culturally distinctive territories into a given state. This is often the result of a centralised attempt 'to make a multicultural population culturally homogeneous'. Hechter provides as an example the intermittent attempts by British and French rulers to integrate Celtic regions into their own culture during the sixteenth and twentieth centuries. Such attempts often result in peripheral nationalism which occurs when a 'culturally

distinctive territory resists incorporation into an expanding state, or attempts to secede and set up its own government'. Hechter cites Quebec, Scotland and Catalonia as examples of this type of nationalism. Irredentist nationalism describes efforts to 'extend the existing boundaries of a state by incorporating territories of an adjacent state occupied principally by co-nationals'. The Sudeten Germans is one example given by Hechter. Unification nationalism takes place with the merger of 'politically divided but culturally homogenous territory into one state'. Nineteenth century France and Germany are two examples of this. Hechter suggests that in contrast to state-building nationalism which is usually culturally inclusive, unification nationalism is usually culturally exclusive as the new state seeks to unify the nation under a single culture.

Perhaps the most measured and logical attempt to interpret and explain nationalism is provided by Anthony Smith who identifies some common themes in the academic literature on the subject which he incorporates into his own definition. First and most obviously, Smith points out, there is an overriding concern with the nation: 'nationalism is an ideology that places the nation at the centre of its concerns and seeks to promote the nation's well-being' (Smith, 2001, p.9). From here, Smith identifies three primary objectives that fall within the promotion of the nation's well-being. These are national autonomy, national unity and national identity. For nationalists, Smith argues, a nation cannot subsist without an adequate degree of all three and this leads him to the following definition of nationalism: 'an ideological movement for attaining and maintaining autonomy, unity and identity for a population which some of its members deem to constitute an actual or potential "nation"' (Smith, 2001, p.9).

Without intending to get too bogged down in defining terms, we do need to consider what is meant by the concept of a nation. Again, scholarly definitions are innumerable (Tilly, 1975, p.6; Miller, 1995, p.27; Brubaker, 1996, p.21) but Smith (2001, p.13) provides the most lucid explanation. A nation is 'a named human community occupying a homeland and having common myths and a shared history, a common public culture, a single economy and common rights and duties for all members'. Picking up on three of the characteristics in Smith's definition – common myths, shared history and common public culture – we might usefully define nationalists as a group of people who identify with the common myths, shared history and common public culture of their nation.

Smith's three characteristics are especially pertinent to the Chinese experience. "Common myths" could plausibly refer to the widespread and strongly-held belief in China's greatness as a nation, at one time the "middle kingdom", the centre of all civilisation to whom all other nations and cultures were subordinate and were required to pay tribute. Many modern-day Chinese nationalists express a desire to return to those perceived halcyon days. For example, in his study of "Ming fever" (*Ming re*), Michael Szonyi (2010) has identified a growing popular nostalgia in China for the Ming Dynasty (1368–1644), a period admired for its economic vibrancy and global engagement.

A "common public culture" might usefully focus on what it is that allegedly makes China a great nation, most likely from an historical perspective. This would include a common language and writing system which dates all the way back to the Shang dynasty (1766–1122 BC) and was passed down to Japan, Korea and other neighbouring countries. There is also the shared culture of Confucianism, China's state ideology for over two millennia based on the principles of harmony and hierarchy, again handed down to neighbouring tributary states. In addition, there are, of course, the great Chinese inventions, including porcelain, paper, printing and gunpowder, all of which are referred to with great admiration by many of those in China expressing nationalist views.

These examples of China's greatness might also form part of Smith's definition of a "shared history" because they represent a shared history of achievement and success. But what is interesting here is that a significant aspect of China's nationalist sentiment focuses more keenly on China's shared history of suffering, a suffering inflicted by foreign imperialists during China's "century of humiliation". Reminding people of this legacy of shame often forms the centrepiece of CCP propaganda in an effort to whip up public outrage in reaction to a perceived foreign insult such as Western criticism of China's human rights record (see earlier discussion of defensive nationalism) or Japan's staunch defence of its sovereignty over the Senkaku (or Diaoyu) islands, a collection of eight uninhabited rocky outcroppings in the East China sea between Taiwan and Okinawa. The party's rationale in so doing is to present itself as the sole defender of Chinese interests in the face of a hostile international community. However as will see in the concluding chapter, some internet nationalists (otherwise known as "netizens") have taken the opportunity to accuse the CCP of not doing enough to stick up for China's interests and being weak on issues such as the islands dispute or reunification with Taiwan.

So what are the origins of Chinese nationalism? When is our starting point? These are not easy questions to answer. The late Qing political reformers cited earlier were probably the first Chinese thinkers to focus overtly on the needs of the Chinese nation, but they were a very small minority of intellectuals whose views were far from representative of the Chinese public. There was a very weak public conception of the nation and of nationalism during the late Qing. This was primarily because ordinary Chinese people had, for thousands of years, aligned themselves much more closely to their immediate family in keeping with the strictures of Confucianism, a point made by the Qing reformer Yan Fu in lamenting China's fragility as a nation (Schwartz, 1964, pp.70–1). Confucianism required strict obedience to family members in accordance with the Five Relationships (*wulun*) and the Rules of Propriety (*li*) (Baker, 1979) and as James Sheridan (1975, p.17) concludes 'the primacy of family relations inhibited the development of truly national loyalties'. Outside of the immediate family, personal loyalty was owed to the clan and to the village, but the nation as a single entity was so remote from everyday life as to be scarcely in existence.

Any feelings of personal loyalty that did exist outside of the family, clan or village during the imperial period were probably felt towards the incumbent dynasty or even the preceding dynasty. One of the key points made by Paul Cohen (1984) in his analysis of domestic rebellions in China during the nineteenth century is that they were not a manifestation of xenophobic anti-Westernism. Instead they constituted a hostility towards the Qing dynasty Manchus and a desire to restore the perceived glory days of the Ming dynasty Han. This was exemplified by the slogan "destroy the Qing, restore the Ming" which was prominent during the early stages of the Boxer Rebellion (1898–1901). Even as anti-foreignism became more pronounced in the later stages of the rebellion, it still had a strong anti-Qing tone as illustrated by the slogan "destroy the foreigner, overthrow the Qing".

The Republican era brought with it a greater focus on nationalism under the banner of Sun Yat-sen's 'Three Principles of the People' (*sanmin zhuyi*) one of which was nationalism (the other two being democracy and people's livelihood). Sun (1972) interpreted nationalism as comprising a popular desire to rid the nation of foreign imperialism, something which could only be achieved if each of China's five major ethnicities united behind a single, centralised state, a position which draws parallels with Hechter's concept of state-building nation-

alism. The five ethnicities were the Han, Mongols, Tibetans, Manchus and Muslims, as represented by the five colour flag of the new Chinese Republic.

But Sun did not really succeed in instilling his brand of anti-imperialist nationalism into the consciousness of the ordinary Chinese masses. Despite the intended symbolism of the Chinese Republican flag, many Chinese people could not accurately describe the flag when asked or even recognise it. Although the Confucian system had been dismantled after 1912, individual loyalty still seemed to be confined predominantly to the family or village unit rather than to the nation. In general, Chinese nationalism remained at a more esoteric and remote level for most Chinese, with relevance to politicians, scholars and a growing number of students, particularly during the May Fourth movement (see Chapter 2) but of little real significance to the wider Chinese public.

The watershed event of the twentieth century that served to unite the Chinese people behind the nation was the invasion by Japan in 1931 and the Second Sino-Japanese War (1937–45). The explosion of nationalist sentiment sparked by the invasion and subsequent war derived from a widespread feeling of shame and humiliation that this once great imperial power had been plundered and colonised by a much smaller and "culturally inferior" neighbour. In particular, Japan provided a common focal point of hatred for the mass cruelty inflicted on the Chinese people during the occupation and seven year war and a common objective of removing the Japanese from Chinese soil featured very strongly after 1937 (Shum, 1988). In effect, the Japanese invasion brought about a sharp distinction in China between "us" and "them" which is a vital part of what Allen Whiting (1983) has referred to as assertive nationalism.

The victory of the CCP in 1949 was as much a victory for nationalism as it was for communism, finally ending the "century of humiliation" and uniting China behind a single, centralised state (Johnson, 1962; Gillin, 1964). When Mao publicly proclaimed the establishment of the People's Republic of China (PRC) on 1 October 1949 he did not make reference to Marxist dialectics or the Dictatorship of the Proletariat, but instead referred to the Chinese people having "stood up" against foreign imperialism. This desire to remain free from imperialist subjugation continued to inform Chinese nationalism after 1949. Moreover, as we will see in Chapter 4, it also shaped Maoist conceptions of democracy and rights.

Chapter outline

In addition to the introduction, this book comprises a further six substantive chapters and is structured chronologically. Chapter 1 analyses the late Qing debate about how China could most effectively resist the increasing military threat posed by imperialist powers and in particular how democracy and rights might assist in the process of national resistance. In this chapter we will note that Chinese reformers were especially enthused by what they perceived to be the participatory nature of Western democratic politics which, if introduced to China in the form of a constitutional monarchy, would serve to unite the Chinese people behind their rulers in the ongoing struggle against imperialism. In addition to the views of more familiar names such as Yan Fu, Liang Qichao and Kang Youwei, we will assess the ideas of less well-known thinkers such as Huang Zunxian and Zhang Binglin, many of whom were just as committed to introducing democratic reform in the cause of national salvation. This also included proponents of women's rights such as Jin Yi and the more radical feminist Qiu Jin. Finally, in this chapter we will critically evaluate the tentative political reforms contained in the 1908 Principles of the Constitution (China's first constitutional document) and suggest some reasons why these reforms failed to provide the desired foundation for national unity and strength.

Chapter 2 examines how democracy and rights were interpreted and practised during the early Republican period (1912–28). After the Qing empire finally collapsed under the weight of domestic and foreign pressure, plans for a constitutional monarchy were replaced by the introduction of a representative multi-party system. We will note in this chapter that although the political system had changed, the overriding focus of Chinese political reformers remained fixed on the needs of the fragile Chinese nation. With China still under threat from foreign forces, reformers remained convinced that greater public participation in politics could facilitate the nation-building process. But as infighting, corruption and a lack of political inclusiveness eroded the credibility of the democratic system, earlier democrats such as Sun Yat-sen converted to single-party authoritarianism. We will see how Sun came to believe that China had been weakened by what he saw as excessive libertarianism, arguing instead that the people should sacrifice their individual freedoms for the national good. Sun also believed that democracy was too complicated for the Chinese people and its implementation would have to wait until the masses had been properly educated or "tutored" in how democracy worked.

We will examine the logic of Sun's political tutelage idea in Chapter 3 and note the failure of the Chiang Kai-shek government to implement this idea. Like Sun, Chiang was a committed exponent of the view that only authoritarianism could save China and that democracy and individual rights must be subordinated to the greater goal of national salvation. This was particularly apparent in the theory and practise of the 1931 and 1936 Constitutions which placed the perceived higher needs of the nation ahead of individual rights. For a time, this even required people to pledge a "loyalty oath" to Sun's nation saving Three Principles of the People before they were allowed to exercise their rights. Despite the lurch towards authoritarianism and the increasing intolerance and brutality of the Chiang regime, we will note in this chapter that there was an energetic debate over the merits of democracy and rights, a debate which included not only liberal minded scholars such as Hu Shi, Xu Zhimo and Liang Shiqiu but also Mao Zedong. With the focus now on saving China from Japanese aggression, Mao advocated a consensual form of democratic government based on a wide ranging coalition of anti-Japanese patriots as well as greater popular participation in politics as a means of mobilising the people against Japan.

We will see in Chapter 4 how Mao's enthusiasm for mobilising the masses through democracy was even more apparent after 1949 through his concept of mass participatory democracy. Although the CCP had united China under a centralised government, the threat from abroad persisted. Mass democracy, with its emphasis on mass participation in devising and implementing new policies, was perceived as a way of repelling the foreign threat. Sometimes the new policies were aimed at securing the loyalty of the people so that they would help protect the Chinese state. Land reform is one example that we will analyse in this chapter. On other occasions, the policy itself was designed to fortify the nation, most notably the Great Leap Forward during which millions of people were set to work on various nation-building projects. Chapter 4 will also examine the role that rights played in seeking to make China strong. For example, only proletarian class allies of the state were entitled to rights, whilst any "bourgeois elements" who might attempt to weaken China were deprived of their rights. Beyond this, anyone exercising their rights had to first take heed of the nation's interests and were expected to give up their rights for the good of the nation if that was required.

Chapter 5 focuses on conceptions of democracy and rights in the post-Mao era. In this chapter we will see that, as before, analysis has

often taken place within the broader framework of protecting China from a foreign threat. However, in contrast to earlier periods when the threat came from foreign military imperialism, in more recent years the threat (albeit perceived as much as real) has come from foreign cultural imperialism, an alleged attempt by a censorious West to overthrow China's one-party system of democracy and unique perception of human rights and replace it with a conventional Western liberal model. As noted earlier, the watershed incident was the 1989 Tiananmen crackdown. We will see in this chapter how the international condemnation of China in response to Tiananmen directly precipitated the articulation of an official discourse on human rights and democracy, a human rights diplomacy within the UNCHR and a very re-active form of defensive nationalism. But we will also see that not everyone in China has analysed democracy and rights in direct reaction to a supposed foreign threat. Instead, a small but significant number of scholars have debated these ideas simply as ideas, to be valued as ends rather means to an end. This is particularly apparent in discussions of human rights with support expressed for a universal notion of rights and importance attached to individual rights and the freedom of speech.

In the concluding chapter, we will assess China's practise of democracy and human rights in the contemporary era. We will examine some of the more critical reports compiled by human rights watchdog organisations such as Amnesty International and Human Rights Watch. We will also take a more balanced approach by assessing the progress China has made since the tumultuous and repressive Mao era. Specific attention will be paid to improvements in the transfer of power from one generation of political leaders to the next and the rise in grass-roots democracy as exemplified by the increasing sophistication of elections and the electorate at the Villagers' Committee level. The final section of this chapter will look at contemporary nationalism in China and in particular the increased efforts made by the CCP to present itself as the sole representative of China's national interests. This has been done in an effort to diversify the basis of CCP legitimacy beyond just being the party of economic reform. But we will see how this is backfiring on the party in light of an increasingly vociferous public voice which questions the CCP's nationalistic historical narrative and asserts that the CCP is not doing enough to defend China in the face of foreign aggression.

1
Saving the Empire: Democracy and Rights in the Late Qing Dynasty

Ideas about democracy and rights were first introduced to Chinese political discourse in the nineteenth century during the final few decades of the Qing dynasty. The context for the introduction of these ideas was the increasing military threat posed by encroaching imperialist powers such as Britain, France and Japan. The hope was that a system of democracy and rights might provide a solution to China's precarious national predicament by imbuing the population with a sense of loyalty and devotion to the nation and the cause of national salvation. We will see in this chapter that initially the focus was on the limited implementation of rights rather than democracy, specifically collective rights which were aimed at protecting China's fragile national sovereignty. The Qing regime was particularly keen to enforce a national right to prohibit the further importation of foreign merchandise into China after the outbreak of the First Opium War in 1839. There were also proposals for China to assert its sovereign right to rescind the "unequal treatises" that it had been coerced into signing with aggressive foreign powers.

Later in the century Chinese attention turned to more far-reaching democratic reforms, particularly after the disgrace of military defeat in the Sino-Japanese War of 1894–5 which exposed to many in China just how weak their country had become. In order to rectify this grave situation, progressive minded thinkers such as Yan Fu and Liang Qichao and the lesser known Huang Zunxian and Zhang Binglin called for the implementation of a democratic system of politics based on the Western model of constitutional monarchy. The underlying logic was that if the Chinese people were given a more participatory role in the political system, they would come to feel a greater sense of loyalty to their rulers and so unite steadfastly behind the national objective of

ousting the imperialists from Chinese soil. In this way, rights were now seen as the domain of the individual rather than just the collective. Reformers argued that if every person in China could develop a more emphatic and assertive sense of individual rights (a mentality that was sorely lacking from the Confucian moral code) then China as a nation would become strong enough to see off the imperialists. From the outset, therefore, the majority Chinese view was that the enjoyment of democracy and rights was synonymous with a strong nation-state.

This predominantly instrumentalist approach towards political reform had one very significant implication. If democracy was valued purely because of its perceived capacity to embolden the Chinese nation, it could just as easily be abandoned if it was no longer deemed useful in achieving this goal. This is exactly what happened during the late Qing. Although Chapters 2 and 3 cover this in more depth, we will note in this chapter how some of the early exponents of democracy turned towards authoritarianism once they became convinced that this route might better solve China's national crisis.

One of the most pressing social concerns of the late Qing era was the entrenched subordination of women, as manifested by the unequal treatment of women in law and by the long standing Confucian tradition of foot binding. By the turn of the twentieth century as the Qing empire teetered on the brink of collapse, an increasing number of Chinese women (and some men) began to call for the abolition of sexual inequality in China and the introduction of women's rights. Some advocates, including the celebrated anarcho-feminist He Zhen, saw this as an end in itself. For He, women should enjoy rights because, like men, they were human beings and were therefore equally entitled to rights. But other thinkers such as Xu Yucheng and Jin Yi, both of whom were quite radical in their feminist perspectives, couched their desire for women's rights within the familiar context of strengthening the Chinese nation. They believed that China would only become strong if women had the same rights as men.

Despite impassioned calls for the introduction of women's rights in China, such rights were noticeably absent from the last minute political reforms implemented by the Qing administration. Although the 1908 Principles of the Constitution contained a chapter on rights which did not explicitly exclude women from political participation, the elections that were held at the local, provincial and national level during 1909–11 did not allow women to vote or stand for election. The poor, the uneducated and the religious (amongst others) were also excluded and this, combined with a number of other factors (for

example, corruption and voter apathy), meant that late Qing political reforms categorically failed to unite the people behind the nation in the struggle against foreign imperialism.

Confucian democracy and rights?

There has for some time been an academic debate about whether or not an indigenous Confucian understanding of democracy and rights existed in traditional China. Those who argue in favour often locate concepts contained in the Confucian classics to make their point. For example, Joseph Chan (1999, p.218) and to a lesser degree Daniel Bell (2000, p.50) have suggested that the Confucian notion of "benevolence" (*ren*) can be equated with a belief in human rights. According to the Confucian disciple Mencius, benevolence was common to all men and manifested itself most clearly as human compassion for the welfare of others. So, for example, if a child was about to fall to his death into a well, Mencius believed that any compassionate bystander would rush to save the child regardless of whether or not he was known to the bystander.

Other scholars have tried to formulate a Confucian theory of rights by substantially widening the doctrine of rights so that it encompasses some of the basic tenets of Confucianism. Cheng Chung-ying (1979, pp.16–17) believes that rights in a Confucian context were not substantive but relational. In other words, rights were exercised with a genuine concern for others rather than independently or selfishly. Cheng also suggests that Confucian rights were particularistic rather than universalistic and that they were contingent upon an individual's status and relationship to those around him. In addition, rights were primarily conceived in collective rather than individual terms and were therefore subordinate to the higher collective interest. Finally, rights derived from the state and were not something which were held or claimed against the state by individuals.

Those who argue against a Confucian theory of human rights point to the inequalities inherent in the social and legal practice of Confucianism. Whilst the philosophy of human rights sees human beings as innately equal in moral worth, Confucian law and society and the philosophy that underpinned it was based on a system of moral inequality which evaluated human morality in accordance with the familial and social status of each individual (Liu and Ge, 1988; Weatherley, 2002). The establishment of this "moral hierarchy" meant that some members of society (for example, government officials,

fathers and husbands) were thought to be morally superior to others (for example, common people, sons and wives). This was neatly reflected in the legal system which treated the former more leniently than the latter on account of their higher moral standing, even if an identical offence had been committed (W. Jones, 1974, 1994). We will look at this in more depth later when we discuss the late Qing call for women's rights. At the heart of this rejection of human rights was the overriding importance attached to the attainment of social harmony since it was the desire for an harmonious society which justified the creation of an hierarchical and therefore unequal social, moral and legal order (Munro, 1977).

The Qing in crisis

Whichever position we might take on this debate, there is little doubt that the first concrete Chinese discussions of democracy and rights emerged during the nineteenth century. The wider backdrop to these discussions was the increasing fragility of the Qing, China's last dynasty before the collapse of the empire in 1911. The dramatic arrival of the British during the First Opium War and the subsequent ease with which China was sliced open by the British and other imperialist powers during the Second Opium War and the Sino-French War, revealed an alarming disparity in national strength between China and the West. This sparked a vigorous intellectual debate inside China about how best to resist any further foreign intrusion.

The Pure Discussion school (*qingyi*), which had its philosophical roots in the Southern Song Dynasty (1127–1279), insisted that the only way to repel the imperialists was to remain true to the orthodox principles of Confucianism. By the same token, the prospect of adopting Western methods or ideas was vehemently rejected as heresy (Rankin, 1982). Indeed, Pure Discussion exponents sought to incite the public against Westerners rather than accommodate them. Sometimes this resulted in physical attacks on allegedly pro-Western Chinese officials or on Westerners themselves, most notably during the 1870 Tianjin Massacre which resulted in the deaths of 21 foreigners, mostly French Catholics (Fairbank, 1957).

Thinkers from the Self-Strengthening Movement (1861–95) were more amenable to Western ideas (Wright, 1957) including, as we will see shortly, ideas about democracy and rights. As part of what became known as the *ti-yong* debate, the Self-Strengtheners insisted that whilst traditional Confucian "essence" (*ti*) should be preserved, Western

"methods" (*yong*) could be usefully employed by the Qing regime. Although a number of measures were considered, it was mainly in the diplomatic and military fields that significant changes were implemented. On the diplomatic front, this comprised the establishment of a new foreign relations office known as the *zongli yamen* (Meng, 1962). This body dealt with foreign representatives on an equal, rather than on a superior basis as had previously been the case. In terms of the military, reforms included the introduction of shipbuilding dockyards to help bolster the increasingly besieged Chinese navy, greater investment in Chinese military equipment and the adoption of Western military techniques.

But arguably even these reforms were not particularly radical. According to Cohen (1984, p.24), the accommodation of Western military methods 'was only a variation on a well-worn Chinese theme. At various points in their long history, the Chinese had been able to accept being tutored in the arts of war by "barbarians"'. Although the *zongli yamen* was probably more innovative, it was only ever meant to be a temporary measure until the West had been successfully vanquished from Chinese territory. Moreover, the old tributary system was actually retained for neighbouring states such as Korea, Annam and Champa (both now part of Vietnam) (Cohen, 1984, p.24).

We will see later in this chapter how the Qing intensified its reform efforts after China's 1895 defeat to Japan and then again after Japan's victory in the Russo-Japanese War of 1904–5. Significantly for our purposes, this comprised a number of political reforms, including a constitution with a chapter devoted to citizens' rights and the introduction of democratic elections at the local and national level.

The Opium Wars and the rights of the nation

Available sources suggest that late Qing thinkers were initially more interested in instituting a very limited conception of rights, rather than overseeing a comprehensive overhaul of the Chinese political system. Our starting point is the early stages of the First Opium War, specifically the translation in 1840 of 'The Illustrated Compendium of Coastal Nations', a compilation of European documents and illustrations commissioned by Guangzhou's beleaguered Imperial Commissioner Lin Zexu (Angle, 2002, p.104). By way of brief background, it was Lin's ill-fated attempt to halt the British import of opium that led to the outbreak of the First Opium War (Hanes and Sanello, 2002, pp.37–56; Meyer, 2009, p.127). As is well-documented,

Lin authorised Chinese military forces to hold hostage British expatriates living in and around Guangzhou until all the opium being pedalled by merchant ships off China's southern coast had been surrendered. British government representative Charles Elliot had little option but to accept Lin's demands and on receipt of over 20,000 chests of opium, Lin gave the order for it to be publicly burnt and the ashes thrown into the Pearl River. This triggered the British attacks. So Lin's immediate objective in commissioning 'The Illustrated Compendium' was to find a way of ending the war and ousting the British from Chinese territory before news reached the Emperor.

A key document contained in 'The Illustrated Compendium' was an eight-page translation of extracts from Emmerich de Vattel's 'The Law of Nations', a textbook on international law published in France in 1758. This transcript included a short section extolling every nation's right to forbid the import of foreign merchandise if it chose to do so. The text opened with the assertion that 'every state has, consequently, a right to prohibit the entrance of foreign merchandise, and the people who are interested in this prohibition have no right to complain of it, as if they had been refused an office of humanity' (Angle, 2002, p.105). Given the unwelcome incursions of the British imperialists, this kind of statement was of real interest to Lin as he sought to make it illegal for the British to continue selling their opium in China.

According to Angle (2002, p.105), the translation of "rights" in 'The Law of Nations' was not altogether accurate. The Chinese term *li* was used which means "custom" or "rule". Whilst this might be of linguistic interest, of greater significance for our study is the wider national context in which extracts from the 'The Law of Nations' were translated into Chinese. Lin's interest in these shorts extracts shows how from the very moment the idea of rights entered Chinese political discourse it was valued for its nation-building potential, specifically how best to resist the British. This set a strong precedent for the predominantly nationalistic conceptualisation of rights that subsequently prevailed in China.

At this early stage, rights were not interpreted as belonging to individuals, but to nations. This way of thinking persisted with the publication in 1864 of 'The General Laws of the Myriad Nations', a translation of 'The Elements of National Law' published in 1836 by the American jurist Henry Wheaton (Angle, 2002, p.110). As with 'The Law of Nations', the background to the publication of this volume was China's humiliation at the hands of foreign powers, this time during

the Second Opium War when the Qing army was defeated by a joint Anglo-French force inferior in number but superior in military capacity (Hanes and Sanello, 2002, pp.176–292). Added to this humbling experience was the subsequent forced signing of a series of "unequal treatises" with Britain, France, Russia and the United States which further highlighted China's crumbling diplomatic and commercial standing in the world.

With authority from Prince Gong (uncle of the Xianfeng Emperor and head of the *zongli yamen*) extracts from 'The General Laws' were used to successfully procure financial compensation from Prussia following the seizure by a Prussian warship of three Danish merchant vessels that were moored in a Chinese port. The compensation was paid to China because the Prince was able to prove that Prussia had breached China's territorial rights. This emphasis on the nation as the beneficiary of rights is further reinforced when we see that the term *quan*, meaning "rights" in Chinese, featured throughout the translation of 'The General Laws' as part of the compound *zizhu zhi quan* meaning "independence" (Angle, 2002, pp.107–8), presumably, in this case, the right to independence from foreign subordination.

The early Self-Strengtheners retained this concept of national rights, again as part of an effort to deal with the foreign threat. Pong (1985, pp.34–5) notes that during a series of internal meetings that took place during 1867 in preparation for negotiations with Western representatives to revise the terms of the "unequal treaties", rights were equated with 'preserving China's authority or control over specific matters'. Another variant of the term for rights discussed during these meetings was *liquan* meaning, at its simplest level, "economic rights". This new term was used by Li Hongzhang, one of the founding-fathers of the Self-Strengthening movement, who in referring to a variety of demands made by Western powers noted that:

> In addition to these, there are still other demands. Above, none fail to invade our nation's *liquan*; below, they inevitably seek to wrest away our merchants' livelihoods. These can all be denounced on the basis of the upright words of the *General Laws of the Myriad Nations*: 'All nations have the *quan* of protecting their people and administering their financial affairs' (Angle, 2002, p.113).

Pong suggests that in this national context, *liquan* actually went beyond a simple understanding of "national economic rights" to mean

something much closer to "national economic control" or "national economic sovereignty":

> Thus from its original meaning of China having the ultimate say in protecting its traditional socio-political order from foreign encroachment – a defensive position – the concept of *quan* and especially its derivation, *liquan*, had come to connote as well China's right to pursue its own course of development (Pong, 1985, pp.34–5).

As we will see in Chapter 5, this resonates very loudly in the contemporary era where the official Chinese emphasis is very firmly on the right to national sovereignty and a nation's right to choose its own path to development.

The emergence of democracy

It was not until later in the nineteenth century that Qing thinkers began to turn their attention towards the idea of democracy and the adoption of a Western-style democratic system equipped with individual rights and basic civil freedoms. Once again, it was the threat from outside that forced the issue, in this case China's humiliating military defeat to Japan in 1895 (Paine, 2003). As the nineteenth century wore on, the Chinese intelligentsia had become wearily accustomed to the military superiority of Western powers. Although the First Opium War came as a shock, the Second Opium War and the defeat to France in 1885 (Chere, 1989) was not altogether unexpected. But defeat by Japan, China's "culturally inferior" neighbour, came as a bolt out of the blue and betrayed a gaping chasm between Chinese and Japanese self-strengthening efforts. This realisation inside China went a long way towards extinguishing what were by now the dying embers of the *ti-yong* debate. Confronted by the very real possibility that China might be ignominiously carved up by the West and Japan, most Qing reformers began to insist that national survival should be attained at any cost by adopting whatever methods were necessary, at the expense of Confucian *ti*. Western diplomatic and military techniques alone were insufficient. If the Qing and ultimately China was to survive, it was argued, the Western values of democracy and the political and constitutional structures that encompassed them had to be wholeheartedly embraced.

In formulating their early ideas about democracy, Qing reformers were heavily influenced by the works of classic liberal Western theorists such as John Stewart Mill, Herbert Spencer, Jean-Jacques Rousseau

and Baron de Montesquieu. Other sources of Western scholarly influence were less easily associated with traditional democratic values, most notably Charles Darwin, his "bulldog" Thomas Huxley and the relatively unknown statists Rudolph von Jhering (German) and Johann Kaspar Bluntschli (Swiss). As we will see, this latter school of thinkers became a notable source of influence on the high-profile reformers Liang Qichao and Yan Fu, who fairly quickly turned against democracy when they no longer saw it as a solution to China's tenuous national dilemma.

Some of the earliest Chinese views on democracy were articulated in the newspapers and magazines that were set up in Shanghai, including *Shiwu Bao* ('Current Affairs') founded in 1896 by the leading reformer Zhang Zhidong (Angle, 2002, pp.133–4) and *Shibao* ('Times') set up in 1904 (Judge, 1996). With the collapse of the Hundred Days Reform Movement in 1898, many Qing reformers fled for their lives to Japan and it was from here that a number of other publications were established such as *Qingyi Bao* ('Enlightenment') in 1898, *Xinmin Congbao* ('New Citizen') in 1902 (set up by Liang Qichao) and *Minbao* ('The Citizen') in 1905 (Ding, 1982). In light of the dangerous and politically volatile situation back home in China, it was not always easy to circulate this new material to its intended domestic audience – mainly students and progressive academics. This often made it necessary to smuggle the literature into China, as foreign missionaries had done with Christian texts (Svensson, 2002, p.72).

Many of the Western scholarly works that were translated by Japan-based Chinese thinkers were not translated from the original but from Japanese translations of the original, written by Japanese reformers such as Nakamura Masanao, Fukazawa Yukichi and Kato Hiroyuki (Tan, 1980; Harrell, 1992). In this way, Svensson (2002, p.72) notes that 'the Chinese understanding of the West took a roundabout route through Japan'. With Japan so deeply immersed in its own nation-building project during the watershed Meiji Restoration (1868–1912), the Japanese interpretation of democracy was driven by the needs of the nation, as reflected in the translated works produced by Nakamura and his colleagues. This predominantly instrumentalist approach to democracy was in turn absorbed into the Chinese translations of these Japanese translations and simultaneously into the Chinese mind-set itself. As such, it was not just the Chinese understanding of the West that took a roundabout route through Japan, but also the Chinese understanding of democracy and rights.

Democracy, nationalism and the success of Western imperialism

Not every Qing thinker interpreted democracy in exactly the same way, but one point that united most of them was the belief that democracy had helped to make Western nations strong and had accounted, in particular, for the success of nineteenth century Western imperialism. In order to understand how Qing thinkers reached this conclusion, it is necessary to examine the importance attributed to the concept of "struggle" (*douzheng*) within the Darwinian framework of the survival of the fittest, as contained in Darwin's 'Origin of the Species'. One admirer of Darwin was Yan Fu, a leading late Qing reformer educated in England during the late 1870s (Tian, 1992; Schwartz, 1964; Dong, 2006). Yan became renowned for his translation of Western scholarly works including John Stuart Mill's 'On Liberty' (Yan, 1981a), Spencer's 'Study of Sociology' (Yan, 1981b) and the Social Darwinian 'Evolution and Ethics' (Yan, 1981c) written by Thomas Huxley. Based on his interpretation of Spencer and Huxley, Yan lifted the "survival of the fittest" principle out of its original context and placed it within the realm of international relations. From this, Yan asserted that just as different species of animals struggled against each other for control of the animal kingdom until finally the strongest prevailed at the expense of the weakest, so different nations competed against each other for control of the international arena with the strongest overcoming the weakest (Schwartz, 1964, pp.45–7).

Liang Qichao, another prominent late Qing scholar and a contemporary of Yan Fu, endorsed and elaborated upon Yan's position (Levenson, 1967; Chang, 1971; Liu, 1993). Writing from Japan after fleeing there in 1898, Liang divided mankind into five races represented by different skin colours: black, red, brown, yellow and white. As human history evolved, Liang argued, these races came into increasingly close contact with each other, becoming locked into a series of intense struggles for human survival. Of the five races, only the whites and yellows formed cohesive groups and thereby developed the capacity to play a significant role in human history. Liang called these two races "historical races" (*you lishi de renzhong*) and then sub-divided them into "world historical" (*you shijie shi de*) and "non-world historical" (*fei shijie shi de*). The former category had the capacity to expand outside their native land in a meaningful and productive way. They comprised the white race. The latter category had no such capacity. They comprised the yellow race, including, of course, the Chinese. But

not all white people were "world historical" according to Liang. Only the Aryans (namely, Latins, Celts, Teutons and Slavs) fell into this category after emerging triumphant over the Hamitic and Semitic races in a conflict lasting several centuries. This was followed by a struggle within the Aryan race itself which the Teutonic nations had won, in particular the Germans and Anglo-Saxons (Chang, 1971, pp.158–61).

Fundamental to the success of this struggle against weaker nations was a capacity to "group" (*qun*), a position espoused not only by Liang (Chang, 1971, pp.95–112) and Yan (1959, pp.14–17) but also by the less well-known Qing reformer Huang Zunxian who had spent considerable time overseas as a government diplomat. Adopting a familiar Social Darwinist approach, Huang insisted that although man did not have the physical attributes of animals that could fly or run at high speed, man had successfully overpowered the animal kingdom through his superior ability to merge into groups. Likewise, Western nations had triumphed over the rest of the world by virtue of this same ability. As Huang wrote:

> In the world nothing is stronger than the power of unified force. It is like burning coal: if the pieces are scattered, even a child can kick and extinguish them; if they are put together in a stove, the heat is so intense that no one can even approach it (Kamachi, 1981, p.166).

The linguist and philologist Zhang Binglin made a similar claim. In his 1899 article entitled 'On Bacteria', Zhang suggested that the black, brown and red races had succumbed to the yellow race because of their inability to group. By the same token, the white race had vanquished the yellow race because of its superior ability to group (Tang, 1977, p.139).

So how was the apparent victory of the Germans and the Anglo-Saxons in the international struggle amongst nations in some way attributable to democracy? In order to answer this question we need to understand the perceived symbiotic relationship between democracy and nationalism and this brings us back to Liang Qichao. On the face of it, Western nations had emerged triumphant because of their unparalleled post-eighteenth century domestic economic growth, according to Liang. This growth had led, in turn, to economic overproduction which required an outlet in new commercial and industrial markets beyond Western shores, which Liang referred to as "economic imperialism" (*jingji diguo zhuyi*). But there was more to Western imperialist dominance than raw economic prowess according to Liang.

Intrinsically related to the success of the West was the democratic orientation of Western regimes. Successful Western nations had not become successful by simply ignoring their people and the interests of their people. Instead, they had accommodated these interests so ensuring that the progress of the nation was a collective concern towards which the whole population worked together. In this way, Liang noted, nineteenth century imperialism diverged sharply from the imperialism of previous centuries. In his article 'On the General Trend of Competition Between the Citizenry of Modern Nations and China's Future', Liang wrote that:

> The present-day international competitions among European and American countries are not like the imperialistic aggrandizements launched by Ch'in Shih-huang-ti [Qin Shi Huangdi] or Alexander the Great or Chinggis Khan or Napoleon who were driven by their ambitions to take great pleasure in military adventures. It is [also] not like [that of] those tyrants of the states in the age of feudal disunity who resorted to military adventures because of personal grudges or interests of the moment. The motivating force [of modern international competition] stems from the citizenry's struggle for survival which is irrepressible according to the laws of natural selection and survival of the fittest. Therefore the current international competitions are not something which concerns only the state, they concern the entire population. In the present-day international struggles in which the whole citizenry participate [and compete] for their very lives and properties, people are united as if they have one mind (Chang, 1971, p.163).

Liang's point here was that by apparently setting aside their own personal or political interests and focusing instead on those of their populace, Western rulers had set in motion a process through which the people came to realise that they had a fundamental stake in the success of the nation and that their interests were inseparable from those of the nation. Western rulers had, in effect, "taught" their people to become nationalistic and this is where democracy came in to the equation because, for Liang, the secret of Western success in binding the individual to the nation lay in the establishment of a democratic system. Whereas earlier imperialist rulers had governed from "above", regarding the populace with contempt as "subjects" (*chenmin*), nineteenth century rulers treated their people more respectfully as "citizens" (*gongmin*) by bringing them directly into the political process

and investing them with political rights to participate in how their country was run and who would run it. This meant that for the first time in human history, Liang argued, people's opinions and preferences were actually valued by the state and contributed significantly towards the progress of the nation as a whole. In turn, this sense of political involvement had inspired strong grass-roots sentiments of loyalty and devotion to Western rulers who were then able to channel this into their broader imperialist goals. In other words, by employing democracy and rights Western rulers could now rely on the loyalty and support of their people in the quest for domination of the international arena. As Liang put it:

> It is not merely to have rulers, officials, students, farmers, laborers merchants and soldiers, but to have ten thousand eyes with one sight, ten thousand hands and feet with only one mind, ten thousand ears with one hearing, ten thousand powers with only one purpose of life; then the state is established ten-thousand fold strong (Chang, 1971, p.100).

The focus of Liang's scholarly work at this time was heavily influenced by his tutor, Kang Youwei (Hsiao, 1975; Kuang, 1980). Kang was one of the leading members of the Hundred Days Reform Movement and after fleeing to Japan he worked closely with Liang. It was Kang who first introduced Liang to Social Darwinism and the theory that Western imperialism had succeeded because of the vibrant nationalist spirit created by democracy. A fervent exponent of constitutional monarchy, albeit as a stepping-stone to full democracy (Hsiao, 1975, p.194), Kang was especially impressed by the capacity of the Western constitutional system to unify the populace and create a strong nation-state:

> That other countries are wealthy and strong is primarily due to the adoption of a constitution, by which all the people are united in one single body and in constant communication, sane and sound opinions are extensively sought after and adopted, powers are well divided and defined, and financial matters and legislation are discussed and decided upon by the people (Bau, 1923, p.7).

An important feature of Kang's transitional constitutional monarchy was the implementation of a system of local self-government. Based partly on the Western model and partly on the experience of the

Chinese feudal system of self-government, Kang advocated the need for a comprehensive streamlining of administrative structures. This included a reduction in the size of the province as an administrative unit to the size of a "circuit" (*dao*), an increase in the number of local officials and greater local autonomy from the central state in day-to-day matters (Lee, 1998, p.40). From a purely structural perspective, Kang believed that these and other similar reforms would help build a stronger, more organised Chinese nation. As we will see later, some of Kang's plans were implemented in the form of local councils at the village, town, city and district levels during the last ditch constitutional reforms implemented by the Qing after 1908.

Kang also concentrated on the need to develop a much stronger sense of "citizenship" (*gongmin quan*) amongst the Chinese people. In his article entitled 'Citizens' Self-Rule', Kang suggested that this could only be achieved if the Chinese people took more responsibility for local affairs by getting actively involved in local politics and decision-making. This would include voting rights and the right to stand for election at the local level. Consequently, a politically enlightened population, enthused by local issues and dedicated to the efficient operation of local government, would provide the ideal platform for a more robust Chinese nation. Using the analogy of a tree which can only grow strong if it has firm roots, Kang insisted that a nation could only be strong, if its roots (namely, the people) were supportive of that nation: 'even a small nation will be strong if it is based on people whereas a big nation which is not based on people will be weak' (Kang, 1974, p.114).

The Confucian roots of China's weakness

Just as the imperialist strength of the West was thought to derive from its tradition of democracy, so China's fragility in response to the West was thought to derive from its absence of democracy. Kang (1974, pp.115–16) placed the blame for this on two millennia of Confucianism. Unlike Western democracy, Kang argued, the Chinese Confucian tradition was bereft of any real foundation of popular support. The source of the Emperor's legitimacy was the "mandate of heaven" (*tianming*) and although, in theory, this required the Emperor to represent the will of the Chinese people as directed by "heaven" (*tian*), this was simply theory. In practice, Kang noted, the people had never actually been consulted in the decision-making process. The official literati were meant to act as a conduit between the Emperor and his people, but this rarely happened such that for centuries

Chinese politics had been characterised by rule of the people, rather than rule by the people. As a result of this, the people felt ignored by and remained isolated from their rulers and were completely uninterested in the destiny of the Chinese nation. In turn, this absence of grass-roots national loyalty meant that China's rulers were unable to draw upon any popular support when confronted by the threat of foreign imperialism. This is why China had been brushed aside by the West without putting up much of a fight. To return to Huang Zunxian's analogy, China resembled the "scattered burning coal", that even a child could kick and extinguish.

But it was not only the top-down nature of the Confucian political system that was attributable to China's weakness according to Kang. The underlying cause went far deeper than this to the very core of China's Confucian social culture which was ill-equipped to cope with the foreign menace. We noted earlier the importance that Qing scholars attributed to a perceived tradition of struggle amongst Western nations which was thought to have accounted for the Western domination of the international order. China, it was argued, had no such tradition. Quite the opposite. Instead of emphasising struggle, Confucian social culture emphasised "harmony" (*hexie*) which meant that the idea of people battling against each other or against other nations was socially and morally repugnant. As Kang (1974, p.117) lamented 'for too long the Chinese people have been hindered by a backward tradition of harmony, obedience and servitude. As a result the Chinese nation is unable to stick up for itself as the foreigners encroach on our territory'.

Kang's position was more than just anti-Confucian rhetoric. The attainment of social harmony was indeed a fundamental objective of the traditional Confucian order as manifested by a strict hierarchical structure in which people were expected to perform the "roles" (*renwu*) and "duties" (*yiwu*) required of their position in the hierarchy (Baker, 1979, pp.26–48). The better way to behave in the event of a conflict was to compromise or "give way" (*rang*). This was reflected not only in Confucian doctrine such as 'The Analects' where Confucius claimed that 'there is no contention between gentlemen' (Lau, 1979, p.68), but also in practice. For example, if a feud arose between two parties, those involved were strongly obliged to resolve their differences through a process of mediation, usually under the auspices of the village elder or the local official who would attempt to find a middle ground in the disagreement. This was considered not only the most equitable method of resolving a dispute, but more importantly it was seen as the quickest way of restoring an harmonious equilibrium to the local community.

Conversely, any attempt to take a grievance to the county court was rejected as needlessly dragging out the conflict and disrupting social harmony. Even if a dispute did end up in court, the county magistrate would usually enforce a compromise and would then fine those involved for failing to resolve their differences without recourse to the courts (Hucker, 1975, pp.164–5).

Liang Qichao contrasted this Confucian propensity towards compromise with what he perceived as the altogether uncompromising stance taken by the English. In his essay 'On Rights Consciousness' written in 1902, Liang claimed that if an Englishman was overcharged during a business transaction even if only by a small amount, he would not meekly accept the outcome without complaint or agree a compromise position. Instead, he would fight his case until the bitter end regardless of time, cost or physical energy. Paraphrasing von Jhering (who was comparing England to Austria), Liang noted that:

> If an Englishman travelling to the European continent is one day asked to pay an irrational charge by the hotel's carriage driver, in every case he will resolutely scold the driver. If the driver will not heed his scolding the Englishman will struggle for justice without tiring, always preferring to extend his stay. Even if his room charges were to increase as much as tenfold he would not cease (Liang, 1999a, p.672).

Liang believed that it was this tradition of sticking up for your rights – something Liang referred to as "rights consciousness" (*quanli sixiang*) – that underpinned the overall strength of England as a nation:

> Unknowing people all laugh at this great fool but none of them understand that this person's struggle over a few shillings is in fact a part of what allows the nation of England to stand tall by itself in the world. This abundance of rights consciousness and sharpness of feelings of rights are the great reasons behind the ability of the English to establish their state (Liang, 1999a, p.672).

Liang's emphasis on the rights consciousness of the individual and his wider belief that the enjoyment of individual rights was at the heart of every strong nation, underpinned his firm conviction that the collective rights of the nation were made up of the individual rights of its citizens such that without individual rights the nation would have no

rights. As he put it, 'the rights of the portions add up to the rights of the whole. The accumulation of the private rights-consciousness of individuals makes up the rights-consciousness of the nation' (Liang, 1999a, p.675).

Lesser-known scholars such as Gong Fazi agreed with Liang about the importance of a rights consciousness. In an article entitled 'The English View of Rights', Gong insisted that the English valued rights over and above life itself (Svensson, 1996, p.132). Another assertion of this view was made in an article entitled 'On Rights' written in 1903 by an anonymous author and reprinted by Zhang Nan and Wang Renzhi (1963). In it, the author claimed that, 'a nation's life or death is always measured by the depth of its citizens' rights consciousness'. Noting China's perilous national situation, the author asked, 'with our citizens as they are, how can our nation ever survive?' (Anon, 1963a, p.480).

What is noticeable about these later nineteenth century perceptions of rights is the clear change in the subject or "possessor" of rights. We noted earlier in the chapter how rights were initially interpreted in an exclusively collective sense as rights to be enjoyed by the Chinese nation as a single entity, as China looked for ways of responding cohesively to the encroaching foreign threat. Later Qing thinkers put forward a much more individual-oriented notion of rights in the belief that the rights of the nation were comprised of and dependent upon the rights of its individual citizens. Notwithstanding this change in emphasis, the long-term Qing objective remained exactly the same: to make China strong in the face of foreign aggression.

This leads us to a second (albeit related) observation regarding the instrumentalism that underpinned late Qing perceptions of rights. In stark contrast to the position taken by liberal traditionalists such as Mill, Spencer and Rousseau, rights were not desirable as ends in themselves. Instead, they were a means to higher ends, namely those of protecting the nation. Chang (1971, p.107) notes how for Liang Qichao, rights were treated 'almost solely as a kind of mechanism which could generate collective dynamism in China'. Similarly, as Schwartz (1964, p.141) points out when comparing the views of Yan Fu and Mill on the subject of "liberty" (*ziyou*), 'if [the] liberty of the individual is often treated in Mill as an end in itself, in Yan Fu it becomes a means to the advancement of "the people's virtue and intellect", and beyond this to the purposes of the state'. This perception of rights helps explain why Yan and Liang turned against rights once they believed that rights were no longer useful for the purposes of the nation-state.

The diversity of the debate

It is important at this juncture to note that there was in fact a considerable breadth and diversity to the late Qing debate, particularly on the issue of rights (Svensson, 1996, pp.105–55; Angle and Svensson, 2001, pp.3–53; Svensson, 2002, pp.98–128). Although scholars such as Yan Fu and Liang Qichao were very audible at the time, there were plenty of other Chinese thinkers who expressed firm views on rights, some of whom we have noted already. Indeed, Price (1990, p.225) insists that Yan and Liang's opinions were not necessarily representative of the full spectrum of late Qing views on this subject.

One the most heated areas of debate pertained to the universality of rights, in response primarily to millennia of inequality under the Confucian hierarchical order. Some Qing theorists argued passionately in favour of a universal concept of rights based on the belief that all individuals were morally equal and hence deserving of equal human rights. A direct assertion of this view was made in the 1903 article 'On Rights' noted in the previous section in which the anonymous author insisted that:

> Ruler and subject, father and son, husband and wife, man and woman, all are equals, without the distinction of aristocrat and commoner or slave and free man. People have the right of equality; people have the right not to be subject to others (Anon, 1963a, p.481).

Similarly, in 'The Revolutionary Army', an article written in 1903 primarily as an attack on China's Manchu leaders, the author Zou Rong (2001, p.35) wrote that 'all citizens are equal; men and women are equal before the law and there are no distinctions between superior and inferior, noble and base'.

Closely related to the debate on universal rights were the views expressed on the origins of rights. Not every Qing thinker held the same view. Exponents of Rousseau's social contract theory argued that individual rights were antecedent to the establishment of the state and that the primary purpose of the state was to guarantee and protect rights. This view was neatly expressed by Yang Dusheng in an article entitled 'New Hunan' published in 1903: 'man is born and wants to safeguard and promote his rights, he must therefore join with others; this is achieved through the so-called social contract which is the origin of the establishment of the country' (Yang, 1963, p.617).

John Locke's theory that rights derived from "nature" or "heaven" (a term used interchangeably in Chinese as *tian*) was also a popular theme of the time, although Locke's works were not translated into Chinese (Svensson, 2002, p.85). In his article 'On Rights', Mai Menghua stated that 'heaven gives birth to man and endows him with a brain and with the freedom of thought. Man is endowed with an ability to speak and also with the freedom of speech' (Svensson, 1996, p.107). Likewise, as one anonymous author wrote in an article entitled 'On Citizens' published in 1901 'what is meant by rights? Nature gives birth to humans and endows them with personal freedom and political participation' (Anon, 1963b, p.72).

Other Qing thinkers took a more legal-positivist position on the origins of rights, arguing that rights derived from the laws of the state. Referring specifically to the "right to freedom" in an article published in 1903 entitled 'The People's Legal Rights and Freedoms', Zhina Zi (writing under a pseudonym) insisted that 'the concrete scope of the right to freedom is completely specified by law' (Zi, 2001, p.26). As such, 'the freedom of the individual with respect to the state can become a legal freedom only if it is acknowledged by the state, and thus put into the sacred inviolable constitution' (Zi, 2001, p.26). Accordingly, the theory that rights derived from the Lockean concept of "natural law" (*tianfu falu*) was dismissed out of hand. Exponents of natural law, the author argued, 'do not understand the right to freedom as a right, nor are they aware that the right to freedom is by no means a heaven-endowed freedom prior to the existence of a state, as the school of natural law maintains' (Zi, 2001, p.26). This became the consensus view amongst Qing constitutional authors.

The relationship between rights and duties was another important topic of debate at this time, specifically the question of whether rights should be prioritised over duties or vice-versa. Several Qing scholars blamed a Confucian tradition of duties for the allegedly servile nature of the Chinese people in the face of their rulers. For two millennia, it was argued, ordinary people had lived under strict authoritarian rule and been cowered by an overriding sense of duty to their rulers without realising that they were entitled to rights which they could exercise against the state. Duties had enslaved the people, making them easy to rule. In turn, this slavish mentality exacerbated the threat facing the Chinese nation in that it risked sinking the entire country into a state of slavery once the people were confronted by foreign hostility. In order to save themselves and their nation it was imperative for people to shed their slave mentality

and demand their rights as human beings and as citizens (Zi, 2001, pp.28–9).

Consequently, many Qing thinkers insisted that individual rights necessarily took priority over duties. Although people had certain duties to each other and to the nation, rights should come first if the Chinese people were ever to establish a strong tradition of rights. As the author of 'On Rights' asserted:

> What are duties? They are the inside of rights. There must be rights before there can be duties. To embrace rights is to embrace the foundations of duties, and there is no such thing as embracing duties without embracing rights (Anon, 1963a, p.480).

Despite the diversity of opinions articulated by late Qing rights theorists, the overriding concern for many of them came down to the same question: how can we make China strong? Whilst the author of 'On Rights' favoured rights before duties and championed the cause of universalism, the underlying theme of the article highlighted the weakness of the Chinese nation. As we saw in the previous section, this was attributed to a lack of rights-consciousness amongst the Chinese people and the best way to embolden the nation was to develop an assertive culture of rights in China. Similarly, those who espoused a legal-positivist position on the origins of rights such as Zhina Zi were primarily concerned with the strength of the nation. Since rights were derived from the constitution and laws of the state rather than human nature, only those rights which strengthened the state should be enacted.

This nation-first perspective on rights was shared by Chen Duxiu, co-founder of the CCP in 1921 (Feigon, 1992). Although the majority of Chen's work on rights was published during the May Fourth era (1915–1921), one of his first contributions was a 1903 publication entitled 'A Draft of the Anhui Patriotic Society'. As Svensson (1996, p.167) explains, it was during 1903 that Chen co-founded the Anhui Patriotic Society, an anti-Qing organisation established in the wake of growing Russian influence in Manchuria. Although Chen blamed the Qing for Russia's dominance there, he also identified a lack of Chinese patriotism as a possible cause, expressing grave concerns that the Chinese people were more interested in themselves and their immediate families than they were in the welfare or rights of their nation. This had been demonstrated by the ease with which Russia had come to occupy Manchuria. In outlining some of the constitutional provisions of the 'Anhui Patriotic Society' (which Chen helped to draft), Chen

specifically endorsed the provision which prohibited the exercise of individual rights that detracted from the national interest, making it very clear precisely where his priorities lay at this time (Chen, 1993a, pp.17–19).

Women's rights and national salvation

A common topic of discussion amongst late Qing theorists was the unequal status of women in China. This inequality was reflected most symbolically by the entrenched Confucian tradition of foot-binding which was imposed on most Chinese women from an early age (Fan, 1997). The inequality of women was also enshrined in the Qing legal system. We noted earlier how wives faced a more severe punishment than their husbands for committing an identical offence. Qing marriage law looked to have evened things up a bit by stipulating that any man who claimed his wife or his concubine was his sister with the intention of marrying her off would be punished by 100 strokes of the heavy bamboo. Unfortunately for the wife or concubine, if her husband or master was convicted of this offence, she too was held liable and faced a punishment of 80 blows of the heavy bamboo (W. Jones, 1994, pp.125–6).

Inequality between the sexes was further apparent in the law on divorce which made it expedientially more difficult for a wife to divorce her husband than for a husband to divorce his wife. Qing law allowed husbands to divorce their wives for seven different reasons: barrenness, wanton conduct, neglect of parents-in-law, jealousy and ill-will, garrulousness, theft and incurable disease. By contrast, whilst it was theoretically possible for a wife to divorce her husband, this was not easily achieved since it involved the continuous petitioning of the local magistrate who often remained unwilling to grant the request. Even if a wife succeeded in obtaining a divorce, she was likely to be ostracised by her family and by the local community for breaking up the family unit, violating the "three followings" (*san cong*) (subservience to father, husband and son) and disrupting the wider harmony of society. Not surprisingly, instances of divorce at the behest of the wife were rare during the Confucian era (Baker, 1979, pp.45–7).

Many Qing reformers, including some men – for example, Kang Youwei, founder of the Anti-Footbinding Society in 1883 (Kazuko and Fogel, 1988, p.33), expressed outrage at these and other gender related injustices. During the early 1900s, a number of Chinese feminist magazines were founded in Japan which contained articles and editorials

articulating this outrage. In one article published in 1907 in the journal *Zhongguo Xin Nujie Zazhi* ('China New Woman's Magazine') the little-known Xu Yucheng demanded the immediate introduction of equal rights for women, specifically the enjoyment of what she called the "right to freedom" (*ziyou quan*): 'as long as one is a human and has knowledge, regardless of whether one is a man or a woman, one should be entitled to a share of the right to freedom' (Xu, 1975, p.445). Xu's espousal of equal rights was not particularly unique at the time since many of her female contemporaries made similar calls (Bao, 1979a; Zheng, 1991). What made Xu's article more unique was her claim that, notwithstanding male oppression of women in China, men themselves did not enjoy the right to freedom. This was because in oppressing women, men did not have the "qualifications" (*zige*) – meaning the "moral qualifications" – for freedom, something which men could only enjoy if they respected the freedom of women:

> They do not know what is meant by freedom, what is meant by others' freedom, what is meant by violating others' freedom, nor what is meant by obliterating others' freedom. They only know how to act as they please and practise their tyrannical and savage freedom – and they use covert manoeuvres and explore all possible methods to deal with the freedom of we women (Xu, 1975, p.447).

Later in the article Xu recalled a conversation that she had with the wife of a successful scholar. Her status, the wife claimed, was elevated by her husband's success. Xu cites this as an example of how many Chinese women did not even realise they were subordinate to men:

> The imprisonment techniques of the world of men have bound our world of women so tightly that people in our world of women – who have become slaves, become utensils, become toys, and even had their lives entrusted to the hands of others – do not even have any idea of this (Xu, 1975, p.449).

Xu did not explicitly place her call for women's rights within a nation-building context, but many other thinkers did. For example, in asserting that women should be given the right to an education, Liang Qichao was primarily concerned with the welfare of the nation. Liang believed that China could only become strong if women were no longer financially dependent on men (and idle as a result), but were meaningfully employed and therefore useful and productive members

of society. In order to gain meaningful employment, women needed to be educated. As Svensson (2002, p.106) explains, in Liang's view 'only educated women could educate their children, and the country would be rich and strong only if women were active in the production of goods and services'.

But it was not just men who saw women's rights as a potential means to the nation's ends. Many women did too (Beahan, 1975; Judge, 2001). Jin Yi, a member of the revolutionary Patriotic Girls' School called for the introduction of a wide range of women's rights with the long-term objective of building a stronger China which would be more resistant to foreign attack (Chen, 1967). Even the more radical Qiu Jin, founder of *Baihua Bao* ('Vernacular Journal') who abandoned her own husband and children and was beheaded for her anti-Qing activities, believed that equal rights for women was fundamental to the strength of the nation (Bao, 1979b; Qiu, 1982).

A notable exception to this nationalistic position came from the anarcho-feminist He Zhen (Zarrow, 1988). Founder of the journal *Tianyi Bao* ('Journal of Natural Justice') established in Tokyo in 1907 and wife of the leading Chinese rights theorist Liu Shipei, He refused to be constrained in her views by the wider needs of the Chinese nation, insisting that women should be invested with equal rights out of moral necessity, not for the sake of Chinese wealth and power. For He, the couching of women's rights within a nation-building context was completely unacceptable for two reasons. Firstly, it detracted from the centrality of women's rights as ends in themselves, to a degree that was actually insulting to women. Secondly and more importantly, it set a dangerous precedent in which women's rights could just as easily be withdrawn by the state if they were deemed to somehow detract from China's higher interests.

Curtailing democracy for the national good

He's second point was very pertinent to the time during which she was writing because some of those men who had earlier called for democracy and rights to be introduced in China so as to make the nation strong were starting to have second thoughts about the logic of this argument. One notable example was Liang Qichao. The watershed moment for Liang came during a visit to the United States in 1903. Liang's objective in making this trip was to learn more about democracy by witnessing at first hand the workings of the democratic system in the firm expectation that this would further strengthen his faith in a

democratic solution to China's national crisis. Ironically, what Liang saw of democracy in the US had the exact opposite effect.

Liang's emerging doubts about democracy derived from a number of personal observations set out in an article entitled 'Excerpts of Travel Notes from the New World' (Liang, 1999b). Contrary to his expectations, Liang discovered that those who sought out high political office in the US were not men of exceptional ability, but were rather ordinary and uninspiring. For reasons Liang came to appreciate, high-calibre Americans preferred to eschew a career in politics. Liang was also greatly discouraged by the US "spoils system" in which the political party that triumphed at the polls rewarded its closest supporters by giving them high-level government jobs. This cut deep into the image of an American political meritocracy that Liang had envisaged following his extensive research. Liang further despaired of the frequency with which elections were held in America, especially at the city level. The expense of holding so many elections was phenomenally wasteful in Liang's view and worse still provided fertile ground for corruption.

But the most important reason for Liang's disillusionment with democracy was the behaviour of his own people, the overseas Chinese community, particularly those based in San Francisco. Liang stayed with his compatriots in San Francisco for about a month and was dismayed to discover that they shared exactly the same nationally-corrosive trait as their fellow citizens living in China, namely an entrenched familism or what Liang referred to as a "village mentality" (*cunli sixiang*). In the same way that Chinese mainlanders had, for centuries, placed the narrow and petty affairs of the family and the local community over and above the broader interests of the nation, so too did China's expatriates living in America. Moreover, behind what Hao Chang (1971, p.242) called 'the impressive façade of the constitutional regulations of many of their public associations', the Chinese in San Francisco (whom Liang had considered to be the most advanced in the world) seemed utterly lawless, with many of those "public associations" operating under the autocratic control of a handful of powerful local Chinese mobsters. This lamentable and potentially catastrophic inability to see the wider national picture even in a democracy such as the US, appeared to Liang to be something that was almost innate to the Chinese psyche, irrespective of the political system under which they lived. As a result, Liang left America seriously contemplating whether an alternative political system might be the answer to China's ongoing national trauma.

On returning to Japan, Liang quickly gravitated towards a more authoritarian, statist model of government in the belief that this was the only means possible of achieving the unity and strength that China so desperately needed. Drawing on the work of Johann Kaspar Bluntschli and the even more obscure German jurist Gustav Bornhak, Liang developed a conception of the state as a supra-individual social organism, morally prior to its citizens and with interests that superseded their own limited, selfish concerns. For Liang, sovereignty resided neither in the ruler or the people, but in the state. The primary purpose of state was to sustain itself. The promotion of individual well-being was peripheral. This meant that state intervention against the individual was entirely justified if it was for the good of the nation (Li Xisuo, 2005).

This sea change in Liang's thinking culminated in his 1905 article 'On Enlightened Despotism' (Liang, 1999c). In it, Liang insisted that China was simply not ready for democracy because its people were not adequately advanced to understand the intricacies a democratic political system. Instead, they needed "educating" in how democracy worked. The role of the enlightened despotic state during a transitional period was to provide that education so as to increase the political consciousness of the people until they were fully equipped to appreciate and work within a democratic political process. In this way, Liang was espousing a system of political tutelage, an idea later espoused by Sun Yat-sen and to a lesser extent by Chiang Kai-shek as we will see in Chapters 2 and 3. So it appears that Liang had not completely abandoned his faith in democracy. Democracy would come to China, but not until the Chinese people were ready for it and properly understood it.

Liang also believed that a period of enlightened despotism would give the state time to formalise some of the institutional conditions necessary for democracy to function, all of which were lacking in China. These included carrying out a detailed national census, codifying law and establishing a network of law courts to implement these new laws. In the meantime, with China facing the carving knife of foreign imperialism, it was imperative that the state maintained a monopoly over the exercise of individual rights and freedoms. As Liang put it, 'even if a government system deprives the people of much or all of their freedom, it is a good system so long as it is founded on a spirit of meeting the requirements of national defence' (Liang, 1999c, p.1460).

Yan Fu took a bit longer than Liang to convert to a more authoritarian way of thinking about politics. Indeed, it was not really until after

the 1911 revolution that Yan moved in this direction, notwithstanding his participation in China's first elected government as an advisor on international law and then later as a member of President Yuan Shikai's State Council. In fact, it was possibly because of his experience of democratic government in practise that Yan moved away from democracy. Alarmed by what he saw as the spread of uncontrollable libertarianism in China, Yan decided in 1914, at around the time that Yuan Shikai was imposing outright military control of China, that 'China must continue to be guided by a despotic government. Otherwise it will be impossible to restore order, let alone retain wealth and power' (Schwartz, 1964, p.222). Consequently, Yan now insisted that what China needed was not greater individual rights and freedoms, 'but the willingness of everyone to curtail [their] freedom in the interests of the state and for the benefit of society' (Schwartz, 1964, pp.221–2).

To a certain extent, therefore, both Liang and Yan performed something of an intellectual "u-turn" on the question of democracy and rights. Having initially argued that democracy and rights were an essential pre-requisite to the nation-building process, they later came to believe that an effective democratic system could only be established after the nation had become powerful. Indeed, if anything, democracy was now considered detrimental to the construction of a strong nation since it weakened the ability of the state to control its people and direct military and economic resources towards the nation-building project. On the face of it, this *volte face* might seem remarkable given the intensity of Liang and Yan's earlier convictions, but actually it was entirely consistent with their single-minded determination to put the interests of China first.

Qing political reforms

We saw earlier how China's humiliating military defeat to Japan in 1895 intensified calls for domestic political reform. This was part of a much wider trend towards modernisation in other sectors of Chinese society. Leading military figures such as Yuan Shikai and Zhang Zhidong strengthened China's military capacity by re-building existing regional armies (in Yuan's case, the Beiyang Army) and forming new military academies for training purposes, such as Yuan's Baodong Military Academy. Educational reforms included the introduction of Western-oriented fields of study, an increase in overseas academic programmes and the publication of numerous texts describing the evils

of foreign imperialism in an attempt to instil a nationalist fervour into the young (Ayers, 1971). Economic reforms included establishing domestic manufacturing companies (particularly cotton, silk and flour) to compete with foreign companies, setting up a banking system and attempting (unsuccessfully) to regularise China's currency.

When concrete efforts to reform the political system were finally implemented, they were precipitated by another war involving Japan, the Russo-Japanese War of 1904–5. Japan's unexpected victory in this war convinced the Qing regime that China must urgently embrace the Japanese model of constitutional monarchy if it was to withstand the persistent threat from abroad. Although a number of overseas study missions were sent to America and Western Europe during the early twentieth century to discover how different political systems operated (Fincher, 1981, p.70), the focus of Qing attention shifted firmly towards Japan after 1905. The increasingly popular view in China was that Japan had defeated Russia not only because of its superior military prowess, but also because of its constitutional system which combined an effective parliamentary system with a strong, "Emperor-led", centralised state, uniting the ruler and its people as a single, integrated whole, but with the Emperor having the ultimate and final say (Akita, 1967). As the Empress Dowager wrote in 1906 with particular reference to Japan, 'the wealth and strength of other countries are due to their practice of constitutional government, in which public questions are determined by consultation with the people. The ruler and his people are as one body animated by one spirit' (Cameron, 1963, p.103).

With this firmly in mind and as authorised by Empress Dowager's authoritative proclamations, Qing legal practitioners drafted China's first ever constitutional document, the 1908 Principles of the Constitution which provided the basic outline for a full constitution to be put into effect over a nine year period (Meienberger, 1980, pp.83–100). The very first article of the Principles, in a section entitled 'The Prerogatives of the Monarch', made it clear precisely who was to be in charge under the proposed system of constitutional monarchy: 'the Ta Ch'ing [Qing] Emperor will rule supreme over the Ta Ch'ing [Qing] Empire for one thousand generations in succession and be honoured forever'. Although the Principles contained powers to be exercised by China's first ever parliament (not then established) which were further detailed in the accompanying 'Outlines of the Parliamentary Law', these powers were described as "deliberative" and "non-executive", with the Emperor retaining ultimate control over

parliament. So, for example, the Emperor had the power to make and promulgate legislation (Article 3), to open, suspend and dissolve parliament (Article 4), to appoint, promote and demote officials (Article 5), to control the military (Article 6) and to declare war against or make peace with foreign countries (Article 7). In each case, it was expressly stated that parliament was prohibited from interfering with the Emperor's powers in these areas, thereby mirroring the Japanese emphasis on placing ultimate authority with the Emperor.

The form of parliament referred to in the Principles was set up in 1910 as the National Assembly based in Beijing. This was a transitional body to remain in force until a fully-elected parliament could be formed in 1917. In accordance with the Principles, the National Assembly comprised a total of 200 members, 100 of whom were appointed directly by the Emperor and the other 100 of whom were elected by Provincial Assemblies. Provincial Assemblies were elected in 1909 (Chang, 1968, pp.146–7), numbering 21 in total. Each province contained a fixed number of representatives, ranging from 30 in Heilongjiang to 140 in Zhili (now Hebei). The elections were indirect. Voters initially elected a fixed number of representatives to an electoral college which in turn elected the assembly members. We will assess the success of these elections shortly.

Constitutional regulations also laid out plans for the direct election of local councils at the village, town, city and district levels and based in part on the model of local self-government espoused so enthusiastically by Kang Youwei (Fincher, 1981, pp.79–81; Chang, 1984). Depending on population size, the councils were to comprise anything between six (village population of 2,500) to 60 representatives (district population of 600,000). The objective of the councils was to encourage grass-roots political participation and to empower council representatives to determine their own affairs, ranging from schooling and health-care issues to transport, infrastructure and finance. The collapse of the Qing meant that the councils never really got going, with only 1,843 councils (only 34 of which were district) set up across the whole of China by May 1911.

On the subject of individual rights, the Principles broke new ground in China by being the first document to stipulate citizens' rights in a section entitled 'The Rights and Duties of the People'. This section included the right to be appointed as a civil or military official or member of parliament (Article 1), the right to free speech, a free press and the freedom of assembly (Article 2) and the right to appeal to the judiciary (Article 4). Other "negative" rights included the freedom from

arrest and punishment (Article 3) and the right of people 'not to be disturbed without cause in their possession of property, nor interfered with in their dwellings' (Article 6). Article 2 of the accompanying 'Outlines of the Electoral Law' implied the existence of a right to vote and stand for election in stating that 'those who lack the legal qualifications shall not vote nor stand as candidates'. This curious provision suggested a certain amount of caution amongst Qing draftsmen about embracing a fully array of individual rights. Civic duties were set out in three articles and comprised paying taxes (Articles 7 and 8), carrying out military service (Article 8) and conforming to the law of the land (Article 9).

Although the Principles was the first document in China to specify that individuals had rights, it did so within the familiar context of making China strong because no right could be exercised in any way that might hinder this objective. So, for example, only those rights which were 'prescribed by law' could be enjoyed by the people and this was backed up by the overriding duty to obey the law. More directly, Article 8 of 'The Prerogatives of the Monarch' contained an all-encompassing provision which gave the Emperor the absolute power 'to take repressive measures, and in times of emergency to deprive officials and people of their personal liberty'. The expression 'in times of emergency' was not defined, but it almost certainly referred to times of "national" emergency. The constitutional power to remove rights under these circumstances clearly resonated with scholars such as Liang Qichao and Yan Fu and we will see in later chapters how this overarching power became an important feature of the Chinese constitutional tradition.

What becomes apparent from the nation-first approach to rights set out in the Principles is the predominantly top-down direction of rights. We noted earlier how some Chinese scholars insisted in typical Lockean fashion that "nature" or "heaven" was the source of individual rights and that the role of the state was simply to protect these rights, as Rousseau had suggested. By contrast, the Principles adopted a legal-positivist position in which rights derived from the laws of the state and ultimately from the Emperor himself. As China's sovereign, the Emperor handed down or "bestowed" rights upon his subjects. Rights were 'a gift from the monarch to the people'. Just like the Principles themselves, rights were 'imperially granted' (*qinding*) (Meienberger, 1980, p.84). Once again we can see a clear link to China's nation-building project. With the nation's interests at the very fore, the objective of bequeathing rights to the people was to facilitate the rise of a

strong and unified China. Logically, the Emperor would only "grant" the people those rights that would reinforce this objective.

At the same time, the rights contained in the Principles were not just about rigidly controlling the people from above. They were also about empowering them. Using the Qing logic that greater involvement in politics would induce a greater sense of personal involvement in political affairs and therefore loyalty to the nation, the Principles were an attempt to bring ruler and ruled closer together in a unified pact. As Nathan (1986a, p.86) surmises:

> Thus reassured and guided, the people were expected to contribute their energies to the imperial project of strengthening the nation. The authors of the Principles did not envision that citizens might want to use rights in an adversarial manner against the ruler or that the ruler might want to manipulate the legislative process or the judicial system to empty rights of their substance. They had drafted a compact for co-operation between state and people, not for conflict.

The failure of Qing democracy

If the objective of Qing political reforms was to re-build China and save the Qing, this objective failed as the imperial system finally gave way in December 1911, precipitated by the landmark Wuchang Uprising two months earlier. The collapse of Qing and empire was not, of course, solely down to the failure of political reform. The Manchu origins of the Qing dynasty had always made it deeply unpopular in the pro-Ming dynasty south of China so it was unlikely that any amount of political or any other type of reform could have assuaged that deep-rooted hostility. Indeed, it was no coincidence that Provincial Assemblies from the south were the first to declare their independence from the Qing regime following the opportunity presented to them in Wuchang (Spence, 1990).

That aside, for the purposes of our study it is essential that we identify some of the shortcomings apparent in the Qing political reforms, not least because many of them persisted into the Republican era when China implemented a parliamentary democracy. First and foremost, the reforms were too superficial. If we look specifically at the 1909 Provisional Assembly elections which were the first democratic elections ever to be held in China, they were a far cry from the vision of an all-inclusive democracy that would immerse the masses into the polit-

ical system and weld them inextricably to the nation-building project. Setting aside some of the defects with the regulations and procedures underlying these elections (Cameron, 1963), this point is best illustrated by the numerous restrictions imposed on those who were entitled to participate in the elections. For example, in order to stand for election, prospective candidates had to be male, over 30 years old and resident of their constituency for at least ten years. This was a bare minimum. In addition to this, one of the following criteria was required: ownership of no less than 5,000 yuan in property, an education qualification from middle school level upwards (those who held the old literary degree of senior licentiate were also eligible), at least three years' experience in public affairs or school administration, or a civil service ranking of at least seven or five for military personnel. Entitlement to vote was subject to the same qualifications except that the minimum age limit was 25 years old.

As well as those who failed to meet the requirements stated above, a number of categories of people were expressly prohibited from participating in the elections. In addition to women, this comprised:

> Those involved in turbulence or law-breaking; convicted criminals; those engaged in any disreputable business; those under suspicion of business irregularities; opium users; the insane; any member of a family engaged in a disreputable pursuit; the illiterate; those guilty of misdemeanors in office; soldiers; police officers; students; Buddhist or Taoist priests or religious teachers of other sects; teachers in primary schools (Chang, 1968, pp.146–7).

Consequently, less than half of 1 per cent of the entire population voted in what should have been watershed elections in China. This was never going to unite ruler and ruled as a single, consensual entity.

The percentage of the population that was registered to vote in the 1909 elections is not altogether clear (although it was obviously higher than half of 1 per cent), but turnout on the day was hit by a number of factors (Chang, 1968, p.147). Voter apathy was one of them. Many people who were eligible to vote did not even know that elections were being held. Many of those who did know were insufficiently politically informed to really understand why they were being held or what they were about, so there was a clear failure by the Qing to disseminate adequate information about these elections. Inadequate transportation was another factor. Each district had only one polling station and no means of transport was provided for those who lived far away and were

(quite understandably) not prepared to walk for miles to cast their vote. In addition, many wealthy people refused to be registered to vote because they did not want to reveal the full extent of their property ownership in case the registrars used this information for tax or other undesired purposes.

Corruption was a problem (Chang, 1968, pp.147–8). According to a report by the American consulate in Guangzhou, bribery was particularly widespread, with the price of a single vote ranging from US$40 to US$200. The report also identified instances of deliberately inaccurate vote counting at the polls in order to rig the results. A separate report from the American legation in Beijing identified voter intimidation by Qing officials as a key problem 'in some provinces, notably the three Manchurian provinces, amounting almost to the appointment of the members by the officials'.

A degree of perspective is required in assessing Qing democracy and the 1909 elections in particular. Given that these were China's first ever elections, they were never going to be perfect. Corruption at the polls, inadequate transportation to and from the polls and restrictions on entitlement to vote were issues that were hardly exclusive to China at the time and we will discuss this in more depth in the next chapter. Notwithstanding all of this, we cannot ignore the fact that by 1911, democracy and rights had manifestly failed to save China from the foreign threat. China was still not strong by any means. The political reforms implemented during the final desperate throes of the Qing were too little too late. The establishment of a Chinese Republic in 1912 offered a fresh opportunity for reformers to introduce a nation-building mode of democracy to China. It is to this period that we must now turn our attention.

2
Building a New China: Democracy and Rights in the Early Republican Period (1912–28)

We saw in the previous chapter how the majority of those who wanted to introduce democracy and rights to China believed that this would strengthen the Chinese nation against the growing threat from abroad. Put simply, it was thought that a democratic political system which invested people with rights of political participation and basic civil freedoms had the potential to unite the people behind their rulers in the ongoing struggle against foreign imperialism. According to this way of thinking, democracy was more of a means to end rather than an end in itself.

The limited democratic reforms introduced after 1908 failed to prevent the collapse of the Qing in 1911 and China remained very much at the mercy of foreign powers. Notwithstanding this, political reformers from the new Republic of China (RoC) (many of whom had, of course, been late Qing reformers) retained their faith in the nation-saving capacity of democracy and wasted no time in instituting a political system based on the liberal model of representative democracy. As we will see in this chapter, by as early as March 1912, China had its first proper constitution (albeit in provisional form) containing a detailed list of citizens' rights and stipulating a system of democratic government based on the separation of powers between legislature and executive. From November 1912 to February 1913, national elections were held to the newly-conceived House of Representatives and the Senate. On 8 April 1913 China's first ever parliament was officially opened.

Whilst all this may have looked good on paper, China's new democratic system was riddled with flaws and contradictions. Despite constitutional references to the equality of citizenship and the right to vote and stand for election, entitlement to participate in the national

elections was conditional upon factors such as gender, age and land ownership (as it had been during the Qing provincial elections). This meant that the vast majority of adults remained completely excluded from the democratic process. Those who were entitled to vote were likely to have witnessed violence at the polls or been confronted with different forms of corruption, including invitations to sell their votes or intimidation to vote for a certain candidate. The mechanics of parliament were hindered by factional infighting and a woeful inability of the legislature to control the authoritarian whims of President Yuan Shikai. By the end of 1913, Yuan had effectively dissolved parliament and nullified the constitution. In a very short space of time, a deep shadow had been cast over China's democratic dream, with the idea that democracy and rights could somehow reverse China's precarious predicament beginning to look increasingly fanciful.

The intellectual discourse of democracy during the early Republican era was dominated by the period of Chinese scholarly enlightenment known as the May Fourth movement. Like the debate that took place during the late Qing, the May Fourth discourse on democracy focused heavily on the theory of human rights. The open and exploratory atmosphere of the time made it possible for a number of liberal perspectives to be posited. Later communist converts such as Chen Duxiu and Li Dazhao advocated a universal approach to rights and stressed the need to protect free speech. This view was shared by more committed liberals such as Gao Yihan and the celebrated thinker Hu Shi. But more often than not, the overriding concern of those who championed a liberal rights position was the welfare of the Chinese nation. Whilst desirable as an end in itself, the enjoyment of rights was ultimately favoured for its perceived capacity to embolden China against the threat from abroad.

The underlying instrumentalism of this view meant that if democracy and rights were no longer seen as useful to the nation-building project, then they could be conveniently abandoned. As we will see below, this is exactly the feeling that materialised during the 1920s. Ironically, one of the most ardent exponents of curtailing democracy and rights was the one-time democrat and founding-father of the Chinese Republic, Sun Yat-sen. Having once insisted that greater democratic rights and freedoms was the solution to China's weakness as a nation, Sun began to see this as the cause of such weakness, blaming China's tenuous predicament on what he saw as the excessive and uncontrolled libertarianism of the Chinese people. Sun now argued that if the nation was to be genuinely free, the people must be

prepared, or more accurately, required to sacrifice their individual freedom for the sake of the greater national good.

We will see in the final section of this chapter how the corruption, political infighting and restrictions on political participation that tainted China's first parliament came to characterise democracy during the early Republican era, as China descended into a period of unbridled warlordism and remained divided and weak. This, combined with innumerable changes of head of state and a succession of draft and supposedly permanent constitutions, meant that by 1928 China had turned its back on democracy as a tool in the nation-building process in favour of authoritarianism and single-party rule.

New Republic, same problems

China's first ever Republic was established on 1 January 1912 when Sun Yat-sen was inaugurated as Provisional President in Nanjing. Sun had been particularly active in the anti-Qing resistance movement (Schiffrin, 1970; Wells, 2001). In 1895 he organised a coup against the Qing in Guangzhou, the failure of which forced him into exile for the next 16 years where he spent time in Europe, America, Canada and Japan. It was from his Tokyo base in 1905 that Sun founded the Tongmenghui (or Chinese Revolutionary Alliance), which later joined forces with other revolutionary parties in August 1912 to form the KMT. The Tongmenghui was an underground revolutionary movement whose objectives included replacing the dynastical system with a new republic and implementing a number of far-reaching socio-economic reforms, most notably the equal distribution of land. Although Sun was successful in raising funds for the Tongmenghui, he was very much an "overseas revolutionary". For example, the Wuchang Uprising of October 1911 was led not by Sun who was in the US at the time, but by his Tongmenghui colleague Huang Xing. Anecdotal evidence suggests that Sun read about the successful rebellion on an American billboard and headed straight for his native China. Shortly afterwards Sun was elected as China's first Provisional President by a meeting of delegates representing those provinces from the south that had declared independence from the Qing.

But China was far from united at this time. Although some southern provinces had declared their independence, northern provincial leaders were still considering their options. Yuan Shikai who had fought for the Qing against the revolutionaries after Wuchang, had a formidable power base in Beijing through his leadership of the

powerful Beiyang Army (Chen, 1961; Young, 1977). Threatening military intervention if his wishes were not granted, Yuan demanded that China be united under a Beijing administration with him as Provisional President. In the absence of any significant military support of his own, Sun was in no position to object and after overseeing the abdication of Puyi, China's last Emperor, Yuan was sworn in as Sun's replacement in Beijing on 10 March 1912. As we will see, Yuan's tendency to resort to threat and coercion to get his way helps to explain in part why the 1913 Parliament collapsed within months of its establishment.

Before we look at the detail of China's first parliament, we should note that the overriding objective of China's new Republic was no different from what it had been under the late Qing, namely to make China strong in the face of foreign imperialism. This was because the hostile presence of foreign imperialism had not simply vanished overnight with the founding of the Republic. The numerous "treaty ports" that were forced on the Qing by aggressive foreign powers in the period after the First Opium War remained firmly intact, allowing foreigners to live, own property and engage in business in China, all under the extra-territorial jurisdictions of their respective consuls. Indeed, by 1917 the number of "treaty ports" had actually increased to 92 in total (Feuerwerker, 1983, p.129). Likewise, the status of the five foreign "leasehold territories" ceded by China in 1898, including Jiaozhou Bay in Shandong and the Liaodong Peninsula in Liaoning (leased to Germany and Russia respectively) were completely unaffected by the Republican revolution. In terms of diplomatic status, although America officially recognised the RoC in May 1913, followed closely by other imperialist nations including Britain, Japan and Russia, such recognition came at a price. For example, as a pre-condition to Britain's diplomatic recognition of China, the Chinese government was forced to grant *de facto* independence to Tibet, thus potentially extending UK control and influence beyond the boundaries of India (Bickers, 1999).

Nor was the foreign military presence diminished by the inception of the RoC (Feuerwerker, 1983, pp.152–4). French naval ships continued their reconnaissance missions along the upper Yangzi river in search of routes for the extension of trade into Yunnan. America stationed eight gunboats at key positions along the Yangzi as compared to Britain's 15, whilst each of the five foreign "leaseholds" were further fortified by strong naval bases. Foreign ground troops increased in number, particularly foreign municipal police forces. By 1913, the Shanghai

Volunteer Corps totalled 59 (mainly British) officers and more than 1,000 rank and file members patrolled the streets. The German garrisons in Qingdao numbered more than 2,300 and these were replaced with more than 2,100 Japanese troops after Japan seized control of the area in 1914. By 1920, 16 battalions of Russian and Japanese railway guards (numbering more than 10,000 men) had been positioned along the Chinese Eastern Railway and South Manchurian Railway routes. In short, there was no reduction in the threat posed by foreign imperialist powers after 1912, each of whom retained an appetite for the potential riches to be had in China and a disdain for Chinese territorial and sovereign rights.

Reforms to the Chinese military sought to redress this situation, at least on the face of it. In continuing with proposals implemented during the late Qing, resources were channelled into strengthening the Chinese army under Yuan Shikai's control by modernising China's conventional weaponry and naval capacity and improving warfare techniques (McCord, 1993). But the problem was, of course, that China was not functioning as a cohesive unit under a single, centralised government. Many of the provinces were hostile to Yuan and operated independently of Beijing. As such, Yuan spent much more time and money trying to establish domestic control over China than he did on repelling foreigners from Chinese soil.

An absence of national unity also hampered any attempt to implement a comprehensive programme of economic reform that might assist with the nation-building process. This is reflected by evidence showing that economic growth was often confined to specific areas of China. For example, industrial growth of 6 per cent per annum looked good on paper, but it was mostly limited to five provinces: Jiangsu, Guangdong, Hebei, Hubei and Shandong. As Gray (1990, p.154) points out, together these provinces comprised under 10 per cent of Chinese territory and less than 20 per cent of the Chinese population.

The provisional constitution and citizens' rights

Turning now to the implementation of political reforms, the collapse of the Qing dynasty meant that the 1908 Principles of the Constitution were no longer in force. The Principles were replaced by a transitional document called the General Plan enacted in December 1911 (Houn, 1957, pp.11–20) and then by the more detailed Provisional Constitution of the Republic of China enacted on 10 March 1912. The promulgation of this constitution was the result of an uneasy compromise between

Yuan Shikai and Sun Yat-sen. Sun, as we have seen, was forced by Yuan to accept Beijing as the new home of the Chinese government and Yuan as the new Provisional President. In return Yuan was required by Sun to give his backing to the Provisional Constitution which (in theory at least) placed restrictions on Yuan's political power. Although the Provisional Constitution was intermittently superseded by a series of later draft constitutions, it was resurrected in June 1916 and remained largely operative until the promulgation of a full constitution in 1923 (Ch'ien, 1950, p.435). It is for this reason that we will focus primarily on the Provisional Constitution in our analysis of early Republican political reforms.

Like the 1908 Principles, the aim of the Provisional Constitution was to function as a tool in the nation-building process, a mechanism with which to unite the Chinese government and the Chinese people in the on-going struggle against imperialism. According to an explanatory document that accompanied the constitution:

> The Provisional Constitution of the Republic of China has as its main objective the national security of our new Republic and the social and economic welfare of the Chinese people, the oldest and greatest civilisation in the world. The Provisional Constitution of the Republic of China has been drafted in order to unite the new Chinese government and the Chinese people as one harmonious entity and will ensure that China is assured of its status and its right as a sovereign state, free from imperialist interference, invasion and colonisation (Song, 1947, p.12).

So how did the Provisional Constitution seek to realise this ambitious objective? One way was by endowing the people with rights (AJIL, 1912, pp.149–50). The Provisional Constitution devoted an entire chapter to citizens' rights, in much greater detail than that contained in the Principles. The chapter contained two "negative" rights: the right not to be 'arrested, imprisoned, tried or punished except in accordance with law' (Article 6(1)) and the right not to have one's home 'entered or searched except in accordance with law' (Article 6(2)). Other "positive" rights included the right to security of property and freedom of trade (Article 6(3)), the right to 'freedom of speech, composition, publication, assembly and association' (Article 6(4)), the freedom of religion (Article 6(7)) and various rights to petition parliament (Article 7), to institute proceedings before the judiciary (Article 9), to sue officials (Article 10) and to participate in civil examinations

(Article 11). Of particular note was Article 5 which stipulated that Chinese citizens were 'all equal, and there shall be no racial, class or religious distinctions' and Article 12 which stipulated that citizens had 'the right to vote and be voted for'. As we will see below, both of these articles were heavily qualified in practice.

The rationale for implementing such an extensive array of rights drew on the familiar link between rights and national strength that was first elucidated by late Qing reformers. We saw in the previous chapter how scholars such as Yan Fu and Liang Qichao championed a system of rights as part of a wider framework of constitutional democracy in the belief that this would immerse the people into the political system and thereby weld them inextricably to the nation-building agenda of their rulers. These scholars anticipated that the welcome sense of political inclusiveness which emanated from the exercise of rights and freedoms would, in turn, induce strong feelings of individual loyalty towards those in authority who were responsible for enacting these rights and freedoms. In other words, the people would feel grateful to their leaders for allowing them into the Chinese political process for the first time in China's history. This sense of loyalty and gratitude could then be carefully directed by the government towards the construction of a strong nation and the people would be willing to work tirelessly towards this goal.

Sun Yat-sen adopted a similar perspective on the national utility of democracy and rights as exemplified by his 1905 Three Principles of the People, namely nationalism, democracy and people's livelihood (de Bary, 1960, p.768). During the late Qing and early years of the Republic, Sun took the familiar stance that parliamentary democracy and constitutional rights would provide the social cohesion that China so desperately needed in the battle to extricate itself from foreign subjugation. That was the theory at least. The practice, as we will see shortly, was quite different.

Since the key concern of the day was to make China strong, any rights that were exercised in a way which militated against this overarching objective could be rescinded. Similar to Article 8 of the 1908 Prerogatives of the Monarch, Article 15 of the Provisional Constitution stated that:

> The rights of citizens as provided in the present chapter shall be limited or modified by laws provided such limitation shall be deemed necessary for the promotion of public welfare, for the maintenance of public order or on account of extraordinary exigency.

From this we can see the continuation of a political tradition in which rights were perceived both as potentially useful to the cause of a strong China and potentially detrimental to that cause. Rights were useful if the loyalty and enthusiasm they engendered could be channelled into the fortification of the Chinese nation, but detrimental if they detracted from this goal. Increasingly, it was the latter view that prevailed.

The new political system

Another way in which the Provisional Constitution sought to facilitate Chinese nation-building was by implementing a system of checks and balances at the policy-making level. In contrast to the Principles which were drafted in the belief that a strong China could be achieved by giving absolute authority to the Emperor, the Provisional Constitution equated a strong China with a more balanced system of government in which the power of the Provisional President, Yuan Shikai, would be moderated by the opinions and advice of his Prime Minister (the first being Tang Shaoyi), his cabinet and the legislature known as the National Council (replaced by a full parliament in 1913). According to a broad consensus amongst the authors of the Provisional Constitution, the US and European model of checks and balances had contributed greatly to the imperialist strength of America and Europe by ensuring that the will of the ordinary masses was articulated in parliament by elected representatives and was not arbitrarily over-ruled by a single despotic individual, wielding unconditional power. This had further embedded the people into the political system because they could see that their views were valued by their elected representatives and were not simply abandoned at the first possible opportunity.

Impacting on this preference for a system of checks and balances were the very real fears about presidential dictatorship in China in light of Yuan's demonstrably autocratic efforts to secure control of the Republic. Since there was no alternative military force to constrain Yuan, Sun Yat-sen had hoped that the Provisional Constitution would help in that regard. As Houn (1957, p.25) explains 'the easiest way to prevent him [Yuan] from future wrongdoing was, they [Sun and his allies] thought, to make a new constitution under which the presidency should be relegated to a post of dignity for which all real powers were stripped'.

But this proved to be wishful thinking, primarily because of ambiguities in the drafting of the constitution which were duly exploited by

Yuan. One ambiguity concerned the envisaged relationship between the Provisional President on the one hand and his Prime Minister and cabinet on the other. Although Article 45 gave cabinet ministers the right to 'countersign all bills introduced by the provisional president and all laws and orders issued by him', Article 44 stipulated that 'members of the cabinet shall assist the Provisional President in assuming [his] responsibilities'. As both Bau (1923, pp.93–6) and Pan (1937, pp.21–2) have pointed out, nobody really understood what was meant by "assist". Did it mean that ministers were empowered to take the final decisions on all matters proposed by the Provisional President or did it mean that that they were subordinate to his wishes and were there simply to help him carry out those wishes? Yuan made sure it was the latter by dominating the cabinet as we will see later, although in truth this was not always difficult because of the respect and fear he commanded amongst an inexperienced cabinet team. Yuan was further assisted by the failure of the National Council to support the cabinet and the Prime Minister in their attempt to control Yuan or to properly legislate on their behalf (Houn, 1957, p.28).

In terms of the time-scale envisaged by the Provisional Constitution for enacting the new parliament, Article 53 stipulated that a parliament would be convened within ten months of the promulgation of the constitution, namely by January 1913. However, this time-scale was not achieved. Following constant interference and delaying tactics from Yuan, the National Council was unable to work to schedule in implementing the Parliamentary Organic Law and this meant that parliament was not properly assembled until April 1913 (Willoughby, 1922, pp.15–16).

With regard to the composition of the new parliament, there were two main houses: the House of Representatives and the Senate. Members of the House were elected in accordance with a two stage process comprising direct and then indirect elections which took place across China from November 1912 to February 1913. During the first stage of the process, candidates stood for election by the general public. Invariably, however, many more candidates were elected to the House than there were provincial seats available. For example, as Chang and Nathan (1978, p.297) have pointed out, 800 people were elected to sit in the House from Fengtian Province (now Liaoning) but the province itself was only assigned 16 seats. As such, the second stage of the election process required those 800 to elect its 16 members internally and this was a pattern that was common to all provinces during these parliamentary elections.

Members of the Senate were elected by provincial assembly. The total number of senators for the 1913 Parliament was supposed to be 274, comprising ten from each of China's 22 provinces as well as 27 from Mongolia, three from Qinghai, ten from Tibet and eight from a special organisation called the Central Academic Assembly (Houn, 1957, p.65). In the end, however, only 263 senators were elected because Qinghai and the Central Academic Assembly did not participate in the elections.

In terms of the main political parties, there were four (Ch'ien, 1950, p.71). They were the KMT representing the Republican revolutionaries including Sun and other former Tongmenghui members, the Democracy Party (*Minzhu Dang*) representing former constitutional monarchists including Liang Qichao and Kang Youwei, the Unity Party (*Tongyi Dang*) representing the Chinese gentry and the Republican Party (*Gonghe Dang*) representing the militarists and favoured by Yuan. The latter three merged during 1913 to form the Progressive Party (*Jinbu Dang*).

Problems of democracy

So at last, this was Chinese democracy in action – an elected parliament, representative of the people's wishes, a crucial building block in the establishment a new and strong Chinese nation and a vast improvement on the piecemeal reforms attempted by the Qing. Not really. We have already seen that Yuan was able to dominate parliament due to the vagaries of the constitution and the divided loyalties of the National Council. To make matters worse, the elections to the House and the Senate could hardly be described as all-inclusive. Notwithstanding the claims of Article 12 of the Provisional Constitution that citizens had the right to vote and be voted for, this was not the case in practice. According to the 1912 Parliamentary Organic Law and in direct contraction of Article 12, in order to be able to stand for election to either the House or the Senate, candidates had a number of criteria to satisfy. They had to be male, over 25 years old and resident of their constituency for more than two years. In addition, they had to have either paid more than two yuan in direct annual taxes, own more than 500 yuan's worth of property or have been educated to at least elementary school level. Entitlement to vote was subject to the same extensive qualifications, except that the minimum age limit was slightly lower at 21 years old (Chang and Nathan, 1978, pp.294–6).

As well as excluding those who failed to meet these numerous requirements, the Parliamentary Organic Law set out a long list of other categories of people who were not entitled to vote or stand for election. This included anyone who was bankrupt, mentally ill, illiterate or addicted to opium, as well as military, administrative and judicial personnel, policeman, monks and preachers. Students and elementary school teachers were not entitled to stand for election, but they were allowed to vote, provided of course they met the other eligibility requirements relating to gender, age, residency and so on (Chang and Nathan, 1978, p.296).

All of this made a mockery of Article 5 of the Provisional Constitution which stipulated equality of citizens, specifically with regard to race, class and religion. Whilst there is no evidence to suggest that there were any racial qualifications to the right to vote or stand for election, class and religion were certainly an issue. The 500 yuan property-owning requirement would have excluded vast swathes of the peasantry who would have owned nothing like that amount of property, if any at all. Likewise, the omission of monks and preachers from the political process contradicted any claim to religious equality. That gender equality was not even referred to in Article 5 suggests that the political exclusion of women was simply a given.

The consequence of this mass exclusion from voting in China's first parliamentary elections was that only 10.5 per cent of the entire population were registered to vote, amounting to just over 40 million people (Chang and Nathan, 1978, p.296). If this 40 million figure is calculated as a percentage of the entire adult population then clearly it would have been higher than 10.5 per cent. Even so, well over half of the adult population were not entitled to vote since, as a bare minimum, women were excluded.

Given the size of China, a province-based analysis of voting patterns in the parliamentary elections is useful. This shows that in the elections to the House, entitlement to vote as a percentage of the entire population of the province varied dramatically. In Zhili Province (now Hebei) it was as high as 35.46 per cent. In Xinjiang, the figure was extremely low at 0.48 per cent (Chang and Nathan, 1978, p.295). Not everyone who was entitled to vote actually voted, of course. Estimates suggest that the highest turn-out rates were in Jiangsu and Fengtian at 70 per cent and 60 per cent respectively (Chang and Nathan, 1978, pp.297–8). However, in other areas such as Xinjiang the turn-out was lower than 10 per cent. Moreover, high turn-outs were not necessarily

an accurate indication of voter enthusiasm given the widespread occurrence of vote selling and voter intimidation, to be discussed shortly.

For the sake of balance, there are some important points in mitigation that we need to consider before we dismiss China's first parliamentary elections as a failure (Chang and Nathan, 1978, pp.296–7). First and foremost, many of those who were qualified to vote were not actually included on the electoral register. Clearly, if they had been this would have pushed up the 10.5 per cent figure. The failure to include some eligible voters was often due to the indifference or carelessness of the registrar whose job it was to record the names of all eligible voters. One report claims that on some occasions when there were several members of a single household who were eligible to vote, the registrar would only register one of them. Worse still, if none of the eligible voters were at home when the registrar called, he often left without registering anyone at all, choosing to ignore the information given to him by the woman of the house. At the other extreme, there were instances of over-reporting, with people who were not eligible to vote being deliberately included on the voter register, most likely if they promised to vote for a certain candidate.

Secondly, despite the exclusion of many adults from participating in the elections either as voters or candidates, notable progress was made by comparison to the Qing Provincial Assembly elections of 1909 in terms of voter eligibility. As we saw in the last chapter, the right to stand for election in the 1909 Provincial Assembly elections was limited to men of a minimum of 30 years old with a ten year residency requirement, as opposed to a minimum age of 25 years old and a two year residency requirement for the 1912/13 elections. The property ownership requirement was ten times lower in 1912/13 than it was in 1909 and the education qualification was reduced from middle school level to elementary school level. So the situation had clearly improved in this regard.

It is also worth reminding ourselves that universal suffrage was some way from being achieved in the so-called democratic West at the time of China's first parliamentary elections (Marsh, 1971). Britain did not attain universal suffrage until 1928, France did not achieve it until 1944 and the United States did not achieve it until the Voting Rights Act of 1965. In each case, universal suffrage came as the result of a long and protracted struggle, on behalf of women in the UK and France and on behalf of blacks in the US. It was therefore unlikely to have been achieved overnight in a country like China where there was no tradition of parliamentary democracy and where the binding of women's

feet had only just been prohibited, but was still widely practised. China in the early Republic could hardly be described as a mature democracy where people held strong views on equal rights for women (or anyone else for that matter), so it would be unrealistic to have expected the first ever Chinese parliament to have been elected by universal suffrage.

But putting aside all of these perfectly valid and convincing counter-arguments, we still need to remember that one of the main objectives of the new parliamentary elections was to draw the masses into the political system and engender in them a sense of inclusiveness that would serve to embolden the Chinese nation. This objective clearly failed. The vast majority of China's massive adult population were excluded from voting or standing for election and would no doubt have felt completely disenfranchised from the political process. It was hard to imagine, therefore, how the Chinese population as a collective whole were somehow going rally behind the national cause of making China strong based on the introduction of this new democratic political system.

The credibility of the new political system was further eroded by the numerous instances of corruption that took place during the elections, including vote selling (Chang and Nathan, 1978, p.298). A survey of Guangdong Province suggests that votes during the first stage elections to the House were purchased for anything between one and five yuan. In the second stage elections the price went up to over 100 yuan per vote and sometimes even as high as 1,000 yuan. In other cases, gifts were offered in order to entice prospective voters. One Guangdong merchant acquired seven votes in exchange for a gift of "swallow tail suits" which were worth about 80 yuan each. Other forms of corruption included candidates being appointed as members of the House (usually by Yuan Shikai) without having to stand for election and interference by local government in the choice of candidates and in the electoral process. There were often fierce outbreaks of violence at polling stations between rival party activists and voters were often intimidated or threatened into voting for a certain candidate.

The collapse of parliament

Just as there was physical conflict at the ballot box, so there was the factional conflict in the corridors of power and this too would have done little to engender popular faith in democracy. This infighting intensified before the ink was dry on the Provisional Constitution,

primarily because of Yuan's persistent attempts to dominate the cabinet. One way he tried to do this was by appointing his close friends or associates to senior ministerial positions. Just days after the enactment of the constitution, Yuan nominated his good friend Liang Ruhao (also known as MT Liang) as Minister of Communications. When this nomination was rejected by the National Council on the grounds of "cronyism", Yuan tried again only to receive the same response. The subsequent recriminations were acrimonious with Yuan promising to 'strike back hard against those who have thwarted me' (Song, 1947, p.44).

Sun Yat-sen and the Tongmenghui were not much better when it came to factional infighting. When Yuan nominated Lu Zhengxiang to replace Tang Shaoyi as Prime Minister following Tang's resignation in June 1912, the Tongmenghui members of the National Council agreed to support the nomination on the condition that Lu's new cabinet would consist of members from just a single party. Given that the Tongmenghui were by far the largest party in the National Council, it seemed likely that this single party would be their party in an attempt no doubt to restrict Lu's (and by implication Yuan's) political power. Not surprisingly, Yuan opposed this proposal and sensing that the Tongmenghui were trying to dominate the cabinet, the Republican and Unity Party members of the National Council joined forces with Yuan. Lu was subsequently elected as Prime Minister by a majority of the National Council, despite fierce opposition from the Tongmenghui. However, once it became apparent that Lu was being controlled by Yuan, the political parties that had sided with Yuan switched sides and backed the Tongmenghui, forming a loose coalition in opposition to the proposed composition of Lu's cabinet. In the end, Yuan intervened to propose his own cabinet and this was supported by a majority of the National Council, although not by the Tongmenghui (Li, 1930, pp.269–71).

Even the opening of China's first parliament in April 1913 was marred by political bickering. Initially, it was agreed that Yuan would oversee the opening. But following opposition from the KMT (as they were known by then) who insisted that he should only attend as a private citizen, Yuan decided to abstain and nominated his Secretary General Liang Shiyi to attend on his behalf so that Liang could present a message of greeting and goodwill. Although Liang was allowed to enter the parliamentary building, he was physically prevented from reading out Yuan's message (Houn, 1957, pp.77–8).

A number of other factors contributed to the demise of China's first parliament within just a few months of its inception, including the

animosity engendered by the assassination of KMT founder-member Song Jiaoren (most likely authorised by Yuan) and the failure of the so-called Second Revolution of July–September 1913 (Young, 1983, pp.228–36). The Second Revolution occurred after Yuan forcibly removed the KMT military governors of Guangdong and Anhui Provinces, sparking a KMT-led military uprising against Yuan's troops in parts of southern China. Yuan's suppression of this uprising forced a number of KMT parliamentarians to flee south or to Japan with Sun Yat-sen, leaving parliament in an even more precarious state.

But the most divisive issue at the time was the foreign issue. We noted earlier how China remained firmly in the grip of the imperialist powers after 1912 in terms of foreign military presence in China and foreign control over Chinese land and other assets, under what can only be described as a state of semi-colonial occupation. Yuan stood accused of accentuating this situation when, in April 1913, he accepted a high interest £25 million "re-organisation loan" from a consortium of foreign banks led by Britain and including France, Russia, Germany and Japan (Young, 1983, pp.231–2). The official purpose of this loan was to refinance the foreign debts inherited from the Qing and to cover the cost of running the new government, although much of it was used to finance the Beiyang Army. But, of course, the loan came with certain pre-conditions that ensured even greater foreign control over China. One pre-condition was the introduction of foreign personnel into the Chinese government, most notably into the staff of the profitable Official Salt Monopoly. Another pre-condition forbade the Chinese government from accepting any other substantial loans until the "re-organisation loan" was concluded. America (which had withdrawn its participation in the "re-organisation loan" in March 1913) respected this and then promptly agreed its own one-sided loan arrangements with Yuan immediately afterwards (Cameron, 1933).

Yuan caused further parliamentary consternation by giving ground (metaphorically and literally) firstly to Britain by conceding *de facto* independence of Tibet and then to Russia by granting it territorial concessions in Mongolia (MacMurray, 2007). But it was the "re-organisation loan" that really stuck in the parliamentary craw primarily because Yuan authorised it without recourse to the correct constitutional procedures. Article 19(4) of the Provisional Constitution stated that only parliament was empowered to pass measures relating to the acceptance of public loans. Not only did Yuan completely sidestep the House in accepting the loan, but when a majority of the Senate declared the loan null and void for reasons of unconstitutionality, he simply

ignored them (Houn, 1957, p.78). Powerless to prevent the loan and with it the further erosion of China's position vis-à-vis foreign powers, it was patently apparent that democracy and specifically the mechanics of parliamentary democracy was not making China strong. Indeed, in this instance democracy was not even preventing China from becoming weaker. An effective parliament, with a fully operational system of checks and balances, would have blocked Yuan's loan, but neither the House nor the Senate were able to do so.

Yuan's success in securing the loan, together with the failure of the Second Revolution greatly consolidated his grip on political power and by October 1913, through a combination of bribery and coercion, Yuan was elected permanent President with Li Yuanhong as his Vice-President. During November 1913 and with the support of sympathetic provincial military leaders, Yuan ordered the dissolution of the KMT and the removal of KMT members of parliament, an act which effectively dissolved parliament. From here, Yuan was able to replace the Provisional Constitution with the Constitutional Compact of May 1914, a document which allowed Yuan to make important decisions without needing the prior approval of the legislature. This ultimately led to his short-lived and disastrous attempt to install himself as Emperor (Houn, 1957, pp.78–81). The enactment of the Constitutional Compact nullified the proposed permanent replacement to the Provisional Constitution, a progressive document prepared in October 1913 known as the 'Temple of Heaven Draft', so-called because it was drafted in the seclusion of the Temple of Heaven in Beijing (Ch'ien, 1950, p.63).

The rapid collapse of China's first parliament made a mockery of democracy and a mockery of the conviction that democratic institutions could strengthen the Chinese nation. But it was not just the mechanics of democracy that were in disrepute by the end of 1913. The very notion that parliament somehow represented the wishes of the people, led by enlightened, trustworthy leaders was also gravely discredited. Bitter disagreement and political infighting was the order of day. As Houn (1957, pp.81–2) concludes, 'the idea that the Republic, and with it representative government, was founded upon active popular desire and interest was shown to be nothing more than a theory developed for revolutionary purposes'. Politicians, quite plainly, had no interests other than their own, so the idea that the public were going to rally behind them in the fight against imperialism was simply delusional.

May Fourth and the discourse of democracy and rights

Turning now to the theoretical discourse of democracy and rights during the early Republican period, this was dominated by the views articulated during the May Fourth movement, culminating in the May Fourth demonstrations of 1919. The events leading up to these demonstrations are well-documented. In early 1919, a three-man delegation from China was invited to attend the Paris Peace Conference, convened in the aftermath of the First World War to set the peace terms for the defeated powers and to decide what to do with their empires (Macmillan, 2001). The Chinese delegation arrived with the broad objective of abolishing all foreign privileges over Chinese territory and in particular to demand the return of Shandong to Chinese rule after Germany had lost control of the province to Japan in November 1914. Notwithstanding earlier promises to accede to these demands, an alliance of Britain, France and the US proposed the Treaty of Versailles which officially transferred German interests in Shandong to Japan. As a consequence, the Chinese delegation stood alone in refusing to sign the Treaty.

When news of the Versailles Treaty reached China, the response was immediate (Chen, 2007). On 4 May student representatives from several Beijing universities drafted a five article resolution stipulating the return of Shandong to China and calling for a public demonstration to be held in Tiananmen Square that very afternoon. The angry demonstration that followed involved more than 3,000 students, but the focus of critical attention was not just directed at the injustice of the Treaty. The demonstrators were also outraged at the timidity of the Chinese government in the face of the imperialist powers and demands were made for the resignation of the three officials who had represented China in Paris. When the residence of one of the officials was attacked and burned, the authorities suppressed the protestors and made a number of arrests. This inflamed the situation as the demonstrations quickly spread to other parts of the country and included strikes by merchants and workers, most notably in Shanghai (Chen, 1971). The government eventually yielded to public pressure by releasing those who had been arrested and dismissing the three Chinese officials from their posts and although China never signed the Versailles Treaty, Japan's control of Shandong was not rescinded.

The May Fourth movement pre-dated the May Fourth demonstrations by several years. Indeed, it is widely accepted, with one or two

exceptions (Chow, 1967), that the movement began in September 1915 with the founding in Shanghai of the magazine 'New Youth' (*Xin Qingnian*) by Chen Duxiu, co-founder of the CCP in 1921. The magazine started out as the intellectual mouthpiece of anti-Confucianism, attacking the inequality of the traditional family system and the anachronistic practise of filial piety. Heavily influenced by Western philosophers such as John Dewey and Bertrand Russell (both of whom visited China during the 1920s), the authors of 'New Youth' called for the complete liberation of the individual from the suffocating constraints of China's Confucian heritage which was still very much in evidence even after the Republican revolution. Together with fellow intellectual Hu Shi (Grieder, 1974), Chen launched a literary revolution in the magazine which championed the use of vernacular Chinese rather than the ubiquitous classical form. In 1917, Chen moved 'New Youth' to Beijing University where he was appointed as a professor, thereby transposing the magazine on to the already liberal environment created after Cai Yuanpei had become chancellor of the university in 1916 (Duiker, 1977). During this time, a broad range of ideologies were discussed and debated including utilitarianism, anarchism, socialism and of course liberalism.

Discussions of democracy centred heavily on rights and like the debate that took place during the late Qing, a diversity of opinions were articulated (Svensson, 1996, pp.156–204; Angle and Svensson, 2001, pp.57–123; Svensson, 2002, pp.129–58). Although Chen Duxiu had converted to communism by 1921, an ideology not easily associated with human rights (Lukes, 1982), he took a strikingly liberal approach to rights in his early May Fourth writings. For example, in his 1915 article 'The French and Modern Civilisation' published in the first edition of 'New Youth', Chen (1993b) acknowledged that whilst the French were the first to conceptualise human rights (as contained in the 1789 Declaration of the Rights of Man and the Citizen) such rights cut across national boundaries and were applicable to all people, including the Chinese. In other words, Chen was arguing in classic liberal tones that human rights were universal. Li Dazhao who founded the CCP with Chen (Meisner, 1968) and who also wrote for 'New Youth', shared Chen's conviction on the universality of rights. In a 1916 article entitled 'The Constitution and Freedom of Thought', Li (1995) championed the cause of free speech, arguing that the right to freedom of speech was fundamental to the very existence of mankind and should therefore be enjoyed by everyone at all times.

Another leading rights theorist of the time was Gao Yihan, a professor of political science at Beijing University. Gao was in broad agreement with Li about the centrality of free speech and the universality of rights, but Gao went one step further in his research by examining the origins of rights. Although Gao remained true to his liberal roots throughout his professional career and did not join Li or Chen in converting to communism, he was not an exponent of Rousseaun social contract theory or Lockean natural rights when it came to considering where rights came from. Preferring a more legal-positivist position, Gao argued in an article written in 1918 that rights did not exist prior to the establishment of the state, but were formulated by the state and enshrined in law, a view which many Western thinkers had come to accept, Gao suggested (Svensson, 2002, p.135). Elaborating on this idea, Gao (1930, p.132) acknowledged in 'The Essentials of Political Science' that the theory of natural rights had at one time been very useful because it had led to a broad acceptance of the view that people were worthy of rights and that individual rights needed protecting against the state. Given that authoritarian regimes would never have taken it upon themselves to safeguard the rights of their people, natural rights thinkers, in effect, forced this responsibility on to them. But now that legislative power was firmly in the hands of the people according to Gao, there was no longer any conflict between the state and the people, rendering the natural rights concept obsolete. In asserting that legislative power was in the hands of the people, Gao was being optimistic in the extreme, but as Svensson (2002, p.136) points out it did show how 'Gao realized that demands for human rights were basically directed against despotic regimes. To only acknowledge legal rights would deprive rights of their necessary and compelling moral force'. In this sense, Gao was firmly rooted in the liberal camp of political thought.

A number of other human rights perspectives were discussed by May Fourth thinkers, particularly in relation to Confucianism which was pilloried as wholly incompatible with human rights, not only by Chen, Li and Gao and but also by lesser known figures such as Guang Sheng and Wu Yu (Svensson, 1996, p.187). Opinions varied. Guang claimed that the Confucian notion of "benevolence" and "benevolent rule" (*renzheng*) had inadvertently stifled the belief that individuals needed rights in their everyday dealings with others and in order to protect themselves against the state. Meanwhile, Wu condemned the Confucian hierarchical system for its deliberate suppression of individual equality and freedom. Leading on from this were impassioned

calls to extricate the individual from the Confucian straightjacket. Individuals must have rights, it was argued, particularly women, who were still suffering from oppression (Wang, 1999) and workers in keeping with the intellectual transition towards communism amongst many May Fourth intellectuals (Dirlik, 1989).

With regard to the content of rights, the most frequently discussed were civil and political rights, especially the freedom speech. But there were also limited discussions of socio-economic rights, most notably the right to subsistence (*shengcunquan*), namely the right to food, clothing and accommodation. This was expounded not, as one might expect, by communists-to-be such as Chen and Li, but by the liberal Gao Yihan (1921). As we will see in Chapter 5, the right to subsistence has since been heralded as the "foremost" human right in China since the publication of China's first human rights white paper in 1991, almost as if the CCP invented the idea. But actually discussions of subsistence rights predated the white paper by some 70 years.

Despite the wide-ranging nature of the May Fourth debate on rights and the plurality of ideological perspectives held by those who participated in it, the majority of thinkers were united by a very familiar long-term goal – that of making China strong. Again, this drew parallels to the late Qing debate. We saw in the previous chapter that Chen Duxiu had in 1903 advocated rescinding any rights that might damage the welfare of the nation. Chen returned to this theme just before the inception of the May Fourth period in his 1914 article entitled 'Patriotism and Consciousness' (Chen, 1993c). Adopting a more moderate tone than in his 1903 article, Chen expressed his heartfelt regret at the absence of patriotism amongst the Chinese people, as manifested by their perceived unwillingness to stand up to the imperialists and fight for China's future. But Chen did not blame the people for this unwillingness. He blamed the Chinese state and in particular Yuan Shikai. According to Chen, the very purpose of the state was to safeguard the rights and interests of its people. However, if the state failed to do this and instead actively suppressed people's rights, then surely it could not expect the people to rally together and support it. Why would they? Although Chen's view of the state as a protector of rights was probably the first indication of his (albeit brief) intellectual shift towards liberalism, it is clear from this article that the focus of his scholarly concern remained firmly with the future stability of the Chinese nation. Rights were important to Chen, but only in securing desperately urgent nationalist goals.

We have noted already how the birth of 'New Youth' magazine signalled the beginning of a more liberal period in Chen's thinking on rights. But even during this period there were signs that the nation remained of primary importance to him. For example, in his 1915 article 'Exhortation to Youth' in which Chen (1993d) reiterated his commitment to universal rights, he also presented a very utilitarian perspective arguing that respect for human rights (as well as science) was necessary for the development of society and it was this respect that helped explain why Europe was strong and China was not. Even the more liberal Gao Yihan often framed his observations on rights within a utilitarian context. In his 'Essentials of Political Science', Gao (1930, pp.133–4) associated the enjoyment of rights and freedoms with the wider progress of society and insisted that the state recognised people's rights not because these rights were inalienable or innate to mankind, but because the state realised that individual rights were beneficial to social development and by implication to state power. This view was shared by other committed liberals such as Hu Shi (1935) and in general it seems that many of the calls for individual emancipation during May Fourth were inextricably linked with the cause of national salvation. Certainly this is the conclusion reached by Schwarcz (1986, p.6) in her study of the May Fourth era, whilst Lin Yusheng (1972, p.25) suggests that 'individualist values did not become deeply rooted in the consciousness of the May Fourth intelligentsia because, among other reasons, they were primarily associated with nationalism and iconoclasm'.

Sacrificing rights for the good of the nation

Notwithstanding the predominantly instrumentalist perception of rights during the May Fourth era, the majority view was that lots of rights were a good thing. Endowing the masses with a full array of political rights and basic civil liberties, it was argued, would facilitate social development in China and ultimately embolden the Chinese nation against the foreign threat. However, the 1919 May Fourth incident changed all that. The sense of national outrage that was ignited by China's harsh treatment under the Versailles Treaty served to radicalise many Chinese thinkers, pushing them away from liberalism and towards a more hardline authoritarian solution to China's national dilemma. This, combined with an increasing sense of dismay at the continued failure of China's democratic experiment (see shortly) meant that the enjoyment of rights

was increasingly portrayed as potentially damaging to the national cause rather than beneficial to it, such that rights should be withheld in order to safeguard the national interest.

Chen Duxiu fell into this category of thinkers during the 1920s as he gravitated towards communism, although in truth Chen was simply reverting back to the position he had held in 1903. Other exponents of this view were fellow communist Li Dazhao and the celebrated non-communist academic Fu Sinian (Wang, 2000). Yet perhaps the most vocal champion of the perceived need to place restrictions on the enjoyment of rights was Sun Yat-sen. In his earlier years, Sun had emerged as a keen exponent of democracy and human rights as a means of making the nation strong. But by the early 1920s and like so many others, Sun had grown disillusioned with democracy and following his re-organisation of the KMT along Leninist lines, Sun's speeches began to assume a more authoritarian tone. Reformulating his Three Principles of the People during a lecture tour in 1924, Sun now postulated that the root cause of China's weakness as a nation was not that the Chinese people had too few democratic rights and civil liberties as he had once suggested, but that they had too many. Sun argued that although in the imperial period China had theoretically been governed under a centralised state, in practice the people had been left completely to their own devices. As a result, when China's leaders looked to draw on the collective energy of the Chinese people in their quest to resist foreign imperialism, they found a nation composed of unrestrained and undisciplined individuals who were too concerned with their own narrow interests to care much about the collective interests of the nation. Sun famously described the Chinese people as "a sheet of loose sand" and this lack of national cohesion had made it easy for foreign powers to dominate China. As Sun (1972, p.75) explained in his 'Principle of People's Power' which constituted the "democracy" limb of his revised Three Principles:

> Europeans rebelled and fought for liberty because they had too little liberty. But we, because we have had too much liberty without any unity and resisting power, because we have become a sheet of loose sand and so have been invaded by foreign imperialism and oppressed by economic control and trade wars of the Powers, without being able to resist, must break down individual liberty and become pressed together into an unyielding body like the firm rock which is formed by the addition of cement to sand.

Sun did not identify precisely which civil liberties he thought were to blame for China's weakness as a nation. In fact he did not even go as far as saying that the state should forcibly strip away such liberties, although he may well have believed that this was necessary. Instead, Sun argued that it was the moral duty of the Chinese people to voluntarily give up their rights and freedoms so that they could devote more time and energy to their chosen professions and in so doing help to build a strong China. Sun (1972, p.76) used students as an example of how this could work:

> Students who sacrifice their personal liberty will be able to work diligently day after day and spend time and effort upon learning; when their studies are completed, their knowledge is enlarged and their powers have multiplied, then they can do things for the nation.

The same applied to soldiers, according to Sun (1972, p.76): 'soldiers who sacrifice their personal liberty will be able to obey orders, repay the country with loyalty and help the nation to attain liberty'.

The likelihood of people doing as Sun implored was remote and it certainly did not materialise in subsequent years as China plunged further towards national fragmentation. But Sun's logic was unmistakable. The Chinese people could not be free until China was free and by "free" Sun meant free from imperialist aggression. But in order for China to achieve this freedom the people had to sacrifice their own freedom:

> On no account must we give more liberty to the individual; let us secure liberty instead for the nation. The individual should not have too much liberty, but the nation should have complete liberty. When the nation can act freely, then China may be called strong. To make the nation free, we must each sacrifice his personal freedom (Sun, 1972, p.76).

Sun's raw instrumentalism on the question of rights and freedoms was neatly encompassed by what he referred to as the "people's rights" (*minquan zhuyi*) within his Three Principles of the People. Sun explained that the concept of the "people's rights", 'is different from the idea of so-called natural rights. We advocate whatever is suitable to the present needs of the Chinese revolution' (Nathan, 1986a, p.90).

The failure of Republican democracy

Sun's forthright views on restricting individual rights were symptomatic of an increasingly widespread sense of disillusionment with democracy in China following China's unsuccessful experiment with democracy after 1912. To be clear, this feeling was probably far more widespread amongst China's elites (for example, politicians and intellectuals) than amongst the masses. Most ordinary people had little understanding of, or interest in democracy even though China had been a Republic for some time. But those who did understand and care about democracy would have been wholly despondent, particularly with the prevalence of intra-party factional infighting. We saw earlier in this chapter how China's first parliament quickly ceased to function because of intense factional infighting and the inability of divided parliamentarians to check the arbitrary power of the deeply-unpopular and disruptive Yuan Shikai. Although Yuan died in June 1916, party factionalism remained prevalent, as outlined by Nathan (1976, 1993). Put very simply, Nathan explains how party factions in Beijing were much more concerned with protecting their own political power than with instituting a robust system of constitutional democracy that might somehow put the country back on its feet. Indeed, in one extreme example a Beijing party faction actually expelled one of its own members – the twice-president Li Yuanhong – because he was allegedly too committed to the letter of the constitution. As Nathan (1976, p.223) puts it, Li was ejected because he 'stuck too literally to the written rules of the constitution when these conflicted with the unwritten rules of factionalism'.

The numerous changes of head of state, often combined with changes of constitution would have further eroded public confidence in the capacity of the democratic system to make China strong. Sun Yat-sen lasted just over two months as Provisional President before Yuan succeeded him. Although Sun secured the promulgation of the 1912 Provisional Constitution as a compromise for stepping down, this document (and its proposed replacement the 'Temple of Heaven Draft'), was rendered ineffective by Yuan within 18 months. Yuan's 1914 Constitutional Compact made a mockery of constitutional democracy by placing absolute power in Yuan's hands and by late June 1916, with Yuan dead, the Provisional Constitution was revived, the 1913 Parliament was restored and Li Yuanhong was named as President. But Li lasted just over a year following his tumultuous relationship with his more powerful Premier Duan Qirui and in July 1917

Li was replaced by Feng Guozhang following a military coup. Feng's own brief reign was marked by a split between northern and southern China following the establishment in Guangzhou of Sun Yat-sen's "constitution protection government" (*hufa zhengfu*) (which was itself deeply divided) and in September 1918 Feng was replaced by Xu Shichang. Xu was at least elected (in accordance with the constitution) by a new parliament (the first since 1913). However, Xu's incumbency, albeit comparatively long (Xu lasted nearly four years in the post) was characterised by military conflict between the Zhili and Anhui cliques and yet another change in constitution known as Anfu Draft of August 1919, so-called because of the dominance of the Anhui political faction (Houn, 1957, pp.179–80).

A similar pattern of political turmoil and instability continued into the 1920s. Li Yuanhong returned as President in June 1922 only to be usurped by Cao Kun a year later. Cao then enacted the Cao Kun Constitution of October 1923 which he intended to be a permanent constitution (Quigley, 1924), but after Cao's demise the following year, a new temporary document was introduced called the Regulations of the Chinese Republican Provisional Government under the stewardship of the returning Duan Qirui (Nathan, 1983, p.264). As China plunged further into military conflict between rival warlord factions (Sheridan, 1983), a series of unelected and ineffective "regency cabinets" were established in Beijing before Zhang Zuolin declared himself "grand marshal" of China in June 1926. Zhang was finally defeated by Chiang Kai-shek's KMT in June 1928 following the KMT's two year Northern Expedition. This signalled the end of China's disastrous experiment with democracy, although in truth it had probably ended some years before then.

Amidst the turmoil of all these changes of president and constitution, China did hold two further national elections to parliament, in May and June 1918 under the auspices of Duan Qirui (which elected the so-called Anfu Parliament) and then again in summer 1921 under the auspices of Xu Shichang (Nathan, 1976, pp.92–103 & p.183). But neither can be described as successful nor in any way helpful to the nation-building project. For example, five Chinese provinces from the south (comprising Sun's "constitution protection government") boycotted the 1918 elections in protest at Duan's refusal to reconvene the 1913 Parliament, whilst the delegates from Tibet, Xinjiang and Qinghai were hand-picked by Beijing. The situation was even worse during the 1921 elections when only 11 Chinese provinces participated which made it impossible for parliament to convene. The sweeping

restrictions on who was entitled to vote and stand for election during the 1912/13 elections were not removed for the 1918 and 1921 elections, leaving millions of Chinese citizens excluded from and disinterested in the political process. Corruption remained a prevalent and deleterious feature of the electoral process. In fact it probably got worse, particularly during the 1918 elections which were completely overshadowed by the increasingly high cost of votes.

All of the factors noted above seriously undermined the viability of the whole democratic process not only as a process in itself, but also as a vehicle for making China strong. Democracy had palpably failed to unite ruler and ruled in the fight to defeat the imperialists. Warlord control and the continuing foreign presence had ensured that China remained weak and divided. Moreover, as Japan began amassing its troops in preparation for an attack on China's north-eastern border, it was increasingly thought that a new and more effective political system was needed to strengthen the Chinese nation. This method was authoritarianism, the focus of the next chapter.

3

Towards Authoritarianism: Withholding Democracy and Rights for the Good of the Nation (1928–49)

A strong consensus emerged amongst reformers during the late Qing dynasty that the introduction of a system of democracy and individual rights might well provide the solution to China's problems of national weakness. The thinking was that greater political participation and freedom of expression would encourage the Chinese people to rally behind their government in the ongoing quest to defeat foreign imperialism. Yet, as we saw in the previous chapter, by the early 1920s many Chinese thinkers had lost faith in the wisdom of this view. The parliamentary system implemented during the early years of the Republic had been plagued with problems from the outset, including corruption, party factionalism, innumerable changes of constitution and president and even a self-declared "grand marshal", Zhang Zuolin. Meanwhile, China remained at the mercy of foreign powers, notwithstanding its new democratic institutions. This apparent failure of democracy to make China strong convinced the KMT, under the leadership of Chiang Kai-shek, that a one-party system of government offered a better route to national salvation. By June 1928, the KMT had assumed full control of China's National Assembly from the new capital in Nanjing, signalling the beginning of what became known as the Nanjing Decade.

But as we will see in this chapter, despite its move towards single-party rule, the KMT insisted that it had not jettisoned democracy for good. Rather, democracy would be placed "on hold" during a period of political tutelage in which the KMT would "educate" the Chinese masses in the practicalities of democratic local self-government until they were able to fully understand and operate within such a system.

Notwithstanding this proposed delay to the implementation of democracy, the Chinese tradition of linking democracy with nation-building remained apparent within the tutelage idea. The only difference from earlier Chinese thinking related to the timing and pace at which democracy would be introduced. Whereas previously it was thought that the immediate implementation of democracy would help to fortify the Chinese nation, it was now felt that democracy needed to be introduced more gradually from the lower level upwards. In the meantime, the KMT would rule the country single-handedly to ensure that China became stronger, whilst the gradual introduction of democracy would facilitate the strengthening process.

Constitutional practise in the Nanjing Decade was also dominated by the imperatives of a strong nation-state. For example, although a number of rights were stipulated in the two constitutions promulgated during Nanjing – in 1931 and 1936 – the KMT insisted, as Sun had done after 1924, that the Chinese people must be prepared to sacrifice their rights for the common good of the nation, the logic being that without a country that was free from foreign domination, the individual could not be free. However, in reality it was less a case of people voluntarily giving up their rights and more a case of the KMT actively withdrawing those rights, in what became an increasingly repressive period of Chinese history. This, in turn, drew criticism from liberal thinkers such as Hu Shi, Luo Longji and Cai Yuanpei who rejected the assertion that individual rights were potentially damaging to national unity and encouraged the KMT to loosen its restrictions on the exercise of rights and the freedom of expression. Indeed, Cai saw the relaxation of political controls as a pre-requisite to the creation of a strong China, arguing, in a familiar Chinese manner, that the people would only come to support the nation if they were afforded basic democratic rights and freedoms.

The outbreak of the Second Sino-Japanese War in July 1937 intensified the debate inside China about the best political means of achieving national stability and once again attention focused on the extent to which democracy and rights could assist with this objective. Many thinkers insisted that Japan could only be defeated if China embraced a democratic system. They included not only KMT representatives such as Wang Jingwei, but also the CCP leader Mao Zedong. Mao advocated a consensual form of democratic government founded on a broad-based coalition of politicians, intellectuals and other influential figures in society as the best way to oust the Japanese. He also believed that democracy would be highly effective in encouraging

the masses to take up arms against the Japanese because it would give them a sense of purpose and inclusiveness in the fate of their much maligned country. Other non-CCP/KMT participants in the debate included scholars such as Shi Fuliang and Fu Yushen, together with members of the Chinese Democratic League (CDL), an organisation which formed in opposition to KMT violations of human rights. However, even these most ardent of pro-democracy advocates recognised the nation-building potential of the democratic system and discussed democracy and rights within this context.

Political tutelage and national building

We have already noted some of the key failings of the Chinese parliamentary system, implemented after 1912. These apparent flaws with the system, along with its inability to fortify China in the struggle to eliminate warlordism and foreign imperialism, persuaded the KMT of the need to intervene militarily in what became known as the Northern Expedition. This comprised a two year armed campaign which moved steadily north from Guangzhou, culminating in the ousting of Zhang Zuolin in June 1928 and the establishment of an authoritarian single-party system in Nanjing (Jordan, 1976). The KMT leader Chiang Kai-shek was appointed Director of the State Council (the equivalent of President) in October 1928 and immediately banned all other political parties. This included the CCP, whose numbers had been greatly diminished by a KMT assault in April 1927 known as the Shanghai Massacre, effectively destroying the First United Front that had been formed between the two political parties in 1922 (Van Slyke, 1967).

Eastman (1974, pp.145–6) notes that this decisive shift towards authoritarianism was not just a symptom of domestic disenchantment with democracy. China was also influenced by an ongoing trend towards authoritarianism in the international arena, particularly in single-party states such as Italy (under Mussolini), Germany (under Hitler) and the Soviet Union (under Stalin). Moreover, the perception in China was that even seasoned stalwarts of democracy such as the US (under Roosevelt) and Britain (under Ramsey MacDonald) were turning against democracy as they struggled to cope with ever deepening economic depression: 'if even these wealthy nations, with a democratic tradition, were abandoning democracy, [the] Chinese reasoned, then surely it was inopportune to perpetuate the experiment in China' (Eastman, 1974, p.146).

Notwithstanding its dissolution of a multi-party system of government, the KMT maintained that it had not turned its back on democracy. The basis of this claim was grounded in the espousal of the late Sun Yat-sen's concept of political tutelage, the second of a three stage process which Sun referred to as his "nationalist revolution" (*minzhu zhuyi geming*). The first stage was the unification of China through military force. This stage had already been completed via the Northern Expedition, although in truth China was far from unified in 1928. The tutelage stage referred to a process in which the KMT would "tutor" the Chinese masses in the practicalities of democracy until China was fully equipped to understand and implement a comprehensive system of constitutional democracy. According to Sun's 'Fundamentals of National Reconstruction' published in 1924 (Ch'ien, 1950, pp.462–4), the process involved sending fully trained party representatives down to the county level to provide guidance and instruction on the logistics of democratic self-government. Under the close supervision of these representatives, the citizens of a completely self-governing county would exercise what Sun referred to as the "four rights" (*sange quanli*): the right to vote directly for public officers, the right to recall public officers, the right of initiative (namely, the proposal of new laws) and the right of referendum. Once every county in a given province had achieved the requisite level of self-governorship, that province would be in a position to hold elections for the post of provincial governor. When more than half of all provinces had done so, the National Assembly in Nanjing would be convened in order to promulgate a constitution. Following this, the government would dissolve itself and a new government would be elected by the people, now fully conversant with the democratic system. This would mark the third and final stage of Sun's "nationalist revolution".

In terms of the relationship between locality and centre, each county would be required to contribute a percentage of its annual revenue to the provincial capital. The amount to be contributed would be decided annually by elected county officials, albeit within a threshold set by the provincial governor. In turn, an annual contribution would be made by each province to Nanjing using the same process of local decision-making within a centrally determined threshold. The overall objective was to achieve a satisfactory balance between centre and locality, such that matters of national import would be decided by Nanjing, whilst local issues would be determined by the relevant province or county.

The doctrine of political tutelage was grounded in a number of very questionable assumptions, some of which we will examine shortly. But setting this aside for the moment, for the purposes of this book we can see once again a very clear and emphatic link between democracy and nationalism. The fundamental objective underpinning Sun's concept of tutelage was to make China strong in the face of continued warlord fragmentation and foreign aggression. However, in contrast to earlier Chinese approaches (both late Qing and Republican), Sun and the KMT came to believe that the immediate introduction of parliamentary democracy could not achieve the goal of a strong China and, if anything, had been detrimental to the nation-building process. It was now felt that the better way was to move more gradually towards parliamentary democracy from the county level upwards, all under the close guidance of the KMT. So, in this regard, democracy remained a means to national salvation and reconstruction, but it was a more measured, grass-roots type of democracy within a wider paternalistic government framework. By the time China was ready for a return to parliamentary democracy, the country would already be strong by virtue of a single-party, authoritarian state. But the gradual introduction of democracy at the lower level would facilitate that strengthening process. The restoration of full parliamentary democracy would signify the culmination of the nation-building project and would ensure that China remained strong thereafter.

So what were the key flaws in Sun's thinking on political tutelage? First and foremost, Sun erroneously assumed that the KMT was suitably equipped to lead the way on democracy, that it would somehow be 'equal to the task of educating and training the people' as Fung (2000, p.31) puts it. But this was far from the case. Not only was there little real understanding of democracy within the ranks of the KMT, but there was also a lack of any genuine desire to understand and implement the idea. This stemmed from the very top of the party in the form of Chiang Kai-shek who was much more inclined toward fascism than democracy and during his incumbency as China's paramount leader Chiang frequently resorted to coercion and dictat to get his way (Eastman, 1974, pp.31–84).

Secondly, Sun assumed that the KMT would be willing to give up political power voluntarily when the time was right for China to embrace constitutional democracy. But under the control of someone like Chiang (or any other head of an authoritarian state, for that matter) this was never going to happen. In this way (and just like

Lenin's 'Dictatorship of the Proletariat'), 'political tutelage contained within itself the seeds of power corruption, producing a new self-serving elite that held on to power indefinitely, thereby blocking the transition to constitutionalism' (Fung, 2000, p.31).

Thirdly and leading on from this point, Sun never specified for how long the period of political tutelage should run. This gave Chiang an opportunity to remain as China's head for as long as he desired, based on the claim that China was not yet ready for parliamentary democracy (Chiang was "in power" until January 1949 with no hint of parliamentary democracy in sight). To be fair, the KMT's Third National Party Congress held in March 1929 did put forward a six year period of tutelage, anticipating that a constitution would be promulgated in 1935 by the National Assembly, followed by the election of a new government. For a number of reasons, including the categorical failure by the KMT to implement a system of tutelage (not a single county became self-governing), these elections never took place.

Constitutional rights during Nanjing

Despite the KMT's failure to introduce parliamentary democracy to China, it did manage to promulgate two constitutions during the Nanjing Decade, both of which require analysis within the context of Chinese nation-building.

The Tutelage Constitution

The Provisional Constitution for the Period of Political Tutelage of the Republic of China, better known as the Tutelage Constitution, was enacted in May 1931. Chiang was apparently ambivalent about the need for a constitution, but felt obliged to authorise the drafting of the Tutelage Constitution after his KMT rival Wang Jingwei had collaborated with the warlords Feng Yuxiang and Yan Xishan to produce their own provisional constitution in 1930 (Bunker, 1972). Like the 1912 Provisional Constitution, the Tutelage Constitution devoted an entire chapter to citizens' rights. In addition to the "four rights" noted earlier (Article 7), the constitution accorded citizens with, amongst other things, 'the liberty of conscience' (Article 11), the freedom 'to choose and change their residence' (Article 12), 'the right to the privacy of correspondence and telegraphic communications' (Article 13) and 'the freedom of assembly and formation of associations' (Article 14). Other rights included 'the liberty of speech and publication' (Article 15), 'the right of petition' (Article 20), 'the right to institute judicial proceed-

ings' (Article 21) and 'the right to compete in civil service examinations' (Article 23).

Each of the rights contained in these articles were stipulated, in typical constitutional fashion, as the entitlement of "all persons". However, the extent to which they were genuinely enjoyed by everyone (or anyone) has been cast into doubt many times (Eastman, 1974; Sheridan, 1975). Such doubts still hold true today despite the recent and very strong evidence put forward by Dikotter (2008) of a much more open and liberal society during the Nanjing Decade than was previously thought. We will come back to this shortly. But if we focus firstly on why these rights were included in the Tutelage Constitution, we return once again to the perceived needs of the nation and the primary importance attached to national salvation. In contrast to late Qing and early Republican thinking, there was no clear assertion that the bestowal of rights to the people would somehow engender a sense of national loyalty which the ruler could then channel into the nation-building project. Many people in China had moved well beyond that line of thinking by this point. Whilst the preamble to the Tutelage Constitution made it clear that the overall aim was 'to rebuild the Republic of China on the basis of the Three Principles of the People', it was now overwhelmingly felt (in line with the growing trend towards authoritarianism) that only those rights which assisted the cause of national reconstruction were legitimate. Consequently, and in keeping with Sun's reformulated Three Principles of 1924, the emphasis was now on encouraging people to give up their constitutional rights for the national good. This accorded with Sun's logic that the individual could only become free if China was free and any rights that detracted from that overall cause would militate against the genuine realisation of individual freedom.

One of the keenest exponents of this view was the influential KMT constitutionalist Wu Jingxiong, also known as John CH Wu, who was Chairman of the Constitution Drafting Committee of the Legislative Yuan during the 1930s (Greiff, 1985). Writing in 1936, Wu borrowed heavily from the remarks made by Sun 12 years earlier in claiming that the European and American quest for freedom was completely different to the Chinese case. This was because the US and Europe took the individual as the starting point in the struggle against feudalism and despotism, whilst in China the starting point was necessarily the nation:

> Back then, the great problem for the people of Europe and America was how to save themselves. Our great problem is how to save the

> nation and the race. Our nation and our race have long fallen under oppressive and exploitative circumstances. Our current conditions are worse than before. If we are to save the nation, to save the race, we cannot but ask each individual to sacrifice his freedom with all his strength in order to seek the freedom of the group (Wu and Huang, 1937, p.909).

But, in practice, did any of this make sense? Were the Chinese people really going to be prepared to willingly give up their constitutional rights for the sake of the nation? The answer was no and the KMT probably knew that, which is why they reverted to actively withholding individual rights during the Nanjing Decade. Indeed, Wu's above quotation is very pertinent to this point because it is extracted from the lengthy explanation he put forward to justify why his Constitutional Drafting Committee agreed to give the KMT legislature the power to rescind individual rights under the 1936 Draft Constitution, to which we will turn shortly.

We should also question the logic of drafting so many constitutional rights if the KMT never really had any intention of letting people exercise them. Why bother in the first place? This probably had much to do with internal party politics and the need to placate the more liberal elements within the KMT by at least paying lip-service to constitutionalism and democracy even if the dominant elements within the KMT were not serious about implementing those concepts. We noted earlier the perceived threat posed by Wang Jingwei's "breakaway" constitution of 1930. It is likely that the detailed chapter on rights contained in the Tutelage Constitution was an attempt to keep Wang, and others like him, happy.

It is worthwhile, at this juncture, briefly assessing how the KMT's portrayal of rights differed from conventional liberal notions. We saw in the introductory chapter how, according to classical liberal thinking, the origins of rights are thought to derive from our innate moral worth. We have human rights because we are important as human beings and are therefore worthy of protection. In this way, our basic human rights exist prior to and irrespective of the laws of the state. By contrast, KMT perceptions at this time saw rights as deriving directly from the state and the laws it enacts. In a similar manner to the 1908 Principles of the Constitution discussed in Chapter 1, rights were "grants", handed down by the state to the ordinary masses. By the same token, just as rights could be bestowed on the people from "on high", they could just as easily be taken away.

We noted a little earlier the rather spurious claim in the Tutelage Constitution that rights were the entitlement of "all persons". This looks even more spurious when we consider that just two years earlier the KMT had adopted a policy which contradicted this claim. During the March 1929 Third Party Congress, the KMT decided that rights were not to be enjoyed equally by all people but were conditional upon an individual's loyalty to the nation-building objectives of the KMT. Since the paramount goal of the day was the survival and reconstruction of the Chinese nation, only those people who were loyal to these goals, as enshrined in Sun's Three Principles, were entitled to enjoy rights. As the KMT theorist Sa Mengwu (1928, p.3) wrote 'only the Three Principles of the People can save China. So only the supporters of the Three People's Principles should have rights'. This was a view shared by liberal KMT members such Zhou Fohai (1928) who later broke ranks with the KMT but still held firm in his conviction that loyalty to the nation was a pre-requisite to the enjoyment of rights.

In order to reinforce the relationship between loyalty to the KMT's nationalist objectives and individual entitlement to rights, the Congress proposed that all Chinese citizens should swear an oath of allegiance to the Three Principles. Only those citizens who swore this oath could enjoy rights, a position endorsed earlier by Sun himself in developing his concept of "revolutionary rights" (*geming quanli*):

> Democratic rights in a republic should be enjoyed only by the citizens of the republic; they must not be carelessly bestowed on persons who oppose the republic and would use them to wreck it. In China's case this means that all freedoms and rights may be enjoyed by any groups and individuals who authentically oppose imperialism; but groups and individuals who sell out the country and deceive the people on behalf of imperialism and the warlords are not to enjoy these freedoms and rights (Nathan, 1986a, p.90).

A similar statement was made in the KMT's 'Order for the Protection of Human Rights' promulgated in April 1929 by way of follow up to the statements made at the Third Party Congress (Song, 1947, p.79). In it, the party insisted that Chinese citizens had 'a sacred obligation to obey and support the KMT and the Three Principles of the People' if they wanted to enjoy their constitutional rights. More specifically, 'the highest authority of the KMT would, if necessary, withdraw the freedom of assembly, association, speech and publication within the limits of the law, especially for those counter-revolutionaries who oppose the cause

of saving our nation'. The 'April Order' also insisted that 'individuals and organisations' were forbidden from violating the rights of other individuals, although the KMT itself appeared to be above the law in this regard, a point duly noted by Hu Shi, as we will see shortly.

The requirement that citizens must swear what amounted to a "loyalty oath" if they wanted to enjoy rights was not replicated by the CCP after 1949. But this did not mean that rights were to be enjoyed universally by everyone in China. As we will discuss in the next chapter, although entitlement to rights remained conditional, it was conditional upon an individual's class status in keeping with the parameters of Chinese Marxism. In very broad terms, this meant that members of the proletariat were entitled to rights but members of the bourgeoisie were not.

The Draft Constitution

If we turn now to the 1936 Draft Constitution, the rationale for enacting this constitution was not altogether clear and it certainly did not appear to be consistent with Sun's 'Fundamental Principles of National Reconstruction'. For example, the references to political tutelage were ambiguous, as were those relating to the objective of achieving full constitutionalism. Ch'ien (1950, p.298) suggests that the decision to go ahead with the Draft Constitution was part of a compromise reached between Chiang and his liberal rival Sun Fo, President of the Legislative Yuan. Sun had been an avid supporter of constitutionalism since 1932 and it was politically expedient for Chiang to accede to Sun's wishes in order to keep him from standing against Chiang's government. This draws parallels with the Wang Jingwei case at the beginning of the 1930s which obliged Chiang to authorise the Tutelage Constitution.

As with previous Republican constitutions, the Draft Constitution contained the usual broad array of citizens' rights and freedoms, ranging from rights to vote and stand for election, to rights of free speech, privacy of person and privacy of correspondence. Crucially, however, the Draft Constitution stipulated that these rights could only be exercised 'in accordance with the law'. On the face of it, the inclusion of this phrase does not seem unreasonable. The authors of the Draft Constitution would no doubt have argued that constitutional rights, by their very essence, were only exercisable in accordance with law – such rights are provided by law and can only be enjoyed within certain legal confines. This would be a perfectly acceptable position to take if China had genuinely embraced the rule of law by 1936, but this

was not the case. Consequently, as Fung (2000, p.48) notes 'the inclusion of the phrase diluted the notion of rights and undermined the constitutional protection of them against arbitrary government action'. Indeed, as noted earlier, Wu Jingxiong and the Constitutional Drafting Committee were only too keen to give the KMT powers to rescind individual rights under the Draft Constitution. The phrase 'in accordance with the law' acted as a proviso for the KMT to do just this.

Notwithstanding Wu's efforts to restrict rights, which brought him into conflict with the Vice-Chairman of the Drafting Committee Zhang Zhiben (who subsequently resigned his post), Wu was by no means a political hardliner within the KMT. Indeed, compared to the vast majority of his KMT colleagues, Wu was on the liberal wing and this is reflected in the provisions of the more progressive 1946 Constitution for which Wu was primarily responsible (Greiff, 1985). But ultimately, just like many others at the time, Wu valued rights not for the intrinsic value that they might hold for the individual but for their worth to the nation. For example, in (unsuccessfully) arguing his case to include the right of marriage in the Draft Constitution, Wu portrayed it as an instrument for the creation of strong, well-developed individuals who would act as the cornerstone of a strong, well-developed nation. The right to marry 'will permit freedom of love, freedom of marriage, happiness of man and wife, so they can produce lively, clever, and strong little citizens, enabling the race to gradually turn weakness into strength' (Wu, 1933, p.42).

Non-official views on democracy and rights during Nanjing

We should note at this juncture that the official KMT position on rights and democracy, whilst prevalent, was not the only perspective to be espoused during the Nanjing Decade. Just as there was during the late Qing and early Republican periods, a number of more liberal views were put forward (Fung, 1998, 2000, pp.51–143; Svensson, 2002, pp.159–86), although the frequency and voracity of such views had noticeably diminished by the mid-1930s as the KMT became increasingly intolerant of dissent. This growth in liberal perspectives came about as an expression of opposition to the repressive nature of the KMT regime. We noted earlier the anti-communist witch-hunt that took place in Shanghai in April 1927. This continued into the 1930s, often at the hands of Chiang Kai-shek's notoriously brutal fascist Blue Shirts Society (Elkins, 1969) and included the arrest and imprisonment of Chen Duxiu. Many other communists were executed or assassinated,

forcing the CCP to re-organise and re-build itself in the countryside. In addition to anti-communist repression, a new press law was introduced in 1930 which gave the KMT broad powers of media censorship. According to Ting (1974) this resulted in the forced redaction of newspaper and magazine articles that were critical of the KMT, the subsequent closure of many of these newspapers and magazines and even the arbitrary arrest and execution of many editors and journalists who refused to be silenced by the government. However, more recent scholarship on the Republican era suggests a much greater freedom of publication than previously thought (Zhang, 2011) and even a KMT tolerance of CCP newspapers that were explicitly hostile to the KMT such as the 'Xinhua Daily' (*Xinhua Ribao*) that was permitted to operate in KMT-controlled areas between 1938 and 1947 (Xin, 2011).

One of the most prominent exponents of a liberal rights perspective and a particularly vocal opponent of the KMT was the writer and May Fourth activist Hu Shi. Following the success of his 'New Youth' magazine during the previous decade, Hu joined forces with other Chinese literary figures such as Xu Zhimo and Liang Shiqiu to set up a Shanghai-based monthly magazine in 1928 called 'The Crescent' (*Xinyue*) (Spar, 1992). Although the magazine started out with an exclusively literary focus, it quickly became politicised, shifting its critical attention towards the KMT's neglect of democracy and abuse of human rights. Hu and his fellow editors fiercely rejected the KMT orthodoxy that rights derived from the laws of the state and could be given or taken away in accordance with the state's objectives. They also condemned the KMT practise of depriving individuals of their rights in the supposed cause of national salvation. As Svensson (2002, p.161) notes when summarising their views 'national needs, they argued, should never be used as an excuse to suppress individual freedoms; furthermore, there did not exist any necessary correlation between the sacrifice of individual freedom and the realization of national freedom'.

Hu published a number of right-related articles in 'The Crescent'. One of most forthright, entitled 'Human Rights and the Provisional Constitution', was a direct response to the KMT's 'Order for the Protection of Human Rights' discussed earlier. In it, Hu made a number of key observations, two of which we will examine now. Firstly, Hu (1929) noted that although the 'April Order' forbade "individuals and organisations" from violating the rights of other people, it did not impose a similar restriction on the KMT. This was ironic in the extreme given that the KMT was in fact the main organisation that was engaged

in violating individual rights. Secondly, Hu lamented the absence of any legal recourse for those who were accused of being "counter-revolutionaries" of not "obeying and supporting" the KMT, citing several cases of arbitrary arrest and detainment in direct relation to this. These included the (unnamed) Dean of Anhui University who was detained for denouncing Chiang Kai-shek without access to a lawyer (or even his friends and family) and the imprisonment and torture of Tangshan businessman Yang Runpu for allegedly buying and selling arms. Hu also queried whether the patriotic activities of anti-Japanese civil organisations fell into the ill-defined category of "counter-revolutionary". Whilst on this point, Hu condemned the KMT's domination of the judiciary in cases involving alleged "counter-revolutionaries", insisting that the judiciary should remain independent of the party and criticising in general the tendency towards the "rule of man" (*renzhi*) rather than the "rule of law" (*fazhi*). The only way to properly implement the rule of law in China, Hu argued, was through constitutional measures, although he later expressed his dissatisfaction with the 1931 Tutelage Constitution (Hu, 1933).

Like Hu, the foreign trained political scientist Luo Longji challenged the KMT on the subject of human rights (Narramore, 1983). In his article 'On Human Rights' published in 'The Crescent' in 1929, Luo dismissed the idea that rights were "grants", handed down to citizens by an all-powerful state. Quoting directly from his intellectual protégé, the British political scientist Harold Laski, Luo (1929, p.11) insisted that 'put simply, the state cannot create human rights, it can only recognise them'. Moreover, in Luo's (and Laski's) view, the very credibility of the state depended on the extent to which it acknowledged and protected human rights: 'the quality of the state, at all times, can be measured according to the level at which it recognises human rights' (1929, p.11). But Luo was not a rights purist by any means. Although he recognised the intrinsic value that rights held for individuals, he was just as interested in the contribution that rights could make to the collective welfare of society. With this in mind, Luo believed that individual rights should not be exercised in a manner that militated against social interests. The individual, in his view, was a member of society and as such the welfare of the individual depended on the welfare of society. The two were inseparable. Logically therefore, individuals who asserted their rights in contravention of the common good were acting against their own good.

Notwithstanding Luo's instrumentalist assessment of individual rights, he was not in favour of removing individual rights for the sake

of national unity. He roundly condemned the KMT for doing precisely this and for forcing citizens to focus exclusively on their duties to the nation but without properly safeguarding their rights. In a 1930 article published in 'The Crescent' entitled 'What Kind of Political System Do We Want?', Luo (1930, p.6) wrote that the KMT 'does not ask what rights the state gives the people, but still insists that "save the nation" and "love the nation" are the unconditional obligations of the people'. It is significant to note that ten years later and with China at war with Japan, Luo (1940) became slightly less insistent on this point. He also began to favour the administrative efficiency of a coalition government over democracy and popular sovereignty ideals, although he did not go as far as embracing authoritarianism and was never a supporter of the KMT.

Another outspoken opponent of curtailing individual rights for the good of the nation was the high-profile intellectual Cai Yuanpei, one of the founder members of the China League for the Protection of Civil Rights, along with, amongst others, Song Qingling, the widow of Sun Yat-sen. The organisation was set up in December 1932 in protest at the KMT's increasing suppression of left-wing scholars and suspected communists, although it lasted only six months following the assassination by the Blue Shirts of another member, Yang Quan (Svensson, 2002, p.172). Cai believed that individual rights were sacrosanct and must always be placed over and above the national interest (Gao, 1985). He was particularly passionate about the freedoms of speech and publication which were not, in his opinion, potentially damaging to national stability as the KMT repeatedly stated, but were imperative if China wanted to save itself from foreign imperialism. If the Chinese people did not enjoy these basic freedoms, they would not be prepared to support the cause of national salvation. In other words, it was simply unrealistic to expect people to somehow feel duty-bound towards the nation if their government was not prepared to give them even the most basic rights and freedoms. What is striking about the logic of this view is its similarity to that espoused by earlier Chinese rights theorists such as Yan Fu and Liang Qichao, both of whom believed that giving people rights was important because it would engender feelings of popular loyalty to the nation and would help rebuild China. Although Cai was not as calculated or single-minded in his analysis as Yan and Liang, his correlation between individual rights and a strong nation was plain to see.

In keeping with the general atmosphere of repression and hostility towards free speech, the views of liberal thinkers such as Cai, Hu and Luo were rejected out of hand by KMT loyalists. Hu, in particular, came

in for some sharp criticism. Indeed, senior government official Chen Dezheng (1930) published an entire volume entitled 'On Human Rights and Other Subjects' which was devoted to criticising Hu on the question of rights. In it, Chen lambasted Hu for allegedly 'worshipping' the idea of human rights and even went as far as accusing him of betraying the Chinese nation by refusing to endorse the KMT practice of revoking individual rights for the national good. In a similar manner to Sa Mengwu, Zhou Fohai and Wu Jingxiong, Chen insisted that in a time of national crisis the struggle for national freedom should always come before the struggle for individual freedom. This made curtailing individual rights inevitable and necessary, albeit undesirable.

Finally in this section, we should note an intellectual debate that took place between 1933 and 1935 which is often referred to as "democracy versus dictatorship" (Chen, 1989). The main perspectives of this debate were familiar enough. The pro-dictatorship exponents argued that only an authoritarian government under a single-party system would be strong enough to withhold foreign, particularly Japanese aggression, although some doubted whether the KMT was adequately enlightened to lead China forward. Conversely, the pro-democracy exponents insisted that China should immediately return to a multi-party, parliamentary form of democracy which protected individual rights and freedoms from the arbitrary abuse of the state. Some saw this as desirable in itself, whilst others saw democracy as a means to nation-building ends. For example, democracy would provide the social and political space for people to think freely and creatively and so contribute to the needs of the state.

But what was significant about this debate was the number of liberal thinkers who, by this time, had turned away from democracy to varying degrees. They included Western educated scholars such as the natural scientist Ding Wenjiang, the historian and later Taiwanese diplomat Jiang Tingfu and in particular the constitutional historian Qian Duansheng, whose works are also cited in this book as Ch'ien Tuan-sheng. By 1940, Qian came out strongly in favour of a single-party system for the long term in China (Qian, 1940). As Japan became ever more threatening after the invasion of Manchuria in 1931 and as Chinese independence became ever more threatened, these (and many other) liberals began to despair that China would ever be free and became desperate for China to resist Japan at whatever cost, even if it meant reluctantly abandoning their liberal ideals (Lubot, 1982, pp.95–114). As Svensson (2002, p.180) surmises, 'many Chinese intellectuals advocated dictatorship less out of conviction than out of

despair; the sacrifice of individual rights was justified with reference to China's desperate situation and believed necessary in order to solve the national crisis'.

Democratic thought during the war period

The outbreak of full-scale war between China and Japan on 7 July 1937 triggered by the Japanese attack on the Marco Polo Bridge was the culmination of six years of intermittent military conflict and tension between the two countries. As the Japanese military moved rapidly south, brushing aside Chinese resistance in Beijing and Tianjin and capturing Shanghai and Nanjing by the end of 1937, the domestic debate about the best political means of achieving national salvation intensified.

KMT perspectives

Perhaps surprisingly given its unmistakable shift towards authoritarianism during the 1930s and its open advocacy of restricting individual rights, the KMT announced that it remained fully committed to a democratic solution to China's problems of national survival. As part of its 'Programme of Armed Resistance and National Reconstruction' adopted in March and April 1938, the KMT set itself a number of urgent tasks for achieving greater democracy, including eliminating official corruption, improving the organisation of the party at all levels so as to enhance administrative efficiency, ensuring that party members were better trained in the mechanics of the democratic system and accelerating the process of local self-government until China was ready for full constitutional democracy (Fung, 2000, pp.144–5). The assertion of this fourth objective was a reminder of the KMT's policy of political tutelage, stipulated much earlier in the decade but still not implemented, even partially.

Whether or not the KMT was genuine about implementing democracy is highly questionable given its poor track record in this area, but this is not directly relevant to the theme of this book. More significant is the clear and emphatic correlation between democracy and nationalism in KMT thinking. As with just about every debate that took place in China at the time (and indeed since the late nineteenth century), discussions of democracy were firmly framed within the nation-building context: could democracy be of assistance in the quest to defeat Japan or not? If democracy could be helpful in achieving this

end, then it was worth having and this is the line (at least officially) that the KMT took even after the war with Japan had broken out and the inevitable disruption and uncertainty that ensued.

A popular and familiar KMT theme during the war period was the perceived compatibility of democracy with strong government, although it was not always clear whether the belief was that democracy would help bring about strong government or whether strong government was necessary before democracy could be achieved. This ambiguity was outlined by the KMT's Wang Jingwei (not long before he defected to the Japanese side) in his July 1938 address to the People's Political Council (PPC), a broad-based national advisory body comprising representatives from across the Chinese political spectrum. On the one hand, Wang insisted that strong government came first followed by democracy, consistent with the doctrine of political tutelage. As Wu wrote, 'China needs a strong, powerful central government that can concentrate the strength of the masses, train them, and lead them'. 'Only then', Wang declared 'can [we] resist aggression achieve [national] independence and liberate [ourselves]. And only then will there be hopes for the realization of democracy' (Wang, 1938). On the other hand, Wang appeared to be suggesting that democracy was a means to the creation of a strong government (and therefore a strong nation) in the belief, not dissimilar to that espoused by late Qing reformers, that popular sovereignty enabled the nation's resources to be channelled into the hands of the government: 'without an able government [*neng*], the current difficult situation cannot be coped with; without popular sovereignty [*quan*], the nation's strengths and resources cannot be concentrated in the hands of the government for the purpose of resistance and reconstruction' (Wang, 1938).

Chiang Kai-shek's position on democracy and strong government was much clearer. In keeping with the later political perspectives of Sun Yat-sen, Chiang believed that China would have to wait until it was strong before implementing a system of representative democracy. Chiang expressed the familiar KMT concern that the unchecked exercise of individual rights was potentially detrimental to the authority of the state and therefore to the strength of the nation. This is because people would inevitably assert their rights selfishly and without regard to the greater good. With China facing the very real threat of extinction at the hands of the Japanese, Chiang believed that democracy and democratic freedom was synonymous with the freedom of the nation from oppression and Japanese rule. In light of this, Chiang believed,

the individual must be prepared to forfeit his rights for the cause of a strong China. As Chiang noted in his address to the PPC in July 1938:

> Especially at this critical moment of life and death for the entire nation-state (*minzu*) our real democratic freedom is definitely not the freedom of the individual or the freedom of a minority. It is the freedom of the entire country and nation-state, to which the freedom of the individual and freedom of a minority must be sacrificed. It can be said that to seek freedom, we need to recognize where the nation and the individual stand in relation to each other, as well as the needs of the time and the circumstances, so that the laws of the land can be enforced, the War of Resistance advantaged, the democratic structure established, and the foundations for the freedom of the entire nation-state laid (Chiang, 1938).

Chiang's insistence on the need for individual submission to the nation was clearly detailed in his 'Programme for the National People's Spiritual General Mobilisation' published in February 1939. More a doctrine on moral and physical well-being than on democracy and individual rights, the 'Programme' called on the Chinese people to develop their minds and bodies for the good of the country. They must develop their minds by studying the Confucian classics and practising the Confucian ideals of loyalty, filial piety, benevolence and righteousness and they must develop their bodies by exercising regularly, being clean, tidy and hygienic and even by getting out of bed early in the morning. All 'private and selfish designs' were to be set aside and people should 'refrain from expressing any views that would endanger the nation-state, sabotage the unified military and administrative commands, and undermine the government's war effort' (Chiang, 1939).

As part of this emphasis on the wholesale subordination of the individual to the requirements of a strong nation, Chiang insisted on the need for the Chinese people to develop a sense of what he referred to as "national duty" (*minzu yiwu*). For Chiang, it was nothing less than the moral duty of all Chinese citizens to support the KMT in working for the strength and unity of the Chinese nation. In doing so, Chiang believed that the individual would be demonstrating 'the utmost loyalty to the state [and] the utmost filial piety towards the nation'. This would enable every person in China to 'become the lifeblood of the nation and the backbone of the state' (Tan, 1972, p.164).

CCP perspectives

The intensification of hostilities between China and Japan shortly before war broke out laid the foundations for the Second United Front between the KMT and the CCP. This relative warming of relations created the political space for the CCP to set out its own thoughts on democracy. Notwithstanding their differing political ideologies (although both parties were organised along Leninist lines) and despite the legacy of conflict and hatred that existed between the two parties, they were largely at one on the overriding goal of democracy: to make China strong. In his May 1937 address to the National Conference of the CCP in Yanan entitled 'The Tasks of the Chinese Communist Party in the Period of Resistance to Japan', the CCP Chairman Mao Zedong insisted that democracy and the patriotic struggle to resist Japan went hand-in-hand and that without democracy, such resistance would never be achieved. Under the heading 'The Struggle for Democracy and Freedom', Mao (1937) stated that:

> Political, military, economic and educational preparations for national defence are all necessary for armed resistance to save the nation, and none of them should be delayed for a moment. But the key that will ensure victory for our armed resistance is the winning of political democracy and freedom. Armed resistance requires domestic peace and unity, but the peace already won cannot be consolidated and internal unity cannot be strengthened without democracy and freedom.

So what did Mao mean by democracy? First and foremost, he was referring to a consensual, co-operative form of democracy which embodied the united front spirit of the time, an approach that he was later to refer to as "new democracy" (*xin minzhu zhuyi*) (Mao, 1940). This approach was intended to combine and consolidate the experience and wisdom of all political parties in China (including the KMT) and all social classes, as well as embracing the views of intellectuals and representatives from different industries, regions and religious groups. In terms of specific democratic procedures, Mao referred to the necessity of holding genuinely democratic elections to the National Assembly (something the KMT had failed to do) and allowing the National Assembly to have the requisite freedom from political interference that it needed to make policy and promulgate a new constitution, all in the cause of national salvation: 'only thus can internal peace be truly

consolidated, internal armed hostilities ended and internal unity strengthened, enabling the whole nation to unite and resist the foreign foe' (Mao, 1937).

But for Mao, the value of democracy and its worth to the Chinese nation was not just in affording the government enough freedom to make nation-building policies or to finally prepare a full constitution that would embolden the country. Like his late Qing predecessors, Mao believed that democracy would also be highly effective in mobilising the masses and giving them a sense of purpose and involvement in the fate of their much maligned country: 'armed resistance requires the mobilisation of the people, but there is no way of mobilising them without democracy and freedom' (Mao, 1937). Mao suggested that without mass mobilisation, China would meet the same fate of Abyssinia (Ethiopia), a country defeated, Mao claimed, because its regime was undemocratic and thus did not 'rouse the initiative of her people'. In conclusion, Mao stated that 'without democracy, a genuine and solid national united front against Japan cannot be established in China and its goals cannot be attained' (Mao, 1937).

Notwithstanding his espousal of a democratic political system based on what looked strikingly like a liberal representative model of democracy, Mao had not suddenly swapped his commitment to socialism for the liberal alternative. Rather, in his speech 'On New Democracy' given in January 1940 to the First Congress of the Cultural Association, Mao made it clear that this form of democracy was intended only to be temporary, part of the "bourgeois-democratic" stage of the Chinese revolution and merely a stepping-stone towards Chinese socialism: 'the first step is to change the colonial, semi-colonial and semi-feudal form of society into an independent, democratic society. The second is to carry the revolution forward and build a socialist society' (Mao, 1940). But although this first stage was only transitory, it was likely to be long and protracted according to Mao and was deemed necessary in defeating Japan and the imperialists and in making China strong.

It is significant that Mao also referred specifically to rights and freedoms in his May 1937 address because these were concepts that he had rarely mentioned previously or indeed afterwards. In particular, Mao emphasised the importance of free speech, free assembly and free association. But here again, his objectives were directly linked to nation-building. As he put it, 'without such freedom, it will be impossible to carry out the democratic reconstruction of the political system, mobilise the people for the war of resistance and victoriously defend the motherland and recover lost territories' (Mao, 1937). Mao even

called for the release of political prisoners (at least, those who were deemed "patriotic") which was ironic with hindsight given the number of perceived political opponents that were incarcerated after Mao came to power in 1949.

Although in general Mao discussed rights within the context of defeating the Japanese and notwithstanding the supposed truce that existed between the CCP and the KMT during the Second United Front, the communists increasingly criticised the KMT for its violations of human rights. Mao's call for the release of political prisoners was clearly aimed at the KMT for imprisoning them in the first place and a number of disparaging articles on this subject appeared in the CCP-controlled press such as the 'Liberation Daily' (*Jiefang Ribao*) and 'Xinhua Daily'. Like Mao, future PRC Premier Zhou Enlai demanded that the KMT release so-called "patriotic" political prisoners, although Zhou was less concerned about the intrinsic value of individual freedom from arbitrary incarceration and more about releasing prisoners so that they could join the struggle to defeat Japan. In typical instrumentalist fashion Zhou insisted that 'the suppression of people's rights and freedoms were objected to [by the CCP] since this was believed to obstruct their ability to fight the Japanese' (Svensson, 2002, p.198).

The imminent military defeat of Japan by early 1945 did not change Mao's faith in democracy as a building block towards a strong Chinese nation. As the Second United Front began to break down, the KMT began to replace Japan as the perceived threat to national strength and unity and Mao became even more convinced of the necessity for alliance and compromise with potential allies of the CCP. In his speech 'On Coalition Government' made to the Seventh National Congress of the CCP in April 1945 Mao accused the KMT of 'disrupting national unity and obstructing democratic change' and insisted that China urgently needed to 'unite representatives of all political parties and groups of people without any party affiliation and establish a provisional democratic coalition government for the purpose of instituting democratic reforms' (Mao, 1945).

Independent perspectives

Aside from the perspectives of high-profile KMT and CCP figures, a number of other Chinese thinkers expressed positive views on democracy and rights in the temporarily more relaxed political environment that characterised the Second United Front. Some were from the minor political parties and groups that participated in the PPC, including representatives from the Chinese Youth Party, the National Socialist Party and the Third Party (Qiu, 1987; Jeans, 1992), later merging to form the

CDL (Zhao, 1992). Others who expressed views on the subject were completely independent of any party affiliation. Unlike Mao and the CCP, these more liberal thinkers wanted a system of democracy and rights to be established permanently in China. Democracy was more than just a temporary stop-gap. At the same time, they also acknowledged that the paramount objective of the day was to expel the Japanese military from China. Only democracy, it was felt, could achieve this objective.

A fervent exponent of this view was Shi Fuliang, who, unaffiliated at the time, later became a member of the China Democratic National Construction Association (CDNCA), which like the CDL, is one of the eight political parties legally recognised in the PRC. In his book 'On Democracy in the War of Resistance', Shi (1937), insisted that military and economic strength alone would not be enough to save China. The Chinese people would only win the war against Japan if their political system was adequately robust. This could only be achieved through democratic political reform. Shi saw democracy as a vital mechanism with which the government could acquire the loyalty of the masses. Like many of his contemporaries and predecessors, Shi believed that the participatory nature of democracy would draw the masses inexorably into the political arena and mobilise them in support of the elected government's patriotic objectives. This would serve to strengthen the government's position in the battle to expel Japan: 'there must be political reform so that the government can rest on a popular basis. With mass support, it will become a really strong and powerful government capable of resisting the Japanese to the very end' (Shi, 1937, p.21).

The Shanghai scholar and politically independent Fu Yushen agreed with Shi. In his book entitled 'Democratic Politics and the National Salvation Movement', Fu (1937) rejected the view that democracy would have wait until the war against Japan was over and that a democratic system could only be properly introduced during peacetime, as many pro-dictatorship exponents were arguing. One such exponent was Dison Hsueh-feng Poe (1977), a KMT member of the wartime Supreme National Defence Council. Poe asserted that since both Britain (under Churchill) and the US (under Roosevelt) were (allegedly) taking a more authoritarian political line during the Second World War, China should do likewise as it struggled to stave off the Japanese. But for Fu, this argument was nothing more than a cynical excuse to withhold democracy on a permanent basis, advocated by those who beneath their democratic pretence actually despised the idea. Instead, Fu believed that the implementation of democracy was a necessary prerequisite to the defeat of Japan.

A number of pro-democracy advocates feared the possible long-term consequences of not implementing a democratic system during the war, expressing real and (as it turned out) prophetic concerns that if China waited until after the war against Japan had been won before introducing democracy, then such a system would never properly come about because the appropriate foundations would not have been sufficiently laid. In other words, without democracy China would become increasingly divided and fragmented, leaving it incapable of building a true and robust democracy in the post-war era. This was the position taken by the CDL in a 1944 statement issued as a warning to the KMT: 'if democracy is not realised during the war, then what we will have after the war will not be democracy but the division and ruin of our country. The pain will be ten times of today's' (Fung, 2000, p.195). According to the CDL, democracy was the ideal antidote to all China's ills. Not just its political ailments, but its social and economic ailments as well.

As we might expect, those liberal thinkers who expounded the cause of democracy at this time were just as passionate about the cause of human rights. Following the demise in mid-1933 of Cai Yuanpei's and Song Qingling's China League for the Protection of Civil Rights, organised campaigns inside Chinese to safeguard human rights subsided. But in 1941 the struggle for human rights was resurrected by a semi-monthly magazine called 'Modern Critique' (*Shidai Piping*) established in Hong Kong three years earlier (Fung, 2000, p.196). Under the editorship of CDL founding-member Zhou Jingwen, the magazine published a special issue on human rights, mainly in response to contraventions of rights by the KMT. Like their liberal predecessors during the late Qing, May Fourth and Nanjing Decade, those who contributed to this special issue believed that rights were the entitlement of all human beings, irrespective of class, gender or race and were grounded in the innate moral worth of the individual rather than the laws and constitutions of the state. Like their liberal predecessors, these thinkers were writing within a domestic context that was dominated by the threat from foreign imperialism. But unlike their liberal predecessors, the threat from foreign imperialism at this time was more apparent than ever before, with Japan occupying vast swathes of northern and eastern China. As such, the urgency of this situation manifested itself in the pre-occupation with human rights as a path to national salvation.

Lin Guanping's article 'The Human Rights Movement and Unity in the War of Resistance' provides a good example of this pre-occupation. Although Lin (1941) took an orthodox liberal view of rights in terms of their universality and moral origins, the main focus of his attention

fell squarely on the quest to oust Japan and the perceived utility of rights in achieving this goal. Using a logic which was by now very familiar in China, Lin argued that if China was ever going to defeat Japan, the government needed the support of the entire population. Not surprisingly, it would never get that support if it continued to treat the masses with disdain by abrogating their rights arbitrarily and without concern for people's welfare. The only way forward was to allow people to openly exercise their basic rights and freedoms without fear of retribution or repression. Only then would the people be prepared to immerse themselves in the war against Japan under the leadership of the Chinese government. In other words, only the introduction of rights and freedoms could bring about the national unity and cohesion that China so desperately needed.

The PPC member Zou Taofen (1941) agreed with Lin's perspective on rights. Zou argued that a strong China would only materialise if there was a sense of national cohesion amongst the Chinese people, a unity of belief and purpose that cut across all political parties and all political backgrounds. Such unity was only attainable, Zou argued, if the people were free to exercise their rights. The KMT practice of withdrawing individual rights was counter-productive because it alienated the people, thereby increasing the possibility that China might lose the war. Han Youtong (1941) of the PPC also opposed the suppression of human rights during the war. According to Han, China was enmeshed in a military conflict that would determine the very future of the country and under these extreme circumstances it was imperative that the people were supportive of the state. Such support would only be attained if people had rights because the enjoyment of rights would enhance people's capacity for resistance and struggle.

Zhou Jingwen's own contribution to the 1941 special issue on human rights was an article entitled 'The Programme of the Human Rights Movement'. In the article, Zhou set out twelve basic rights to which all human beings should be entitled. These included the right to life, freedom of thought, freedom of speech and freedom of religion. Each of these rights, Zhou insisted, were fundamental to the protection of the individual and could not be sacrificed with the national interest as a pretext. At the same time, whilst these rights were of value in themselves, Zhou insisted, like so many of his contemporaries, that they were also essential for the successful struggle against the Japanese:

> These rights are not only guarantees for our lives as human beings but also the preconditions for social progress and cultural develop-

> ment. Only if these pre-conditions are fully developed can we realise national liberation and only then will the greatness of the nation have a real basis (Zhou, 1941, p.3).

The victory of authoritarianism

Wartime calls for the implementation of human rights and democracy in China were ultimately unsuccessful. On defeating Japan in September 1945, China remained an authoritarian state under the rule (albeit partial) of the KMT. In the weeks and months immediately after the war, the focus of national attention turned to brokering a political compromise between the KMT and the CCP as hostilities between the two parties quickly re-surfaced in Manchuria and elsewhere. High-level talks between Chiang Kai-shek and Mao Zedong (chaired by US General Patrick Hurley) were held in Chongqing and an agreement was reached on a number of general principles, including democratic principles such as the so-called "four promises". These were: (i) the holding of multi-party elections and overseeing the inception of local self-government, (ii) the legal guarantee of freedom of persons, religion, speech, publication, assembly and association, (iii) equality of legal status for all political parties operating within the law, including the CCP, (iv) the release of all political prisoners, except those who were classified as "national traitors" (for example, collaborators with the Japanese). Other agreed principles included the merging of the KMT and CCP militaries into a single armed force and the guarantee that only the police and law courts had powers of arrest, trial and imprisonment, following uproar about the arbitrary violence of Chiang's Blue Shirts (Fung, 2000, pp.264–6).

In an effort to implement these principles, the KMT convened the cross-party Political Consultative Conference (PCC) in January 1946. Other unresolved issues were also discussed including appropriate representation on the National Assembly, the legality of CCP base areas and the redesignation of communist troops. But in the end the PCC failed have any lasting effect, despite the high-profile nature of the talks and the direct involvement of the US (Fung, 2000, pp.279–82). The failure was partly because the PCC had no independent legal standing. Although representatives of the different political parties who attended the PCC were able to agree amongst themselves, in order for their decisions to be legally enforceable they needed to be approved by the executive committees of their own parties. Getting this approval proved to be impracticable, most notably for the KMT. In fact, it is not

unreasonable to say that the KMT (and certainly Chiang Kai-shek) had little interest in fulfilling any of the resolutions passed by the PCC. For example, none of the "four promises" were ever properly implemented. The KMT also acted against the spirit of the PCC, even while it was still in session, by ransacking the homes of several leading opposition figures (for example, Huang Yuanpei of the CDL). Moreover, shortly afterwards the premises of the 'Xinhua Daily' and the CDL's paper 'Democracy News' (*Minzhubao*) were attacked by unofficial groups with strong links to the KMT.

The onset of full-scale civil war in June 1946 made it even less likely that China would embrace a democratic system, although the war did not silence the debate on democracy and rights by any means. A number of new journals were established during this period with the specific purpose of criticising the autocratic tendencies of the KMT and to a lesser extent the CCP. The most popular, entitled *Guancha* ('Observation') had a circulation of more than 60,000 people by the time the KMT shut it down in December 1948, although the journal's readership was probably more than double that figure (Pepper, 1978, p.134). Following years of preparation and discussion China promulgated its first full constitution in 1946, containing plans for the implementation of democracy which were never realised in China, although the constitution is still in force in Taiwan. The constitution also contained a more detailed chapter on rights than in previous constitutions (Greiff, 1985).

Chinese attention also focused on international human rights, with KMT diplomats playing a key role in the preparation and drafting of the United Nations' UDHR, voting in favour of its adoption in 1948. This might seem strange given Chiang Kai-shek's patent disinterest in human rights and the large scale violations of human rights that took place under Chiang's watch. One explanation might be that the KMT needed international, specifically Western help, to fight its war with the CCP, so co-operation on human rights was one such way of gaining recognition from and favour with the West. At the same time, China sometimes appeared to go further in its suggestions on international protection on human rights than most Western governments were prepared to go, particularly in international law that promoted strong international organisations (Svensson, 2002, pp.200–6).

Notwithstanding the financial, military and strategic assistance afforded to the KMT by the US, the KMT famously lost the civil war and as the 1940s drew to a close, a new People's Republic was established under a new regime, the CCP. In some respects, this resulted in

little alteration to the official, state approach to democracy and rights. But in other respects the new era ushered in a radically different perspective and one which maintained the link with the all-encompassing objective of making China strong. This is the focus of the next chapter.

4

Protecting the People's Republic: Mass Democracy and Class Rights in the Mao and Early Post-Mao Eras

By the time the PRC was formally established on 1 October 1949, much of the country was already under communist control. Beijing fell by negotiated surrender in January 1949, consolidating the party's strong position in the north. From there, the People's Liberation Army (PLA) moved east, capturing Shanghai by April and Wuhan and most of central China by May. After that, the PLA met little sustained armed resistance, seizing the southern city of Guangzhou in mid-October and the south-western city of Chengdu in December. By the end of 1949 only Tibet and Taiwan remained out of reach. The Tibetan issue was resolved in May 1951 through a combination of military force and negotiation with local power-holders. Taiwan, of course, remains a major item of unfinished nationalist business more than 60 years later.

So on the face of it, China was finally united after decades of internal division, foreign occupation and war. As Mao declared at the opening ceremony of First Plenary Session of the Chinese People's Political Consultative Conference (CPPCC) in September 1949, 'ours will no longer be a nation subject to insult and humiliation. We have stood up. Our revolution has won the sympathy and acclaim of the people of all countries. We have friends all over the world' (Mao, 1949). But in reality, this was a superficial national unity. Notwithstanding the relative ease with which the PLA swept through the country during 1949, pockets of anti-communist resistance remained active well into 1951 in the form of remnant KMT military units and the forces of secret societies, ethnic minorities and other locally organised self-defence groups. Criminal gangs were also rife. According to Shue (1980, p.16), during 1950 over 210,000 bandits were killed or captured in the Central South Region alone (which included Hunan, Hubei, Guangdong). Perhaps most divisive of all was the entrenched socio-political influence of local landown-

ing elites whose interests lay in maintaining the pre-communist order. In an effort to eliminate this influence, the CCP began implementing a radical programme of land reform, but as we will see later this objective proved very hard to achieve and was not without serious set backs.

Nor was China genuinely free from the foreign threat, despite Mao's bold declarations to the contrary. In the immediate aftermath of the revolution, China's stability as a nation was scarcely any better than it had been before the revolution. Following its support for Chiang Kai-shek during the civil war, a fiercely anti-communist US was rapidly amassing troops across the East China Sea in Taiwan, raising genuine fears of an American-sponsored return to the mainland by the nationalists. Added to this was the continued US occupation of Japan and the heavy American military presence in Korea, soon to be a fierce battleground between US and Chinese troops. China's southern borders were not much more secure with a hostile French army fighting Ho Chi Minh's communist forces (with whom China was allied) in Vietnam. On its Western border, there was much domestic uncertainty over India's position on an independent Tibet, a prospect that was ardently opposed by the CCP. But it was arguably (and ironically) on its northern border with the Soviet Union where China was most vulnerable. Despite signing the 1950 Treaty of Friendship, Alliance and Mutual Assistance with the Soviets, tensions remained high between the two communist giants, primarily because the terms of the Treaty were disadvantageous to China. For example, the Soviets maintained control over the Eastern Railway in Manchuria on the trans-Siberian line, which had passed between Russian and Japanese hands during the first half the twentieth century. The Soviets also retained control over Port Arthur (*Lushunkou*) in Dalian and continued to pursue its exploitation of mineral resources in Xinjiang and Mongolia.

So as we will see in this chapter, it was against a backdrop of domestic instability and national insecurity that democracy and rights were interpreted and practised during the early years of the PRC and throughout the Mao era (1949–76). As with the late Qing and the Republic, the locus of state energy was channelled squarely towards making China strong, with democracy and rights seen as instrumental to this objective. A useful illustration of this was the Maoist concept of mass participatory democracy in which the masses were encouraged to come out in numbers and support and implement the government's radical new policies (known as mass campaigns) and in some cases even contribute to government policy (known as the mass line). Drawing on the earlier Qing and Republican tradition, the underlying

aim of mass democracy was to enhance popular loyalty to the new regime and its nation-building ambitions by making the masses feel as though they were an indispensable part of the national consolidation project. Assured of their loyalty, the party could then rely on the masses to protect and strengthen the country in the decades to come. Beyond this, some of the mass campaigns were actually designed to make China "physically" stronger by directing the masses towards projects that would increase economic production and strengthen China's infrastructure. This was a more direct way of linking democracy with national reconstruction and was most apparent during the Great Leap Forward.

A particularly good example of the link between nation-building and rights during the Mao era was the emphasis placed on "class rights" (*jieji quanli*). Marxist principles dictated that only proletarian "class allies" should be accorded rights because only they could be trusted to use them for the good of socialism and the nation. Conversely, bourgeois "class enemies" must be deprived of rights in the realistic expectation that they would use them to the detriment of society and the nation. In practise, the party took a slightly more versatile approach to class by acknowledging that certain smaller-scale bourgeois classes were potential allies of the state and were therefore worthy of rights. However, as we will see, any kind of class alliance with the CCP was often fraught with uncertainty, even for those who fell squarely within the traditional Marxist categorisation of the proletariat.

We will also examine how rights were strictly subordinate to the collective interests of the nation during the Mao era. As with previous Chinese constitutions, this was best illustrated by a constitutional provision empowering the state to withdraw any individual rights deemed to be harmful to the national interest. This was contained in the two Mao-era constitutions of 1954 and 1975 and in the two early post-Mao constitutions of 1978 and 1982 which we will look at in this chapter. Similarly, individuals were (and continue to be) encouraged to sacrifice their constitutional rights for the common good and to exercise their constitutional and moral duties before asserting his rights. These include duties to the nation.

Although individual rights (including political rights) were enshrined in all PRC constitutions, a vibrant discourse on rights and democracy was noticeably absent during the Mao and early post-Mao eras when open discussions of such issues were rarely tolerated. There were, however some exceptions to this and we will examine two of them: the Hundred Flowers Movement and Democracy Wall. In both cases, the discussion focused more on the innate value of individual

rights rather than their utility to the nation. In both cases, the movements were quickly shut down when they became perceived as a threat to party authority.

The principles of mass democracy

Like so many of his predecessors, Mao saw democracy and nationalism as synonymous. We noted in the previous chapter Mao's espousal of a consensual mode of democracy in which government could most usefully embrace a broad range of political and socio-economic views, not just from other political parties (some of them rivals of the CCP) but also from representatives of the religious, scholarly and (to a lesser extent) business communities in China. With China in danger of extinction at the hands of Japan, Mao believed that it was imperative to draw on the accumulated wisdom of as many people as possible, with the exception of those deemed as national traitors. Japan's demise in 1945 did nothing to change Mao's opinion on this point. As the Second United Front began to break down, the KMT replaced Japan as the perceived threat to national strength and unity and Mao became even more convinced of the necessity for alliance and compromise with potential allies of the CCP.

This partnerial approach to government and decision-making was no less apparent after 1949. In an effort to consolidate the process of national revival under the CCP, Mao oversaw the establishment of the CPPCC, a body that derived from the People's Consultative Conference convened by the KMT in January 1946. The CPPCC was (and remains) a national assembly representing all of China's regions, political organisations and interest groups, except those with direct enmity to the revolution such as landlords and a handful of large-scale capitalists whose fortunes, Mao believed, depended on the exercise of foreign economic privilege. A crucial feature of the CPPCC was the involvement of China's so-called democratic political parties, including members of the China Democratic League and the China Democratic National Construction Association, both of whom, as we saw previously, had participated in the ill-fated Second United Front. A total of 11 of the 24 ministers appointed to the CPPCC came from the democratic parties. Although ultimate political power rested with the CCP, the opinions and contributions of these non-CCP members of the CPPCC was significant, at least during the early post-revolutionary period (Teiwes, 1997, p.27).

Democracy was just as important at the grass-roots level in Mao's opinion and once again Mao saw a direct connection with Chinese nation building. During the war against Japan, Mao had argued that democracy was a vital ingredient in the quest for national survival through its perceived capacity to mobilise the Chinese people into armed resistance against the Japanese army. Mao's emphasis on the mobilising potential of democracy became even more pronounced after the revolution (Townsend, 1967; Pye, 1971). Moving away from the narrow idea of democracy through direct elections, part of the temporary "bourgeois-democratic" stage of the Chinese revolution that Mao identified in 'On Democracy', Mao began to embrace participatory democracy on a much larger scale, something most accurately referred to as mass democracy. This concept can be broken down into two component (albeit overlapping) ideas: the mass line and the mass campaign.

Mass line

The mass line was designed to draw the masses closer to the party and vice versa by immersing party cadres deep into the local rural community. In practise, this meant that cadres had to go down to the countryside to live, work and eat with their peasant constituents since this would teach (or in some cases, remind) cadres what it was really like to live as a peasant. In the true spirit of democracy and transparency, cadres were also expected to ascertain the advice and views of the peasantry on important issues of local concern (for example, weather conditions, production or crop rotation) and embrace peasant criticisms of party working methods. Given the very low literacy rates that existed during the early post-revolutionary period, peasants often expressed themselves in a manner that was difficult to decipher. As such, on returning to party head quarters, cadres were required to interpret these incoherent views and use them as a starting point from which to construct new policies. Once these policies were formulated, the cadres were then required to return to the countryside and explain to the peasantry how their ideas formed the backbone of these new policies and impress upon them the importance of implementing these policies. As Mao suggested in his 1943 speech to the CCP Central Committee entitled 'Some Questions Concerning Methods of Leadership':

> In all the practical work of our Party, all correct leadership is necessarily 'from the masses, to the masses'. This means: take the ideas of the masses (scattered and unsystematic ideas) and concentrate them

> (through study turn them into concentrated and systematic ideas), then go to the masses and propagate and explain these ideas until the masses embrace them as their own, hold fast to them and translate them into action, and test the correctness of these ideas in such action. Then once again concentrate ideas from the masses and once again go to the masses so that the ideas are persevered in and carried through. As so on, over and over again in an endless spiral, with the ideas becoming more correct, more vital and richer each time (Mao, 1943).

Mass campaign

Closely related to the concept of the mass line was the mass campaign, which, as the term suggests, involved mobilising the Chinese masses to campaign in support of a particular policy or to actually implement that policy. On some occasions, a mass campaign would logically follow on from the mass line formulation of policy. In other cases, mass campaigns were launched around a policy that had already been devised by the centre. So, for example, following China's entry into the Korean War in October 1950, the CCP launched the Resist America Assist Korea Campaign which called on millions of people throughout the country to participate in supporting-role activities such as collecting funds for the families of Chinese soldiers, signing "patriotic pacts" for increased production and cutting links between Chinese Christian churches and their Western counterparts (Dietrich, 1998, p.70). Whilst the objective of the campaign was to encourage domestic backing for the war effort and so legitimise the CCP's controversial decision to join forces with the North Korean military, the process of actually getting people out on to the streets to actively participate and be involved in the campaign was equally important and formed a key feature of Mao's mass democracy idea.

Shortly after the Korea campaign began, three interlinking campaigns were launched with the aim of radically transforming urban society (Teiwes, 1997, pp.37–40). The Campaign to Suppress Counter-Revolutionaries which began in February 1951 targeted people with links to the old KMT regime as well as those with an independent local support base who were seen as a threat to the CCP. This was followed in September 1951 by the Three Antis Campaign (anti-corruption, waste and bureaucracy) which concentrated on ridding the party of "opportunists" who were accused of joining up simply to further their own careers or to exploit the financial opportunities that party membership or administrative office might offer. The Five

Antis Campaign (anti-bribery, tax evasion, fraud, theft of government property and theft of state economic secrets) launched in early 1952 saw the focus of public attention shift to the "national bourgeoisie" (small-scale factory owners and shop-holders) who were accused of corruption and subversion.

The masses played an integral role in each of these campaigns. As well as assisting central party work teams in identifying those accused of being involved in corrupt or "counter-revolutionary" activities, people across the country were organised into small groups and tasked with forcing confessions from accused individuals. Once the confessions were extracted, mass trials were held with tens of thousands of people attending to bear witness. The nature of these campaigns was often brutal. Stavis (1978, p.29) notes that up to 800,000 people died during the Campaign to Suppress Counter-Revolutionaries. But in contrast to Stalin's top-down, public security-style purges of the late 1930s, the "Antis" campaigns were genuinely participatory (albeit frightening) affairs, intended to integrate the people into the new order and give them a sense of inclusion in the fundamental reshaping of the urban social environment.

Mass democracy and nation-building

So how was this notion of mass participatory democracy linked to nationalism? There are two answers to this question. Firstly, it was perceived as a way of enhancing people's loyalty to the new regime and to the nation-building objectives of the regime. Using a logic that was noticeably similar to his late Qing predecessors (albeit very different from what they understood by democracy), Mao believed that greater public involvement in decision-making and policy implementation would help to bring the masses "on-side", welding them more closely to the CCP and to its efforts to re-build and protect China after decades of foreign occupation and military conflict. As Breslin (1998, p.111) explains:

> The party thought that if the people were encouraged to participate in political action, it would create a closer relationship between the party and the people. The masses would gain a better understanding of the party's goals and ideas through participating in attaining them. The people would also feel that they had a stake in the new political system, and would be more prepared to defend it against external and internal threats.

Land reform

This pursuit of mass public loyalty to party and nation was one of the key reasons why the CCP implemented the land reform campaign of 1947–51 (Hinton, 1996). The party had seized power on the back of the massive popular support that it received from the impoverished peasant majority. This support derived from a long-standing promise that the party would do its utmost to lift the peasantry out of poverty. At the core of this promise was the party's policy on land reform, officially announced at the September 1947 National Land Conference, although informally implemented from May 1946 in those parts of northern China where support for the CCP was already strong (Chen, 1948, p.41).

The principal objective of land reform was to destroy the centuries-old and grossly unequal tenancy system. Under that system, rural land had been owned by a wealthy landlord minority who had exploited the poor peasant population by renting out land and farming equipment to them at extortionate prices and/or hiring their services under punitive conditions. Land reform sought to change all this by stripping landlords of their property and redistributing it to the poor along broadly egalitarian lines. In so doing, the party sought to bolster its popularity and legitimacy amongst those whom it claimed to represent.

The continued menace posed by foreign powers intensified the urgency with which land reform was introduced. We noted in the introduction to this chapter that many of China's national borders remained unstable, under threat to differing degrees from the Soviets to the north, the US in the east, France in the south and India in the west. CCP leaders knew that, in the short-term, the PLA was ill-equipped to defend China from foreign encroachments. Notwithstanding the PLA's size, organisational capacity and war-time experience, its ground forces were weak and there was no air-force or navy to speak of, leaving the country potentially wide open to attack by a more sophisticated foreign military. It was therefore imperative to China's national security interests to introduce policies, such as land reform, that would engender public loyalty and ensure that the CCP could call on the support of the peasant masses in the event of a foreign attack.

But the party realised that public loyalty and support would not be easily achieved if it adopted a "top-down" approach to land reform. The Soviet model of rural reform implemented during the 1920s with brutality and coercion was deemed inappropriate to the CCP's ambitions of bringing the people "onside" (Yaney, 1982; Leonard, 2010). Instead, it was felt that a more novel approach was required, one that

would encourage and embrace the direct participation of those who had suffered the most under the old tenancy system.

The first stage of the land reform campaign comprised setting up Poor Peasant Associations (PPAs) in the relevant locality. The PPAs were led by the disenfranchised of the poor and landless (and sometimes middle) peasant classes with vociferous anti-landlord sentiments and an ability to articulate their grievances and persuade others to unite with them against their landlord oppressors (Yang, 1959, pp.134–6). Under the guidance of CCP work teams sent down from the nearest town or city, the PPAs organised large public meetings that all inhabitants of the village were required to attend. This was the second stage of the land reform process. During these meetings, poor peasants participated in "class struggle" (*jieji douzheng*) in which they were encouraged to identify those landlords who had exploited them, "spit out stories of bitterness" (*tuku*) against them and "get others to do likewise" (*chuanlian*) (Yang, 1959, pp.137–8).

The "spitting bitterness" meetings formed part of a wider and more complicated process of class categorisation to be examined later when we look at Maoist notions of class. This was followed by the third and final stage of the campaign involving the confiscation and redistribution of seized landlord holdings. Yang (1959, p.149) explains that in apportioning the land, the objective was to ensure that every family would get a farm of roughly equal fertility: 'a family owning fertile land would be given a lower grade of land, and a family already in possession of poor land would be given a better plot'. But just as important was the direct and indispensable role played by the masses who assisted the PPAs and party work teams with the confiscation and redistribution process, rather than having it imposed upon them from above by a cold and distant party apparatus.

The ambitious nature of Chinese land reform meant that its implementation did not always go to plan. In some of the more politically conservative areas of the south, party work teams found it extremely difficult to convince peasants that there was no risk to them in identifying and criticising landlords. In northern areas with a much stronger CCP base, the problem was often controlling the poor peasant population who were only too keen to settle old scores with previously exploitative landlords, leading to thousands of deaths (Stavis, 1978, pp.25–30). Problems also arose during the redistribution process. Sometimes there were disputes over whether PPA activists should get more or better quality land than non-activists by virtue of their leading role in organising and implementing land reform. This often led to

open conflict when corrupt party cadres sought to help themselves to available land. In many northern areas there was simply not enough confiscated land to go round.

There were a number of practical successes that flowed from land reform. For example, the structure of land ownership became much more equal than previously. Landlord holdings dropped to just over 2 per cent of China's crop land, whilst poor and landless peasant holdings rose to over 46 per cent. This was not the wholesale egalitarianism that the party had anticipated, but it was still a notable achievement for a country as big as China and still under the early years of a new regime (Blecher, 1986, p.45). Secondly, the rural economy experienced rapid growth during land reform. Grain production rose from 113 million tons in 1949 to 164 million tons in 1952. In addition, cotton production tripled and fish production increased four fold. Gross value of agricultural output went up by almost 50 per cent. As Blecher (1986, p.45) summarises 'such a record would be impressive at any time, but it is especially remarkable in the context of a massive land reform'.

Putting the failures and successes of land reform aside, it was the actual process underpinning the campaign that is significant for our purposes. Not only did the CCP succeed in radically transforming a deeply unpopular and inequitable system of land ownership, but it did so in a manner that embraced the peasantry. Through the three stage process described above, poor and landless peasants were directly involved in a process that affected their every day lives. In this sense, the peasants were made to feel as though they were active participants in the land reform process rather than passive recipients of it. By the same token, they were much more likely to feel loyal towards the CCP and towards the party's drive to re-build China and protect it from the prospect of foreign invasion.

The Great Leap Forward

A second and more direct way in which mass democracy was linked to Chinese nation-building was by mobilising the masses towards projects that were specifically designed to increase economic production and strengthen China's infrastructure, in other words projects that would make China "physically" stronger. Again, this was usually in response to a perceived threat from abroad which brings us to the Great Leap Forward (1958–60). The Leap was implemented after the results of the First Five Year Plan (1953–7) showed an alarming disparity between industrial and rural output. The industrial sector had grown by a

remarkable 15 per cent per annum during this five year period, a point that had not gone unnoticed in the international community (Blecher, 1986, pp.53–8). By contrast, agriculture had increased by only 2 per cent per annum, a rate which barely exceeded population growth raising obvious concerns about the possibility of insufficient food supplies.

In an effort to redress this imbalance, some members of the CCP leadership, including most notably the head of the Central Finance and Economic Commission Chen Yun, believed it was necessary to increase state investment in the rural sector. But for Mao, this was an unattractive option, both politically and economically. From a political perspective, the impressive pace of industrialisation during the early post-revolutionary period showed the outside world that Chinese communism was working. Any increase in rural investment would coincide with a decrease in industrial investment. This would slow down industrial production, thereby diminishing China's "shining" image abroad (Lippit, 1975, pp.95–6). From an economic perspective, Chen's solution might even be detrimental to the sector that he wanted to protect. Although, in the short term, extra investment in agriculture would help feed China's growing population, in the long term China needed a strong industrial base in order to facilitate agricultural growth. A fully industrialised China would be able to provide agriculture with the essentials for production such as tractors, water pumps and chemical fertilisers (Lippit, 1975, pp.95–6). What Mao wanted, therefore, was the best of both worlds: an economic policy that would rapidly increase both industrial and agricultural output without involving a major shift in state investment from one sector to the other. The answer, or so it was thought, was the Great Leap Forward.

The emphasis on rapidly increasing economic production was directly linked to China's continued national security anxieties. Although the Soviet Union had relinquished many of the benefits it yielded from the Treaty of Friendship, Alliance and Mutual Assistance (for example, control over Port Arthur and China's Eastern Railway), the appointment of President Nikita Khrushchev in 1953 served to accelerate the decline in Sino-Soviet relations (Gittings, 1968; Zagoria, 1969). The CCP had anticipated that the replacement of the domineering and unpredictable Stalin with a virtual unknown might ease relations between the two countries. But it was soon clear from the content of his speeches that Khrushchev was no less condescending towards China than Stalin had been. This was exemplified by his infamous denunciation of Stalin in the so-called "secret speech" of June 1956, given without prior consultation with the CCP and deemed as

an implicit attack on Mao who was in process of cultivating his own Stalinist personality cult at the time.

To make matters worse, the Soviets under Khrushchev were moving rapidly towards détente with the US, raising serious doubts about Soviet loyalty to China in the event of a US-funded attack by Taiwan. This seemed increasingly likely in light of the ballistic missiles that America was supplying to the island. To test out Soviet loyalty, the PLA shelled the Taiwanese islands of Jinmen and Mazu near the eastern province of Fujian. As feared, the US re-affirmed its military support for Taiwan but there was no equivalent response from Moscow in support of Beijing. This only came after the Taiwan crisis was over, confirming the CCP's fears that the Soviet Union was moving dangerously close to the Americans (Gray, 1990, pp.313–14). Likewise, as tensions continued to escalate between China and India over border issues deriving from the 1914 MacMahon Line and the thorny issue of Tibet, Soviet support was again not forthcoming. Indeed, the late 1950s saw a sharp improvement in Indo-Soviet relations, including increases in trade, loans and even arms sales (Garver, 2002). With China seemingly surrounded by hostile foreign powers there was a perceived urgency to build a strong, modern nation capable of defending itself against sudden military attack. Not only was the Leap seen as an ideal way of achieving this end, but in so doing it would draw upon the principles of mass participatory democracy that Mao held so dear.

The drive to fortify the nation through mass democracy was most apparent in the numerous mass campaigns that were carried out during the Leap (MacFarquhar, 1983). Large groups of workers were taken from China's newly-organised communes, set to work on a particular task and encouraged to attain ambitious production targets for the sake of the nation. In industry, for example, slogans appeared on factory walls urging workers to produce enough steel to "overtake England's steel production in 15 years". Remarkably, this time-scale was reduced to three years as the Leap gained momentum, whilst the target to surpass America's steel production was reduced to just ten years. Likewise, in agriculture, huge teams of farmers were urged to double or even treble production of grain for their area compared to the figure for the previous year's harvest. In every sector, workers were implored to produce "more, better, faster and cheaper". Other mass campaigns focused on strengthening China's infrastructure, including dam building and the construction of roads and railways. In addition, a number of underground tunnels were built in some of China's major cities to provide shelter and protection in case of a foreign attack.

In contrast to land reform, the Leap was a comprehensive disaster (Becker, 1996; Dikotter, 2011). Millions of people died of starvation as rural output plummeted and vital reserves were consumed arbitrarily in mass communal kitchens or left to rot at transit points as the overstretched and poorly constructed transportation system collapsed. Likewise, industrial output plunged under the heavy demands placed on workers to achieve unrealistic output targets, particularly for steel. Moreover, with millions of unskilled people encouraged to make their own steel in the notorious backyard furnaces, much of the steel produced was of such poor quality as to render it useless. Environmental degradation was also prominent, especially deforestation as workers cut down forests to provide fuel for steel production or on which to grow crops so as to meet pressing production targets.

The bitter consequences of the Leap cast a deep shadow over the Mao regime and created deep divisions within the party leadership that spilled over into the equally disastrous Cultural Revolution. But none of this should detract our attention from the objective of the Leap which was to make China strong through democracy, in this case a form of Maoist mass democracy. The goal of creating a strong China quickly in order to protect the country from attack was set by the party and the masses participated in striving to attain this goal. This involvement and participation was at the heart of Maoist mass democracy during the Leap:

> Simply being involved in the political process was seen as being a legitimating force, and one that tied the people much more closely to party policies and goals. Indeed, in some cases, the result of the participation was perhaps less important than the process of participation itself (Breslin, 1998, p.112).

Class rights and nation-building

If we turn now specifically to rights thinking in the Mao era, we saw in Chapter 3 how entitlement to rights, according to the KMT, was dependent upon an individual's loyalty to the nation and to the all-encompassing goals of national salvation. Indeed, in 1929 the KMT went as far as decreeing that citizens of China should be made to swear an oath of allegiance to the motherland and to Sun Yat-sen's Three Principles of the People as a pre-condition to the enjoyment of constitutional rights. Although this policy never really materialised, the inseparability between rights and nation-building in KMT thinking was plain to see and highly significant for our purposes.

Marx on class and rights

After 1949, class status became the principal determinant of entitlement to rights. This was in keeping with China's new class-oriented Marxist-Leninist state ideology, although in truth, as we will see, it was Soviet constitutional practise rather than Marx's own views on rights that had the bigger impact on the CCP. This was partly because the harsh reality of post-revolutionary society in China was much more akin to the Soviet experience than anything Marx prophesised and partly because Marx himself foresaw only a limited and temporary role for rights after the revolution. In his 1843 article 'On the Jewish Question' which analysed the 1973 French Declaration, Marx (1977a) praised the Rights of the Citizen (for example, the right to political participation and the free communication of thoughts and opinions) for reflecting what he saw as the innately interactive and social nature of mankind. Conversely, the Rights of Man, most notably rights to private property, were anathema to man's social nature because they created artificial boundaries between individuals and taught man to be selfish rather than communal. As Marx (1977a, p.53) put it, 'the right of man to property is the right to enjoy his possessions and dispose of the same arbitrarily without regard for other men, independently of society, the right of selfishness'.

As for the role of class in a rights-based society, Marx believed that the constitutional implementation of the Rights of Man (which also included the right to equality and the right to freedom) was part of a devious plot by the ruling bourgeoisie to ensure that it stayed in power at the expense of the oppressed proletariat. Following on logically from his comments about property rights, Marx believed that the principles underlying the Rights of Man were founded on an adversarial perception of society that epitomised the capitalist model. In this type of social order, individuals battled it out against each other in pursuit of their private interests and to protect their narrow spheres of operation. Meanwhile, the ruling bourgeoisie remained aloof from these disputes, acting as arbiter and law enforcer, thereby consolidating its monopoly on political power. At the same time, the bourgeoisie sought to encourage this type of order by advocating the wisdom of rights to property, equality and freedom, because it suited their purposes and because it perpetuated the social order that kept them in control (Marx, 1977b). But ultimately Marx believed that rights were destined to "wither away" following the demise of capitalism and the emergence of a "class free", higher stage of communism based on material abundance and the distribution of wealth according to man's needs. In this type of

society, there would be no need for rights because the antagonistic social conditions that underpinned a rights-based society would have disappeared (Marx, 1977c).

CCP on class and rights

Much of the CCP's rhetoric on rights mirrored Marx's "class conspiracy" views. In an 1959 article published in the 'People's Daily' (*Renmin Ribao*) entitled 'A Discussion of the Bourgeois Rights Question', the author derided the Western discourse of "human" rights (analogous to the Rights of Man) for:

> deviously safeguarding the rights of the bourgeoisie, whilst enslaving and oppressing the labouring people. In a domestic context, human rights are used to conceal the encroachment upon rights and freedoms of the labouring people by the bourgeoisie, whilst cementing its control over political power. In an international context, they provide a pretext for imperialist opposition to socialist and nationalist countries, such as the PRC, the glorious motherland (Li, 1959, p.7).

Notwithstanding the intensity of this rhetoric, the CCP did not envisage the "withering away" of rights as Marx had prophesised. Far from it. Each of the four constitutions published since the establishment of the PRC has contained an entire chapter on the rights of Chinese citizens. In the early post-revolutionary period, rights were seen as imperative in ridding society of the bourgeoisie and consolidating the authority of the proletariat.

To understand this, we need to examine the Soviet tradition of constitutional rights which was highly influential on the PRC. According to Soviet practise, rights were only accorded to "class allies", in other words the proletariat. For example, the 1918 Constitution of the Russian Socialist Federated Soviet Republic stipulated that only the "toiling and exploited peoples" should enjoy constitutional rights, whilst the previously "exploiting classes" (namely, capitalists), also known as the "former people" and "deprived ones", should have their rights withheld (Unger, 1981, pp.36–7). The rationale for this was directly linked to the protection of the revolution and with it the new Soviet nation. The logic was that if the Soviet regime had given rights to its capitalist opponents on coming to power, they might simply have used these rights to undermine and sabotage the newly-established Soviet state and weaken the nation in so doing. Only "class

allies" could be trusted to use their rights for the good of socialism and the nation.

The CCP applied a similar rationale when it came to power, although its understanding of "class allies" was somewhat broader than that enshrined in the 1918 Soviet Constitution. Take, for example, the 1949 Common Programme of the CPPCC, an interim constitution that operated for the first five years of the PRC. This document accorded democratic rights not only to the proletariat (referred to as 'an alliance of workers and peasants') but also to certain bourgeois classes. They comprised the "petty bourgeoisie" (*xiaozichan jieji*) consisting of professional people, small traders, students and intellectuals and the "national bourgeoisie" (*guomin zichan jieji*) consisting of small-scale factory and shop holders (Nathan, 1986a, p.97). These various different categories of class all fell within the CCP's definition of "the people" (*renmin*), perceived supporters of the new regime.

The reason for this extension of the franchise beyond the proletariat brings us directly back to the perceived needs of the Chinese nation at the time. As noted earlier, back in 1949 the CCP was desperately looking for ways of strengthening its support base following decades of domestic instability and the continued threat to its national security. Even though these two classes were technically part of the bourgeoisie, they were "small-scale" bourgeoisie with whom the party felt aligned and with whom the party believed it could work. As such and in keeping with Mao's consensual approach to democracy and government, these bourgeois classes were "class allies" and warranted rights, particularly rights to participate in the functioning of the new CPPCC government (as enshrined in Article 13 of the Common Programme) and in the creation of a new China.

This more flexible approach to the definition of "class allies" went beyond urban-based notions of the bourgeoisie to apply to the Chinese countryside. During the land reform campaign, peasants were put into one of five different classes depending on the extent of their land ownership and their relationship to the means of production (Wong, 1973, pp.112–14). At the one extreme were poor peasants and landless peasants who had little or no land and were forced to sell their labour in order to survive. They were the exploited classes and as such were deemed to be "class allies". At the other extreme were landlords and rich peasants. They were land-owners who hired out their land or got poor or landless peasants to farm it for them. In so doing, they were the exploitative classes and as such were deemed as "class enemies".

All of this was straightforward enough and conformed broadly to Marxist strictures. The one exception, however, were middle peasants, comprising those who owned land and hired others to help them farm it or who hired land and hired others to help them farm it. On the face of it, middle peasants were an exploitative class because, putting it simply, they made money by taking advantage of other people's labour. But because they received less than 15 per cent of their total family income from money acquired through hiring land and/or labour, they were seen as less exploitative than landlords and rich peasants and as such were deemed by the CCP to be "class allies". To put it another way, as with the "petty" and "national bourgeoisie", middle peasants were only "small-scale" bourgeoisie and were therefore seen as a class that the CCP could potentially work with in building a new China.

This was particularly apparent during land reform. We noted earlier how the PPAs played a crucial role in this campaign by organising "spitting bitterness" meetings against landlords and rich peasants and by assisting in the land confiscation and redistribution process. Although the PPAs consisted primarily of poor and landless peasants, some of the PPAs were staffed by middle peasants. As Yang (1959, pp.134–6) explains, in some regions it was simply more practical and convenient to recruit middle peasants to the ranks of the PPAs if they were already active in village affairs and were well respected by the poor and landless peasant community. From a nation-building perspective, it made sense to give middle peasants the right to participate in land reform. Even if they were not natural "class allies", nor were they "class enemies" and the CCP would have really needed their support during the uncertain and unstable early years after the establishment of the PRC.

However, class alliance with the CCP was fraught with uncertainty and it was not long after the completion of land reform that the CCP abandoned the middle peasant as a class ally. This was not just a question of political expediency. Although land reform succeeded in distributing about 44 per cent of all cultivated land in China to approximately 60 per cent of the poor peasant population (Lippit, 1975, pp.3 & 25) and eliminated the landlord and rich peasant classes, a number of alarming socio-economic trends emerged after land reform. The most startling trend (although it should not really have come as a surprise) was the persistence of a rural class system. With the middle peasant classes left relatively untouched by land reform, in many cases poor and landless peasants remained poorer and with less

land than their middle class counterparts which, in turn, provided the foundations for a system of class exploitation not dissimilar to that which land reform had sought to abolish. The key difference was that middle peasants now assumed the role of the "exploiting class". As Blecher (1986, p.59) explains 'poor peasants whose holdings were too small to get by were forced to borrow money or rent land from [middle and] rich peasants, sell their labour to them, and in some cases – for example, when loans could not be repaid – even sell their land to them'.

Moreover, even those who thought they might fall comfortably within the definition of "class allies" by virtue of their poor or landless peasant status, could not be assured of this. Deviating sharply from the Marxist tradition of measuring class in accordance with a person's relationship to the means of production, Mao and the CCP devised another method which looked at "class origin" or "class background" (*jieji chengfen*) (Breslin, 1998). According to this way of thinking, an individual's class status was not only that person's socio-economic relationship to the means of production, but also that of his ancestors. So, for example, at the outset of land reform it may well have been that you qualified quite comfortably as a poor or landless peasant in that you had no land and you had to sell your labour. However, if your father or even your grandfather had once been a rich peasant or a landlord, then you ran the risk of being categorised as one too. This meant that you were, in effect, tainted by your "blood group" or "ancestry".

Underpinning the concept of "class background" was Mao's notion of class as "a state of mind" (*jieji sixiang*). The concern for Mao was that a person whose parents or grandparents were once landlords might somehow harbour bourgeois landlord sympathies (which was ironic given Mao's father was a prosperous farmer and grain dealer). Mao feared that giving rights to this category of person would endanger the Chinese revolution and nation because they might use them to re-assert the previously dominant position of the landlord class. This and other departures from "pure" Marxism have led many scholars to question whether Mao really was a Marxist after all (Knight, 1983; Starr, 1986).

Sacrificing rights for the national good

One the most prominent features of Chinese rights thinking since the late Qing is the constitutional tradition of revoking any individual

rights that are deemed to conflict with the interests of the nation. We saw in Chapter 1 how the exercise of rights under the 1908 Principles of the Constitution was qualified by a sweeping provision in 'The Prerogatives of the Monarch' granting the Emperor absolute power to deprive people of their rights 'in times of emergency'. In light of the threat posed by foreign imperialism at that time, this would certainly have covered times of national emergency. With the foreign presence no less imposing after the Republic had been established, Article 15 of the 1912 Provisional Constitution stipulated that citizens' rights could be limited or modified by the state for the 'promotion of public welfare, for the maintenance of public order or on account of extraordinary exigency'. Once again, the ultimate focus was upon protecting the nation at all costs. Most of the subsequent constitutions during the Republic contained a similar provision to Article 15. For example, Article 23 of the 1946 Constitution empowered the state to revoke rights if this was necessary to 'avert an imminent danger, to maintain social order, or to promote public welfare'.

PRC constitutions have been no different in this regard. Although the threat of foreign imperialism has gradually diminished over the years, the interests of the nation have remained paramount, with each of the four PRC constitutions containing a single article authorising the withdrawal of any individual right deemed as detrimental to the "collective good", including ultimately the "national good". One example of this is Article 51 of the 1982 (and current) Constitution which stipulates that 'the exercise by citizens of the People's Republic of China of their freedoms and rights must not infringe upon the interests of the state, of society and of the collective'. Whilst this provision might accurately be interpreted as a tool for quelling any individual dissent that threatens the interests of the ruling party, it also reflects the belief that protecting national stability and national security must, under all circumstances, come before the assertion of individual rights.

In addition to imposing constitutional constraints on the exercise of any "nationally harmful" rights, the CCP has tried a more subtle approach by encouraging its citizens to voluntarily surrender any rights that might be deleterious to the welfare of the nation. The professed logic here, in keeping with Mao's belief in the "social nature" of man (Munro, 1977, p.16; Nathan, 1986b, p.141), is that individual rights can only be fully realised and protected within a collective, national context. Consequently, the enjoyment of rights in a way that negates the interests of the nation will ultimately harm the rights of the individual such that it is better not to exercise these rights at all.

Writing in 'Red Flag' (*Hongqi*), the then official theoretical journal of the CCP, Marxist theoretician Gu Chunde (1982, p.33) suggested that 'since the genuine enjoyment of individual rights is contingent upon the preservation of collective and national interests, in the event of any contradiction between the two, the individual should consciously and unconditionally submit to these superior interests'. Similarly, in an article published in the 'Enlightenment Daily' (*Guangming Ribao*), Ma Boxuan (1980, p.3) urged readers to display self-restraint in the exercise of their rights by drawing a distinction between 'legal individual interests' (*geren hefa liyi*) and 'legitimate individual interests' (*geren zhengdang liyi*). According to Ma, it was not always morally appropriate for citizens to exercise their individual rights, even if these rights were provided by law. Instead, whether or not a right was legitimate depended upon the effect that the exercise of that right had on the collective interests of society and the nation. Any right that was harmful to society and the nation as a whole was not legitimate.

The tradition of sacrificing individual rights for the greater good has its roots in earlier Chinese thinking, as we have seen in previous chapters. Back in 1924, Sun Yat-sen implored Chinese students to focus less on their rights (which were no doubt being asserted in a way that was critical of the KMT regime!) and more on their studies following which, with their knowledge and horizons duly enlarged, 'they can do things for the nation'. Similarly, soldiers who set aside their own personal freedoms would be more conditioned to obey orders without complaint and thereby able to 'help the nation to attain liberty'. Likewise, Chiang Kai-shek encouraged Chinese citizens to sacrifice their constitutional rights for the good of the nation, particularly given the danger posed by Japanese imperialist aggression during the 1930s.

But there is also a link here to Chinese Marxist ethics and the conviction that the morally appropriate way to behave is to be "selfless" (*wusi*) (Nivison, 1956, pp.58–61; Gong, 1989, p.366). A fervent exponent of this view was Liu Shaoqi who wrote extensively on the subject in his ideological work on guidelines for CCP members. According to Liu (1980, p.56), 'every Party member should completely submit himself to the interests of the Party and self-sacrificingly devote himself to the public duty. He should forgo all personal aims and private considerations which conflict with the Party's interests'. Mao Zedong supported this approach, stating that 'at no time and in no circumstances should a Communist place his personal interests first; he should subordinate them to the interests of the nation and of the masses'. Those who are selfish or attention seeking were condemned by

Mao as contemptible, 'while selflessness, working with all one's energy, wholehearted devotion to the public duty, and quiet hard work will command respect' (Liu, 1980, p.48).

The merits of selflessness were widely propagated throughout the Mao period and for some time afterwards, albeit less frequently. In addition to newspaper and journal articles of the type noted above, the CCP has tried to encourage people to be selfless by launching national campaigns to emulate the selfless behaviour of communist role models (Munro, 1977, pp.135–57). One of the most celebrated role models of this kind was Lei Feng, an "ordinary" soldier who performed "extraordinary" acts of altruism and kindness to people around him, someone who always put the rights and interests of others before his own. According to Lei's diaries, which were "discovered" by the CCP in the 1960s and subsequently published by the Propaganda Department, Lei made the ultimate sacrifice when he was accidentally killed by a passing truck as he was helping an elderly lady cross a busy road (Ding, 1990; Reed, 1991).

A certain amount of scepticism now surrounds the story of Lei Feng. Some people have suggested that Lei's diaries were not only published by the Propaganda Department but written by it too. Moreover, a 2012 campaign to commemorate the fiftieth anniversary of Lei's death was scarcely acknowledged by an increasingly self-centred and materialistic Chinese public. There have also been unsuccessful attempts to revive the "spirit of Lei Feng" during 2013, including the screening of a new Lei Feng film. That aside, one theme that permeates Lei's diaries was his devotion to socialism and ultimately to the needs of the Chinese motherland. Indeed, many of the campaigns that were launched around Lei Feng were described as "patriotic campaigns". Whilst many people today may be less persuaded by Lei's altruism and devotion to the national good, during periods of Maoist and nationalist radicalism, Lei Feng was a very effective tool in garnering the patriotic support of the population (Chan, 1985; Ritson, 2012).

Duties to the nation

Following on from the conviction that individuals should selflessly sacrifice any rights that might have adverse social or national consequences is the moral expectation that a citizen's duties (*yiwu*) should always come before his rights and that he must attend to those duties before selfishly demanding or asserting his rights. Indeed, according to the orthodox strain of Chinese Marxist thinking, a person's entitle-

ment to rights is actually contingent upon the prior fulfilment of his duties. In other words, without performing your duties, you have no rights. As a 1961 editorial in the 'People's Daily' put it, 'we are communists, we must always put our moral, social and patriotic duties first. This is in accordance with the teachings of Chairman Mao' (RMRB, 1961, p.3). Similarly, as Ye Zi (1981, p.33) explained in a 'Red Flag' article on the social limitations to free speech, 'whoever wantonly abandons his duties forfeits the privilege to enjoy all rights and freedoms'.

The prioritisation of duties in the PRC, particularly in the Mao era, is highlighted in post-49 Chinese constitutions. Indeed, in the 1975 Constitution, citizens' duties (Article 26) were actually listed before citizens' rights (Articles 27–29), reflecting the radical nature of the CCP leadership in the aftermath of the Cultural Revolution. PRC constitutions have also demonstrated a commitment to duties through the substantial number and variety of duties that they have stipulated. These include the duty to pay taxes (Article 102 of the 1954 Constitution), the duty to protect public property, observe labour discipline and public order and to respect social ethics (Article 57 of the 1978 Constitution) and duties to work, to receive an education and to practise family planning (Articles 42, 46 and 49 of the 1982 Constitution).

A notable theme running through all PRC constitutions are the duties that are expressed as being owed to the Chinese nation. Each of the four constitutions lists the defence of the motherland and collective resistance against foreign aggression as the 'sacred' or 'lofty' duty of every citizen of the PRC. Likewise, there is a common duty to perform military service and join the militia in protecting China from foreign attack. The 1982 Constitution is particularly strong on national duties. Article 52 contains the duty to 'safeguard the unity of the country and the unity of all its nationalities', Article 53 refers to the duty to 'keep state secrets' and Article 54 states that it is the duty of every PRC citizen to 'safeguard the security, honour and interests of the motherland'.

The importance attributed to the fulfilment of duties is not exclusive to Chinese constitutional practise or Chinese Marxist morality. A number of liberal thinkers have theorised about the apparent parity between rights and duties. Indeed, the concept of a correlativity between rights and duties probably originated from the liberal school of political theory, although there have always been doubts expressed about the wholesale applicability of this idea (Hart, 1967, p.58; Feinberg, 1970, p.244). In addition, some liberal scholars have championed the viewpoint that the enjoyment of rights is conditional upon

the performance duties. Perhaps most notably, John Locke (1960, pp.400–2) espoused the view that if I violate your natural rights I automatically forfeit my own natural rights and that is why you may punish me without violating my natural rights.

The crucial difference, however, between the Chinese Marxist and contemporary liberal understanding of the relationship between rights and duties is which of the two is given primacy. In liberal thinking, individuals are primarily conceived as "possessors of rights" with any duties that they may bear following on from these rights. So, for instance, I have a duty not to infringe upon your freedom of expression because you have a right to this freedom. Likewise, you have a duty not to invade my property because I have a right to that property. Therefore, in the logic of standard liberal morality, rights are sovereign whilst duties naturally emanate from these rights. In Chinese Marxist thinking, the situation is reversed in that people are principally understood as "bearers of duties", both to society (for example, the duty to work, receive an education and exercise family planning) and to the nation (for example, the duty to safeguard the unity of the nation and to protect the nation from aggression). In so far as people are thought to possess rights, these rights are essentially the offspring of duties. Consequently, in the logic of standard Chinese Marxist morality, a citizen's duties come first and rights stem from these.

The stress on duties in Chinese constitutional thinking draws heavily on the conception of the individual as a member of his society and nation who first and foremost has certain duties that are owed to society and the nation and which help promote the social and national good. Such duties are not conceived as arising out of the rights of individuals as in the Western tradition which sees rights and duties as correlatives. Instead, they are duties that people have as members of society and the nation. Indeed, it might even be argued that in the Chinese Marxist understanding of things, society and the nation are prior to the individual in that the individual is conceived morally as already embedded in his society or nation and as having duties as members of that society or nation.

Unofficial views on democracy and rights

So far in this chapter we have examined what might best be described as the "party orthodoxy" on democracy and rights during the Mao and early post-Mao eras and how the underlying objective of this orthodoxy has been to ensure national security at all costs. But as we will see

in the following section, there have been others inside the PRC besides the CCP and its supporters who have held strong views on democracy and rights. Invariably, these more independent perspectives were not tolerated for long by a ruling party that was (and remains) famed for its suppression of alternative views on such a sensitive subject. The two democracy movements that we are about to examine – the Hundred Flowers and Democracy Wall – were quickly shut down by the CCP once they became perceived as a threat to the party's legitimacy and incumbency. However, both movements still require our attention because the views of their participants on democracy and rights did not necessarily conform to the nationalist parameters set by the party.

Hundred Flowers campaign

The Hundred Flowers Movement began in earnest in May 1957, a full year after Mao had first referred to the necessity of a more liberal policy in science and culture of "letting a hundred flowers bloom, a hundred schools of thought contend" (MacFarquhar, 1974). Previously, intellectual expression in China had been tightly restrained, both by the directives of the 1942 Yanan Conference on Art and Literature which held that all forms art and literature should focus exclusively on matters of a socialist nature and by the Thought Reform Campaign (1951–2) which sought to force Chinese intellectuals into a Marxist straight jacket (MacDougall, 1980). But by the mid-1950s, Mao became convinced that an increasingly bureaucratic, institutionalised and aloof ruling party (particularly at the local level) needed to be exposed to the open and frank views of its constituents as part of a wide-ranging rectification process.

Given the CCP's tendency towards repression and high-handedness during the early post-revolutionary period (the Thought Reform Campaign being a prime example) it took some time before people felt brave enough to speak out. But when they did, the range and depth of their discontent clearly took the authorities by surprise. During the few short weeks of "blooming and contending", a number of wall posters were pasted and speeches made on a broad spectrum of political issues. Some of the opinions articulated were not directly critical of the party. For example, many intellectual participants complained about their undefined and ambiguous role within the communist system and demanded amendments to the state constitution to help clarify and strengthen their legal position, especially in relation to freedom of speech and academic expression. Proposals for institutional reform were also put forward such as the establishment of an independent

upper chamber of the National People's Congress, an idea which certain quarters of the official media and party leadership had been espousing for some time (Teiwes, 1997, pp.80–1).

But other opinions cut right to the very heart of the CCP's record in office, most notably its record on human rights. Some student participants accused the party of wilfully violating the freedom of the person and the rights of residence and correspondence, particularly during the highly intrusive Campaign to Suppress Counter-Revolutionaries, despite the alleged protection of these rights in the 1954 Constitution. One student from Beijing University even demanded the promulgation of a bill of human rights in order to prevent any further contraventions of such rights. Others noted the contradiction between the constitutional protection of free of speech, assembly and association and the party's tight control of the media and its veto over public meetings. Many of the wall posters that went up condemned the CCP's arbitrary arrest of innocent people. Luo Longji, who had earlier been critical of the KMT's record on rights, demanded the establishment of an independent committee to investigate the injustices committed during the Three and Five Antis Campaigns and the Campaign to Suppress Counter-Revolutionaries (Svensson, 2002, pp.225–6). Significantly, however, none of the participants appeared to make any direct correlation between the need for greater democracy and rights in China and the fortification of the Chinese nation.

The official backlash against the Hundred Flowers Movement is well-documented. After just five weeks of "blooming and contending", the party implemented the Anti-Rightist Campaign which classified anyone who had spoken out against the party, including over 500,000 intellectuals, as "rightists", many of whom were then subjected to an intensive programme of "re-education" through labour, a long period of forced manual labour under gruelling rural conditions. According to the official line, this helped to break down the barrier between mental and manual work, especially for many urban-based intellectuals who had never even been to the countryside. In reality, of course, it was simply a way of meting out punishment to those who had earlier dared to voice their opinions. CCP-affiliated intellectuals were dealt with particularly harshly because they were expected to demonstrate more loyalty to the party than non-CCP members (Teiwes, 1997, pp.81–5).

Democracy Wall

The Democracy Wall Movement emerged during the early post-Mao power struggle between Hua Guofeng and Deng Xiaoping. Although

Hua had been installed as China's paramount leader following the death of Mao in September 1976, Deng quickly returned from political exile to challenge Hua for the leadership. By 1978 Deng looked to be in the ascendancy and with the promise of a more relaxed political and socio-economic environment as characterised by Deng's popular "Seek Truth From Facts" platform, the atmosphere inside China became much more conducive to an open debate about the pressing issues of the day (Fontana, 1982).

The first signs of the new movement came in November 1978 as a number of people began to gather at a wall in Xidan (not far from Tiananmen Square) to paste big-character posters and exchange political perspectives. To match the diversity of backgrounds of the participants (although noticeably, the movement did not include intellectuals and professionals), the views of the Democracy Wall activists were varied, ranging from embittered accounts of personal abuse during the Cultural Revolution and other Maoist political campaigns, to more general demands for the introduction of democracy, law and order and genuine respect for human rights. A number of unofficial journals were established with titles such as 'Enlightenment' (*Qimeng*) founded by the poets Li Jiahua and Huang Xiang, 'China Human Rights' (*Zhongguo Renquan*) founded by Ren Wanding, 'April Fifth Forum' (*Siwu Luntan*), edited by Liu Qing and Xu Wenli and most famously 'Exploration' (*Tansuo*) edited by the Beijing electrician Wei Jingsheng (Brodsgaard, 1981; Goodman, 1981). In addition to these new journals, a new genre of Chinese literature emerged which described the suffering endured under the often repressive Mao regime. This was appropriately referred to as "scar literature" or the "literature of the wounded" (*shanghen wenxue*) (Barme, 1993).

Many of the calls for democracy and rights made by the Democracy Wall activists were not linked to the needs of the Chinese nation. Wei Jingsheng's ill-fated plea for a multi-party system of democracy in his article 'What Do We Want: Democracy or New Despotism?' is one such example, although Wei did equate the "backwardness" of the Chinese nation with its absence of a democratic heritage (Wei, 1997). Other participants were very direct in their assertion that democracy and rights were ends in themselves rather than means to the nation's ends. The long-standing tradition of sacrificing (or being required to sacrifice) one's rights for the welfare of the collective and good of the nation came under particular critical scrutiny. For example, in his article, 'On Human Rights', Lu Mang (1980) condemned the selflessness of the communist role model Lei Feng, arguing that it was

time to focus on individual interests and to restore human dignity and personality to the Chinese people through the implementation of democracy and rights.

Equally, there were those amongst the Democracy Wall activists who emphasised the wider social utility of democracy and rights. For example, in his article 'Freedom of Speech', Hu Ping argued that whilst free speech helped to facilitate the development of the individual, it was also a pre-requisite for the development of society and government (Svensson, 2002, p.245). Similarly, in Xu Wenli's various writings, he stressed the value of democracy and rights as instruments of social progress and modernisation (Svensson, 2002, p.246). Although Xu made no direct reference to the role of democracy in creating a strong nation, this can be strongly implied from the tone of his writings.

There is a strong case for arguing that Deng Xiaoping utilised the Democracy Wall Movement to serve his own political purposes. In the build up to the landmark Third Plenum of the Eleventh Central Committee in December 1978 at which Deng decisively eclipsed the beleaguered Hua Guofeng, Deng was indirectly supportive of the movement, most likely because of its critical attitude towards Hua and his neo-Maoist policies and proclamations. Some of the big-character wall posters that went up lambasted the redundant policies of Hua's so-called "whateverist" faction, depicting Hua as a puppet controlled by Mao from beyond the grave. Another popular theme was the optimism symbolised by the theory of the Four Modernisations developed by the late Zhou Enlai, with many posters endorsing Deng as Zhou's successor as Premier and as China's new paramount leader. But a combination of events saw Deng turn against Democracy Wall, including his victory at the Third Plenum (thereby reducing the need to continue supporting the activists) and the unfavourable critique of Deng from some quarters, most notably Wei Jingsheng's attack on Deng's failure to implement a multi-party system of democracy. On Deng's orders, the Democracy Wall Movement was hastily suppressed and Wei Jingsheng was arrested and sentenced to a 15 year jail term. Perhaps ironically, Wei and other dissidents were accused of exercising their rights to free speech in a manner that damaged social stability and the interests of the nation.

The end of the Mao era

We have seen in this chapter how democracy and rights in the Mao era were dominated by the deemed need to safeguard the Chinese nation against potential foreign attack. The Mao-inspired mass line and mass

campaign strategies, which formed an intrinsic part of Mao's mass democracy idea, were strongly aimed at drawing the masses into the political system in support of the party and its nation-building goals and directly involving them as participants in the process of re-building their country after decades of imperialism, warlordism and bitter military conflict. Indeed, some mass campaigns were specifically designed to precipitate rapid economic growth and re-build the country's infrastructure so that China could hold firm in the event of an invasion by hostile powers on any one of its several unstable national borders. The enjoyment of constitutional rights was likewise directly linked to the needs of the nation in that only those people categorised as loyal to party and nation-state by virtue of their social class were entitled to rights. Any "hostile elements" or "class enemies" were divested of their rights in case they used them to disrupt the socialist order and weaken the Chinese nation. But even "class allies" were not assured of their constitutional rights if those rights militated against the wider collective interests of society and the nation. Ultimately people were encouraged to consider their duties, including their patriotic duties, before they asserted their own narrow and possibly even selfish rights and interests.

By the end of the Mao era, China was in a state of flux. The calamity of the Great Leap Forward was followed by another Maoist catastrophe in the form of the Cultural Revolution. A campaign which began as a bid by Mao to roll back the tide of "revisionism", resurrect party legitimacy and revitalise the revolutionary foundations of the PRC succeeded only in decimating the institutions of party and state, impeding economic growth and damaging the nation's international credibility almost beyond repair. The 1970s saw little improvement in China's shattered national fortunes. Plagued by political extremism and acrimonious leadership infighting, the decade saw the demise of Lin Biao within two years of his ordainment as Mao's chosen successor, the rise and fall of the radical Gang of Four and the death of Mao and Zhou Enlai in 1976. The immediate post-Mao era was no less unstable for China. The appointment of the inexperienced and scarcely known Hua Guofeng as paramount leader did little to put China back on an even keel as Hua struggled to cope with continued political infighting and mass national unrest. This was followed by another leadership struggle resulting in the removal of Hua by Deng Xiaoping, who returned triumphantly from his second period in political exile.

With the benefit of hindsight we can see that Deng's rise to power was of huge significance for China because it began a new era of

economic growth and national stability. After decades of political turmoil characterised by a succession of militant mass campaigns, the CCP under Deng started the long overdue process of negating Mao's chequered legacy and focusing almost exclusively on economic performance based on attracting foreign investment. The intention was (and remains) to make the nation economically strong and to put China back where it belongs at the very heart of the international community. Although this goal is increasingly being realised in the context of unprecedented economic growth and vastly improved foreign relations with many former imperialist enemies, a new type of foreign threat has emerged in the eyes of the CCP ensuring that discussions of democracy and rights continue to be dominated by issues of the national interest. This is the focus of the next chapter.

5

From Military Imperialism to Cultural Imperialism: Democracy and Rights in the Post-Mao Era

We have seen in the previous four chapters how conceptions of democracy and rights in China have been heavily moulded by the perceived need to safeguard the nation against the threat of foreign military imperialism. This foreign threat persisted despite China's experimentation with a variety of different political systems – a partial constitutional monarchy during the late Qing, a representative democracy following the establishment of the RoC and a single-party system after 1928 with the (completely unrealised) promise of full constitutional democracy after a (possibly six year) period of political tutelage. During each of these eras, the country also remained internally fragmented with anti-Qing hostility in China's southern regions weakening the Qing's already waning authority and civil war and warlordism eroding the authority of the KMT during the Republic. This enabled the foreign military threat to remain omnipresent. Even after the defeat of the Japanese in 1945 and the unification of China in 1949 under a new centralised communist political system, the nation remained susceptible to overseas attack from all corners of the Chinese map. It was this concern about foreign attack that lay at the very heart of Maoist mass participatory democracy.

Although tensions persisted on a few of China's borders after the death of Mao in 1976, the risk of foreign invasion diminished significantly. To be fair, Mao played a big part in this by initiating a process of détente with the United States which led to Richard Nixon's landmark visit to Beijing in 1972 and the formal establishment of diplomatic relations with the US in 1979. During the 1980s, Sino-American relations reached an unprecedented high as the Deng Xiaoping regime embraced American investment as part of China's new "open door" policy. Signs of a rapprochement with the Soviet

Union also emerged in the early post-Mao era. During autumn 1982 Leonid Brezhnev and Deng Xiaoping brokered a deal which secured the semi-annual resumption of Sino-Soviet meetings at vice-ministerial level. The ascendancy of Mikhail Gorbachev greatly accelerated the improvement in Sino-Soviet relations, culminating in Gorbachev's notorious visit to Beijing in May 1989.

But as the threat of foreign military imperialism gradually receded, a new, albeit perceived foreign threat took its place – a threat from foreign cultural imperialism. The watershed incident was the PLA's infamous military crackdown in Tiananmen Square in June 1989. The worldwide condemnation of this event and the subsequent criticism of China's poor human rights record and lack of democratic reform convinced the CCP that the outside world, specifically the West, was trying to conquer China once again. Only this time the method was more subtle. Instead of seeking to change China through the barrel of a gun, the West was attempting to change China from the inside by imposing an alien political culture and belief system, namely Western democracy and rights, on to a country with a completely different way of thinking and behaving. The purpose of this chapter is to show how the perceived emergence of foreign cultural imperialism has not only triggered a concerted Chinese response on democracy and rights, but has since influenced much of the content of China's official position on these concepts. This is often in a way that is critical of Western theories and practices of democracy and rights as well as being fiercely protective of Chinese democracy and rights.

The official response can be divided into three categories: discourse, diplomacy and defensive nationalism. The Chinese discourse on human rights and democracy has been most clearly articulated in a series of official white papers starting in 1991. In assessing this discourse, we will see how the CCP insists upon the uniqueness of a Chinese or "sinified" model of rights and democracy based on China's unique historical and national conditions arising from decades of struggle against foreign military imperialism. This is particularly apparent in the party's emphasis on the right to subsistence and the right to national self-determination. Diplomacy refers to China's use of human rights diplomacy, specifically within a UN context. Here, we will see that in an effort to circumvent further foreign criticism of its human rights record after Tiananmen, the CCP has successfully formed human rights alliances with like-minded developing nations in the UNCHR. In contrast to the discourse and diplomacy strategies which have both been pro-active responses, China's defensive nationalism has very

much been a re-active response. In discussing this theme we will see how the party has angrily accused its Western rights critics of wantonly interfering in Chinese internal affairs and thereby violating China's right to national sovereignty, whilst at the same time conveniently ignoring their own human rights abuses both overseas (particularly in China) and at home.

But as with the previous eras examined in this book, not every Chinese thinker has steadfastly adhered to the official line on democracy and rights. In the final section of this chapter we will examine the emergence of an academic discourse, particularly on human rights, that challenges the party line. For example, some scholars argue in favour of a universal rather than a traditional class-based notion of rights. Others prioritise civil-political rights ahead of the right to subsistence, proclaimed by the CCP as the "foremost" human right in China. Most importantly, we will note that those who advocate an alternative position on these and other aspects of rights do not link their ideas to the needs of the Chinese nation or to a supposed threat from outside. Instead, rights are valued as ends in themselves.

Political reform during the 1980s

We will see in the next section how the international furore sparked by the Tiananmen crackdown precipitated a concerted effort on the part of the CCP to articulate a distinctively Chinese position on democracy and human rights. But it would be a mistake to assume that there was no contemplation of political reform in the period prior to Tiananmen. Far from it. Political reform was well overdue in China, partly because of the rapid pace at which the CCP had reformed the economy by contrast to the political system and partly because the grave political experiences of the Mao era necessitated a radical revamp of the political system.

Intra-party reform

In terms of internal party procedures, Mao was renowned for his attempts to undermine the established Leninist principles of democratic centralism which require party members to unite behind the party line once it has been agreed by majority vote. Faced with a policy to which he was opposed, Mao's favoured tactic was to form powerful coalitions outside the party centre and sometimes even outside the party itself in order to impose his own position on the party and the country. During the Cultural Revolution, for example, Mao crafted

alliances with the PLA and the student Red Guards to assist him in overthrowing his political enemies at the centre and re-assert a radical vision of socialism that had increasingly dissipated after the failure of the Leap. During this chaotic period, decisions were taken either by Mao alone or by ad hoc political groups such as the Cultural Revolution Group who dismissed party leaders at will with the coercive assistance of the Red Guards and the PLA. This arbitrariness of decision-making came to characterise the Mao era and was severely damaging to CCP's reputation.

In an effort to repair the party's reputation and put the country back on a more even footing, the Deng Xiaoping regime sought to establish a more predictable system of decision-making by restoring the principles of democratic centralism at all levels of the party and by re-affirming and consolidating the correct procedures for party meetings and for appointing and dismissing party members. Measures were taken to ensure tighter control over local-level party secretaries so as to prevent a re-occurrence of the personal abuses of power that took place during the Cultural Revolution. More generally, proposals were made by the newly-established Central Discipline Inspection Commission to clamp down on nepotism, authoritarianism and corruption and to restore closer ties between the party and the masses in accordance with the CCP's Yanan tradition of the 1930s (White, 1993, pp.170–97).

At the highest level of the party, Deng took the largely symbolic step of abolishing the post of CCP Chairman, a position that had become synonymous with Mao's cult of personality and his domination of the party apparatus. Instead, the party was to be led by a General Secretary (Hu Yaobang in 1982) whose authority was restricted by a provision in the 1982 CCP Constitution which made him first amongst equals rather than in sole command. The Vice-Chair of the party, a position usually held by more than one person, was abolished to avoid an over-concentration of power. Meanwhile, the Secretariat, a body which was dissolved during the Cultural Revolution, was re-established in order to dilute the previously unrivalled power of the Politburo. In addition, measures were implemented to increase the powers of the previously powerless National Party Congress and immediately above it, the Central Committee (Stavis, 1988).

Reforms were also made to the state apparatus as enshrined in the 1982 State Constitution. In order to increase its authority in relation to the all-powerful State Council, the Standing Committee immediately below it was given new powers to supervise the enforcement of the constitution, examine and approve any recommended changes to the

state budget and national plan and exercise greater controls over lower-level state organs. The National People's Congress, for so long little more than a rubber-stamp rather than a fully functioning legislature, was accorded greater powers of debate and decision-making (O'Brien, 1990). Other significant changes included a limit of two consecutive five year terms for government posts such as president and premier and restrictions on officials serving concurrently in more than one leadership post. In general, the objective was to improve the procedural legitimacy of both state and party by ensuring that decisions and decision-makers were controlled by a more transparent legal process and by introducing checks and balances on the authority of certain higher bodies (for example, the Politburo and the State Council).

The question of checks and balances was similarly relevant to the inter-relationship between party and government, not just within those separate institutions. During a well-documented speech on political reform delivered in August 1980, Deng (1984, pp.302–25) identified the need for a clear demarcation of powers between party and state so as to prevent the party from dominating government affairs as it had done under Mao. In particular, Deng authorised the removal of all party groups from government and administrative bodies and forbade party secretaries from taking charge of government work. Certain lower level government bodies were also granted new powers to appoint their own personnel without interference from the party.

Electoral system

In terms of the electoral system, during the Mao era direct elections were only permitted at the township level. These were invariably dull and predictable affairs since the number of candidates invariably equalled the number of available positions, thereby diminishing the whole concept of choice. The candidate nomination process was dominated by the party, with non-party members discouraged from standing. Election campaigning was non-existent and voting usually consisted of a show of hands in a public meeting place, raising issues of voter privacy and voter intimidation. Indirect elections (used for the election of deputies to county level and above) were no more inspiring, notwithstanding the greater use of secret ballots (Womack, 1982).

In an effort to revitalise the electoral process as part of the post-Mao emphasis on socialist democracy, a revised Election Law came into practice in 1979 (updating the 1953 version) and was further amended in 1982 and then again in 1986 (Nathan, 1986b; Jacobs, 1991). This

new legislation included several key changes. The scope of direct elections was expanded to include the county as well as the township level and it became compulsory to have more candidates than available positions. The nomination process was altered to allow a greater role for popular associations of ten or more members of the electorate jointly to nominate candidates, although for indirect elections this process was still dominated by the party. A new "50 per cent rule" was introduced and applied in two different ways. Firstly, in order for an election to be valid over 50 per cent of the electorate were required to vote. This provided voters with an opportunity to force a re-ballot by simply not turning out if they did not like any of the candidates on offer (known as "negative democracy"). Secondly, in order to be elected the candidate was required to receive over 50 per cent of the votes cast. As an alternative, voters could vote to oppose a candidate or vote to abstain. Other changes included the introduction of campaigning in an effort to provide voters with more information about candidates and the replacement of public election meetings with polling stations in order to improve voter secrecy.

Assessing the success of the reforms

The success of these political reforms is open to question. Despite increases in National Party Congress (NPC) and Standing Committee powers, ultimate authority remained with the State Council. Similarly, the Politburo Standing Committee (PSC) maintained its grip over all key decisions made by the party. Separation of party from state was largely confined to lower-level institutions, suggesting a lack of commitment on the part of the leadership to implement a genuine division of powers throughout the entire system. There were also certain practical difficulties involved in untangling the complicated network of interlocking institutions which had become so entrenched over the years, as well as instances of obstructionism by officials who were unhappy with the dilution of their authority resulting from the new initiatives (White, 1993).

Reforms to the electoral system were more successful and are thought to have introduced a much needed democratic spirit to elections. The "50 per cent rule", in particular, yielded some interesting results. A significant number of direct and indirect elections saw candidates defeated for failing to secure the requisite 50 per cent of the votes cast, as well as re-ballots when less than 50 per cent of the electorate turned out. In one of the most high profile cases, during 1988 indirect elections to the Guangdong Provincial People's Congress, neither of

the two candidates for President of the People's High Court received a majority of the votes cast. This proved to be particularly embarrassing for the Guangdong authorities who were forced to organise a new round of voting with completely new candidates (Goldman, 1994, p.252). The introduction of secret ballots was also significant in that it reduced the pressure to vote in accordance with the party's wishes, stretching all the way up to the very top. When the Standing Committee of the NPC elected Li Peng as Acting Premier in November 1987, two people voted against Li and another abstained. This was the first ever instance of the Standing Committee dissenting from the party's nominee for Premier (Jacobs, 1991, p.192).

Despite these (and other) notable successes, a number of problems remained inherent in the electoral system. One of the most fundamental was continued party interference in the selection of candidates. Although the candidate nomination process was much more open and inclusive in the ways noted above, the process of reducing the number of nominees to the final number of candidates to stand for election invariably remained under tight party control. According to Jacobs (1991, p.183), this process, known ironically as "consultation", 'generates the most dissatisfaction with the electoral process' and is thought to have caused a considerable degree of voter apathy at the polls. Another shortcoming was the continued absence of genuine election campaigning despite efforts to the contrary. In his study of the 1987 elections in Nanjing, Jacobs (1991, p.186) observes that whilst (in an unprecedented move) information about the candidates was posted on prominent outdoor noticeboards (including their photographs), there were very few public meetings where candidates could address voters and no instances of door-to-door campaigning. As such, voters rarely met candidates.

Putting aside the limited success of China's political reforms during the 1980s, one of the key motivating factors for introducing the reforms was linked to Chinese nation-building. At this stage, the party was not articulating its political ideas and reforms in terms of saving China from allegedly pervasive cultural imperialism, although that came soon. Rather, political reform was conceived as being tied more generally to the process of opening China up to the outside world which in itself was a building block towards a strong China. In order to restore Chinese pride and put China back on the international map after the calamity of the Mao era, the emphasis during the 1980s was placed squarely on economic reform. But a more transparent and predictable system of politics was portrayed as essential in facilitating the process of economic reform and national reconstruction.

The Tiananmen watershed

If we turn now to the Tiananmen incident and its impact on the Chinese discourse of democracy and rights, some scholars have suggested that too much has been made of the incident as a trigger for China's post-Mao engagement on these issues. For example, Chen Dingding (2005) has suggested that a Chinese discourse on human rights was already in full flow by the end of the 1980s. The reason for this, he suggests, had nothing to do with foreign criticism of China's human rights record because such criticism was absent prior to Tiananmen. Instead, the discourse emerged for internal, domestic reasons, a point also made by Svensson (2002, p.236), as the CCP commenced a process of self-reflection and self-criticism after the calamitous period under Mao. This culminated in the landmark 1981 Resolution on Certain Questions in the History of Our Party Since the Founding of the People's Republic of China when the party openly acknowledged the numerous "errors" and "mistakes" that were made under Mao and the lessons to be learned from that period (Saich, 1995). One re-occurring theme arising under the Resolution was that the party should never again pay such scant attention to the human rights of its citizens and from this flowed an increased official focus on rights as the party began to look at how it could better protect citizens' rights. Chen cites the 1982 Constitution as an example of this new focus, which contains an entire chapter on the Fundamental Rights and Duties of Citizens, including rights to vote and participate in elections and the freedom of speech and religious belief. Chen also notes an increase in official documents and speeches on human rights and an increase in the publication of theoretical articles on the subject in state-controlled journals such as 'Red Flag', the 'Beijing Review' and 'Legal Studies'. From this Chen (2005, p.167) concludes that 'by the end of the 1980s, China was already in a web of human-rights discourse'.

Chen's position is valid up to a point. He is right to identify a pre-Tiananmen Chinese narrative on rights, particularly on issues such as the rights of national self-determination and development and the need for improvements in the legal protection of Chinese human rights. Although Chen does not mention this, in 1988 there was high-level academic conference in Changchun which focused on the legal relationship between rights and duties. In addition, several of China's leading legal theorists participated in academic exchanges and collaborative research projects with their Western counterparts, the majority of which took place under the aegis of influential agencies such as the

American Committee on Legal Educational Exchanges with China (Weatherley, 2001, p.21). Svensson (2002, p.236) also notes that work was undertaken to develop a new criminal code during the 1980s, a process that began back in the 1950s but was interrupted by various political campaigns.

Yet, ultimately Chen significantly overstates the extent to which China was engaged in a human rights discourse prior to Tiananmen. There was a discourse, but it was sporadic and thin on detail. Rather than there already being "a web" of human rights thinking by the end of the 1980s as Chen suggests, it is perhaps more accurate to refer to the "first shoots" of a discourse during that period, which then erupted after Tiananmen. Chen is also incorrect to suggest that there was no foreign criticism of China's human rights record during the 1980s. The first critical foreign voices began to emerge in the mid-1980s on issues relating to Tibet, Taiwan, the One Child Policy and various criminal justice matters (Harding, 1992). As China began to open its doors to foreign investment and lose its geo-political importance to the West with the gradual erosion of Soviet power, Western governments felt less of a strategic need to reserve judgement on Chinese human rights practise. Ironically, Western criticism of Chinese human rights began to increase just at a time when China was beginning to improve its human rights record after the dark days under Mao.

Such criticism, however, was not sustained at an international level as Roberta Cohen (1987) has pointed out and it was certainly nothing compared to that which the CCP faced after ordering the PLA to fire on Chinese citizens on 4 June 1989. All of a sudden, literally overnight, China became a pariah state, condemned by much (although not all) of the international community as one of the world's worst abusers of human rights. This was accompanied by the imposition of economic sanctions (albeit mild) and arms embargoes against China (McGurn, 1990). All of this triggered a Chinese response on human rights and to a lesser extent on democracy which far outweighed anything witnessed during the 1980s, both in quantity and detail. Western criticism of Chinese human rights placed the CCP, an increasingly important player in the international community, in a position where it felt it had to explain to the West precisely where it stood on the subject, to justify itself in front of a predominantly Western audience. But this was seen by the party as a hostile Western audience, intent on trying to fundamentally change China, to overthrow China's single-party political system and enforce its own distinct political culture and belief system as embodied in a Western-style system of multi-party

democracy and individual human rights. In other words, the Western response to Tiananmen was perceived as a shameless attempt at Western cultural imperialism. It was this perception, reinforced by subsequent Western criticism of China on democracy and rights, that has shaped the Chinese response on democracy and rights in the three ways that we are going to look at below, namely through discourse, diplomacy and defensive nationalism.

The discourse on human rights

In terms of the discourse of human rights (we will look at democracy a bit later), we should note two points. Not only has foreign criticism of Chinese rights generated a Chinese discourse on rights, but such criticism has also influenced the content of this discourse. Dealing firstly with the emergence of the discourse, this began in earnest with the publication in 1991 of a human rights white paper entitled 'China's Human Rights Situation' published by the Information Office of the State Council (IOSC, 1991). This document set out, in very general terms, China's official stance on human rights. Since then, Chinese human rights white papers have been published on an annual basis, covering a range of issues such as the rights of Tibetans (IOSC, 1992), the freedom of religious belief (IOSC, 1997), labour rights (IOSC, 2002) and the rights of women (IOSC, 2005). China also releases a biennial white paper criticising America's record on human rights, which we will return to later in this chapter. Crucially, so as to ensure that China's Western critics, and a Western audience in general, can understand exactly where China stands on human rights, each of these white papers is translated into English.

In addition to issuing human rights white papers, the CCP has substantially widened the parameters of the debate to include Chinese academics (Peerenboom, 1993; Keith, 1995; Weatherley, 2001). Chinese libraries are now stacked with books and articles on the subject, scores of human rights conferences have been convened (often with US and European partners) and a number of human rights research centres have been set up. Some are affiliated to universities such as the Human Rights Research Centre of Nankai University in Tianjin. Others have direct links with the CCP such as the China Society for Human Rights Studies funded by the Beijing Municipal Propaganda Department. In 1993 the China Society for Human Rights Studies was established to co-ordinate academic work on human rights and disseminate Chinese ideas about human rights domestically and internationally. There are

also a number of undergraduate and postgraduate modules on the study of human rights and there is even an official human rights website (http://www.humanrights-China.org/) on which the journal 'Human Rights' has been published since 2002.

Why has the CCP opened up the debate in this way? There are at least two reasons. Firstly, the CCP probably anticipated that most Chinese academics would agree with the official position on rights which would then serve to fortify the official line as set out in the various white papers. Although there have been some dissenting voices as we will see later, many academics have indeed supported the party orthodoxy. Moreover, high-profile human rights scholars such as Liu Wuping and Dong Yunhu have directly contributed to the white papers and accepted posts within the party's human rights policy-making apparatus. Secondly, the party has been keen to demonstrate to the outside world just how "tolerant" it has become since the death of Mao. What better way to demonstrate this than by authorising an academic debate on a very sensitive subject. So once again, we can see how the Chinese response on human rights has been generated by the perceived need to play to a critical foreign audience.

If we turn now to the content of the Chinese discourse on rights, we can see that much of this content has developed and evolved in direct reaction to Western criticism of Chinese human rights and is simultaneously directed at Western critics of Chinese human rights. For example, on the very first page of the 1991 human rights white paper, the authors make it clear that whilst the principle of human rights may be universal, the types of human rights that people can actually enjoy are specific to the circumstances of their country. Taking a barely disguised swipe at what it describes at the cultural imperialist attitude of China's Western critics, the white paper insists that:

> Despite its international aspect, the issue of human rights falls by and large within the sovereignty of each country. Therefore a country's human rights situation should not be judged in total disregard of its historical and national conditions, nor can it be evaluated according to the preconceived model of another country or region (IOSC, 1991).

In context of the conviction that rights are relative to historical and national conditions, the party has consistently argued that the most important human right in China is the right to subsistence, a position first argued by the non-communist thinker Gao Yihan back in 1921.

Drawing on the historical memory of the so-called "century of humiliation" and taking an opportunity to point the finger at its modern-day imperialist detractors, the party claims that subsistence rights cannot be achieved without national independence and that the Chinese people have been engaged in a long and protracted struggle against foreign imperialism to realise their basic rights to subsistence. According to the party-line, following the First Opium War, 'imperialist powers waged hundreds of wars on various scales against China, causing immeasurable losses to the lives and property of the Chinese people'. The imperialists, it is claimed, 'sold, maltreated and caused the death of numerous Chinese labourers, plunging countless people in old China into an abyss of misery'. Little changed after the establishment of the Republic in 1912 which categorically 'failed to deliver the nation from semi-colonialism'. It was only after the founding of the PRC that the Chinese people 'stood up as the masters of their own country' and 'won the basic guarantee of their life and security'. Notwithstanding this alleged public assertion of national independence, the party insists that subsistence rights remain paramount given that China's economy 'is still at a fairly low level and its standard of living falls considerably short of that in developed countries' (IOSC, 1991). A recent white paper entitled the National Human Rights Action Plan of China (IOSC, 2012) re-asserts the official commitment to subsistence rights: 'the Chinese government will continue to give priority to the protection of the people's rights to subsistence and development'.

One important consequence of prioritising subsistence rights has been to relegate civil-political rights to a secondary position. According to the orthodox Chinese Marxist scholar Lin Jia (1992, p.29), the provision of civil-political rights are little more than an empty promise in a country which cannot satisfy the basic material needs of its citizens: 'for people without clothing, food or housing, any constitutional guarantee of political rights or civil freedoms is a valueless because the genuine enjoyment of these rights is impossible'. This opinion is closely echoed by China's political leaders. As former Premier Li Peng asked 'in the modern world, there are still many people who are struggling to ward off starvation. In this type of situation, which type of right is more important, the right to one-man-one-vote or the right to have enough food to eat or enough clothes to wear?' (Dong and Liu, 2005, p.12).

Another human right that features prominently in Chinese thinking is the right to national sovereignty or national self-determination (*minzu zijuequan*). As with subsistence rights, this right is articulated in a manner that is heavily loaded against China's Western critics and

placed firmly within the context of the "century of humiliation". According to the rights theorist Pang Sen (1992, p.26), the right to national self-determination is a pre-condition for the realisation of individual rights because without a nation that is free from foreign rule it is simply not possible to guarantee individual rights. In a clear dig at the imperialist legacy of Western powers, Pang suggests that 'if a country has been invaded, occupied and enslaved by foreign powers, and its independence and sovereignty trampled on, then the people of that country will be subject to bullying and humiliation. As such their individual rights and basic freedoms will not be guaranteed'. This position is reiterated in a number of official human rights white papers (IOSC, 2005, 2011) and by Chinese scholars such as Zhu Muzhi and Zhou Jueren (2000).

Of course, China's prioritisation of national self-determination and sovereignty rights is not necessarily exclusive to the post-Mao era. This position was first stated by the CCP at the Bandung Conference of 1955 and then intermittently during the 1960s as China declared its support for revolutionary Marxist and nationalist movements fights wars of liberation in Asia, Africa and Latin America (Camilleri, 1980). When asserting these rights in the post-Mao era, usually in the context of Western pressure on human rights, the CCP frequently refers back to Bandung in an effort to demonstrate its consistency over the years. This was particularly apparent during the first few years after Tiananmen when the CCP insisted on the importance of non-interference in the domestic affairs of other nations.

For the sake of completeness, we should note that there are a number of other distinctive aspects of China's discourse on rights. These include the philosophical conviction that the source of individual rights derives the laws of the state rather than our innate moral worth as human beings (Yang and Zhuang, 1991) and an emphasis on citizens' duties (Sun, 1996), which is particularly apparent in PRC constitutions. This focus on duties is bolstered by periodic national campaigns encouraging people to emulate selfless communist heroes such as the model soldier Lei Feng, as highlighted in the previous chapter. More recently, China has come to view the maintenance of public order as a paramount obligation of the state over and above the exercise of individual rights, a position which was particularly apparent after the 9/11 attacks and the so-called "Arab Spring" of 2011 when China proposed that national security be conceived as a fundamental human right. This accords with the CCP's attempts to legitimise its

rule by presenting itself as a force for "stability" (*wending*) (Sandby-Thomas, 2011).

The discourse on democracy

If we look now at the Chinese response on democracy, the most detailed official document to set out the CCP's position is a white paper entitled 'The Building of Political Democracy in China', published in 2005 against a backdrop of widespread national media attention (IOSC, 2005). As with China's discourse on human rights, democracy is presented as something which is strictly relative to the historical and national conditions of each country and should be respected as such. In the Chinese case, the realisation of democracy is portrayed as the victorious outcome of a long and protracted struggle against Western imperialism. With the First Opium War again used as the starting point, the authors claim that 'Western imperialist powers launched, time and again, aggressive wars against China' and 'for nearly 110 years after that, China became a target of plunder for almost all imperialist countries, big and small'. This created a situation in which 'the Chinese people had no democratic rights whatsoever'.

The emotive "victim narrative" underpinning the evolution of democracy in China is very similar to that contained in the human rights white papers and from this we can we see very clearly who the audience is intended to be – a critical West that has no right to be critical of China on democracy given its shameless legacy of imperialism in China. The intended message is also apparent – that the West should refrain from cultural imperialism, in other words from trying to impose its model of democracy on to a country with a completely different historical tradition and national circumstances. As the 2005 white paper states, 'the democracy of a country is generated internally, not imposed by external forces'.

So as to re-iterate this last point, the white paper makes it clear that the Chinese people have given due consideration to Western-style democracy 'through painstaking exploration and hard struggle.' But they came to the conclusion that 'mechanically copying the Western bourgeois political system and applying it to China would lead them nowhere'. Instead, in order 'to accomplish the historic task of saving China', the Chinese people developed their own 'new thought and new theories to open up a new road for the Chinese revolution'. Hu Jintao made a similar statement about the alleged inappropriateness of Western democracy for China. In a speech delivered at the Eighteenth

National Party Congress in November 2012, Hu referred directly to the cultural imperialism of 'certain censorious Western nations', insisting emphatically that 'we will never copy a Western political system' (XHNA, 2012).

So what is Chinese democracy? Well, given the dramatic historical prelude presented above, it is actually quite uninspiring and not obviously "culture-specific". According to the 2005 white paper, Chinese democracy includes a system of people's congresses from the township level upwards, a system of multi-party co-operation and consultation 'under the leadership of the CCP' and a process under which regional autonomy is implemented. The white paper also elaborates on the system of village democracy in China, a topic of particular interest to academics outside China and to be discussed further in the concluding chapter.

Human rights diplomacy

If we turn now to China's human rights diplomacy, this has been most apparent through China's activities within the United Nations. By way of background, although China became a permanent member of the UN Security Council in 1971 in place of Taiwan, it initially treated the UN's human rights bodies with caution, refusing to participate in any of the activities of the UNCHR or sign any international human rights conventions. According to Sceats and Breslin (2012) China 'asserted its right to a clean slate with respect to its international legal obligations, declaring illegal and null and void any signature and ratification of, or accession to, any multilateral treaties by the Republic of China since the founding of the PRC in 1949'. Such treaties included the 1966 International Covenant on Civil and Political Rights (eventually signed by China in 1998) and the International Covenant on Economic, Social and Cultural Rights (signed by China in 1997 and ratified in 2001), both of which give binding legal effect to the rights set out in the 1948 UDHR. China also conveniently ignored the fact that the former Chinese diplomat and KMT member Chang Peng-Chun had been pivotal in the drafting of the UDHR.

Official attitudes towards UN human rights activities began to thaw after the death of Mao as China increasingly focused on the need to attract Western financial investment. With this, the CCP gradually became more involved in UN human rights work, joining all specialised UN human rights institutions and securing a seat on the UNCHR in 1982. China also signed seven UN human rights conventions during the 1980s, including the Convention Relating to the

Status of Refugees, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the Elimination of All Forms of Discrimination Against Women (Chiu, 1989, pp.255–6). On some occasions China joined initiatives censuring other countries for their human rights abuses – for example, the Soviet invasion of Afghanistan, the Vietnamese invasion of Kampuchea and the Israeli policy against the Palestinians. But more often than not China simply abstained. A 1988 article in the 'Beijing Review' explained why: 'China has no objection to the United Nations expressing concern in a proper way over consistent and large-scale human rights violations in a given country, but it opposes the interference in other countries' internal affairs under the pretext of defending human rights' (Kent, 1999, pp.34–5).

Although China noticeably increased its role within UN human rights bodies during the 1980s, it was not until the 1990s that China became significantly more active, particularly in terms of its diplomatic initiatives. As with China's discourse on human rights, it was the international condemnation over the Tiananmen crackdown which acted as the catalyst, as members of the UN Sub-Commission on Human Rights, staffed mainly by Western representatives, started passing resolutions criticising China's human rights record. The first such occasion took place in August 1989 when a resolution was passed by 15 votes to 9 expressing a general concern about China's human rights record in light of Tiananmen. Although the wording of the resolution was remarkably mild and did not actually mention Tiananmen, it was the first time that a permanent member of the Security Council had been formally upbraided for its domestic human rights abuses. China quickly dismissed the resolution as invalid and made the customary accusations of Western cultural imperialism. But there was no doubting the acute embarrassment suffered by China as a result of this unprecedented act (Nathan, 1994, p.636).

In 1990 the UN Sub-Commission came very close to passing another critical resolution on Chinese human rights, this time in relation to Tibet. Although Western nations were queuing up to support the resolution, Chinese "face" was saved by the Iraqi invasion of Kuwait. In exchange for China's consent not to use its Security Council vote to veto the proposed use of force against Iraq, the resolution was quietly shelved, a clear example of how geo-political matters invariably "trump" human rights (Brody et al., 1991). Notwithstanding this diplomatic reversal, the Sub-Commission did successfully pass a resolution on Tibet in August 1991 once the Persian Gulf War was over, calling on

the Chinese government to 'fully respect the fundamental rights and freedoms of the Tibetan people'. Once again, Beijing responded by accusing the West of trying to impose its own model of rights on China and rejecting the resolution as invalid (Wan, 2001, p.113).

It was following these humiliating set-backs that China embarked on a concerted diplomatic effort to derail any further attempts to pass "anti-China" UN resolutions on human rights in what might be described as a counter-offensive against Western cultural imperialism. This involved intense lobbying of potential allies from the developing world to join China in opposing such resolutions, an approach which was first applied in 1992. Prior to the formal vote on yet another UN resolution on Tibet, Chinese delegates successfully lobbied to bring in ten new members to the UNCHR – four from Africa, three from Asia and three from Latin America (Tian, 1999, p.217). Once the new members were elected, Chinese delegates worked tirelessly behind the scenes to encourage them to oppose the forthcoming Tibet resolution. One tactic was to convince the new members that, as fellow developing nations, they shared a common cause with China on the relativist nature of human rights and risked being targeted on human rights themselves if they did not unite against the West on the issue. This tactic proved to be highly successful with 27 countries voting against the resolution, 15 in favour and ten abstaining, although as Kent (1999, p.65) points out, the West was initially divided on how to pitch the resolution and this cost them valuable lobbying time.

As well as working within the confines of the UN, China worked from the outside, concentrating determinedly on improving its diplomatic and particularly economic relations with those developing countries that it was seeking to align with on human rights. This was particularly the case in relation to Africa, a continent which China had neglected to a certain extent during its pro-Western initiative of the 1980s even though many African nations had 'consistently supported China's positions on human rights, the "one-China principle," and other important international issues' (Wan, 2001, p.114). Conversely, those nations who continued to support "anti-China" human rights resolutions, most notably Denmark, were often threatened with a steep reduction in economic ties as a consequence (Sceats and Breslin, 2012).

China continued to face condemnatory human rights resolutions up until 1997 and then again between 1999 and 2001 and in 2004, but on each occasion it was successful in securing enough votes to defeat the resolutions albeit often by narrow margins. China also faced potential opposition at the UN World Conference on Human Rights held in

Vienna in June 1993. The idea of a world conference on human rights had first been mooted in 1988 by the US and other Western members of the UN. However, Chinese delegates had consistently expressed concerns about this proposal. Their principal fear was that a conference of this type would be hijacked by hostile Western nations who would use it to specifically target China on human rights. From a Chinese perspective, the West had been buoyed by the collapse of Eastern European communism and would try to exploit this by erroneously assuming the moral high ground on human rights and imposing its own model of human rights on China and the rest of the developing world (Wan, 2001, p.115).

In order to prevent this from happening, China led the way in proposing a series of regional preparatory meetings to take place before the Vienna Conference. The official Chinese position was that these meetings, particularly in the Asian region, would allow nations that were less familiar with human rights ideas to discuss these ideas internally and form their own views, rather than being "bulldozed" at Vienna by the dominant Western consensus. But in reality the objective was to give Chinese delegates an opportunity to "persuade" their regional counterparts that there was a distinctly Asian model of human rights which legitimately challenged the Western alternative. This united Asian front on human rights could then be used to deflect any critical attention away from China at Vienna.

The Bangkok preparatory meeting held in March and April 1993 allowed China to put this plan into action. Ironically, despite repeatedly expressing fears that Vienna would be dominated by the West, China had no qualms about ensuring that it dominated Bangkok by, amongst other things, sending a 19 man delegation to the meeting and tightly controlling the agenda and procedures as Chair. During the meeting, the President of the Chinese delegation, Jin Yongjian, tabled a number of human rights proposals, including the inseparability of national conditions from the enjoyment of rights, the equal value of different categories of rights (most notably welfare and subsistence rights) and the importance of the rights to development and national self-determination free from outside interference (Dong, 1994, pp.206–8). Although none of these proposals were particularly controversial or unprecedented, they did represent a clear attempt by China to break away from the Western model of rights and create an alternative Asian conception. Moreover, the reference to development and national self-determination without outside interference was an obvious dig at Western members of the UN Sub-Commission whose

criticism of Chinese human rights and attempts to pass "anti-China" resolutions was consistently portrayed by China as a flagrant violation of these rights.

Notwithstanding China's efforts to achieve an Asian consensus on human rights at Bangkok, a single Asian voice did not emerge on all issues. Whilst countries such as China, Iran, Indonesia and Burma took a relativist perspective, Japan, Thailand, Nepal and South Korea insisted on a more liberal and universalist approach and this was reflected in a compromise document known as the Bangkok Declaration. That said, the Declaration did acknowledge that Asian nations differed significantly from the West in their attitude towards human rights based on their shared cultural heritage and agreement was reached that there was no single model of human rights (Kent, 1999, pp.165–8).

The Bangkok Declaration was then forced home at the Vienna Conference. As it had done in Bangkok, China sent a large delegation to the conference and successfully secured a post as one of the Vice-Chairmen which gave it the all-important powers of agenda setting and procedure control. From this position of strength, China was able to take a key role in negotiating what proved to be a protracted compromise deal in the form of the Vienna Declaration. This document recognised the universality of rights, whilst at the same time acknowledging that some countries, especially those from Asia, differed significantly and legitimately from the West in their understanding of human rights. The Declaration also recognised some of the key proposals that China had tabled in Bangkok, most notably the relationship between the enjoyment of rights and the reality of national conditions (Wan, 2001, pp.118–19), representing a notable triumph for China. Moreover, as it had intended all along, China avoided becoming the focal point of criticism at the Vienna conference.

Galvanised by its successes in Bangkok and Vienna, China sought to exploit its advantage. Having convinced most developing nations within the UN to side with it on human rights, China began to successfully lobby "swing voters" from the developed world not to oppose it on human rights, suggesting instead that developed nations enter into bi-lateral human rights dialogues with China, in what was a clear attempt to circumvent the possibility of the West "ganging up" on China. Consequently, in 1997 France, Germany, Italy and Spain announced their decision not to sponsor any further UN Sub-Commission resolutions on Chinese human rights. Shortly afterwards, Japan, Australia, Greece and Canada did likewise. Then, in 1998 the US

gave up as well (Wan, 2001, p.122). This explanation from the Canadian government as to why it was not longer prepared to sponsor any further resolutions against China illustrates the success with which the CCP disrupted the Western united front on criticising China over human rights: 'The Canadian government has decided in light of the significant weakening of consensus of the resolution among its traditional co-sponsors that it no longer carries the weight it has in past years' (Sceats and Breslin, 2012).

In recent years China has become much less isolated within the UN on the question of human rights and there have been no attempts to sponsor any resolutions against China since 2004. Moreover, China's successful manoeuvring within the UNCHR has acted as something of a template for other authoritarian states to shield themselves from censure. As Sceats and Breslin (2012) point out, 'by the turn of the [twenty-first] century, seeking and securing election to this body was *de rigueur* for chronic violators such as the Democratic Republic of Congo, Libya, Sudan, Saudi Arabia and Zimbabwe'. Consequently, in 2005 the General Assembly voted to abolish the UNCHR and replace it with the Human Rights Council.

Defensive nationalism

So far in this chapter we have identified two substantively pro-active Chinese responses to Western criticism on human rights and democracy – discourse and diplomacy. The third reaction, which can perhaps most accurately be described as defensive nationalism, is an altogether more re-active response and one that combines a very defensive attitude on this subject (as the term suggests) with an often fierce and accusatory political rhetoric directed squarely at censorious Western nations. Although China sometimes expressed itself in this way prior to Tiananmen, most notably in reaction to foreign criticism over Tibet, once again it was the outpouring of condemnation following the 1989 crackdown that triggered a sudden increase in this type of response.

If we look at the distinctive elements of Chinese defensive nationalism on rights and democracy, the first point to make is China's insistence that its practise of human rights and democracy is very much its own business, a strictly internal, domestic matter. Consequently, any foreign censure on this issue is swiftly rebutted not only as a form of cultural imperialism, but as unwarranted interference in Chinese affairs and thus a gross violation of China's highly-prized rights to national sovereignty and self-determination. As part of this response,

China reverts to its customary position that different countries have different models of democracy and human rights which are relative to their historical and national conditions. We noted earlier the reference in the 1991 human rights white paper to human rights falling within the sovereignty of each country, such that a nation's human rights record 'could not be judged in total disregard of its historical and national conditions', or 'evaluated according to the preconceived model of another country or region' (IOSC, 1991). Those in the West who seek to castigate China on rights and democracy are accused of failing to respect the Chinese model and of trying to impose their own model on to China. This is often expressed as an example of continued Western cultural imperialism.

Closely related to this perception is the conviction that Western criticism of Chinese democracy and rights is part of a wider anti-Chinese conspiracy to contain an increasingly resurgent China and prevent it from resuming its "rightful" place in the world. In other words, the West is charged with using democracy and rights as a form of power politics against China (Guo, 1991, p.19). Examples include the imposition of sanctions on China immediately after Tiananmen, the decision not to allow Beijing to host the 2000 Olympics and the repeated delays in allowing China's accession to the WTO, to which it finally acceded in 2001. These and other examples have not only been detailed in the official literature, but also in the unofficial and virulently anti-Western book entitled 'China Can Say No' (Song et al., 1996). In it, the authors accuse the US in particular of trying to disrupt the Chinese economy, create domestic turmoil and overthrow the incumbent political regime. Although such accusations have receded in recent years, they quickly re-surface if China comes under the international spotlight over its record on rights and democracy.

Another feature of China's defensive nationalism is to accuse its Western critics of gross hypocrisy, particularly on human rights issues. Using the emotive language of national humiliation by harking back to the so-called "century of humiliation", China is quick to remind Western nations of their shameful human rights record as imperialist powers, especially when they were dividing up the spoils in China. We have already seen some examples of this in the above section on discourse and there are plenty of other references, particularly in Chinese human rights white papers:

> The Imperialists massacred people in untold numbers during their aggressive wars. In 1900, the troops of the Eight Allied Powers –

> Germany, Japan, Britain, Russia, France, the United States, Italy and Austria – killed, burned and looted, razing Tanggu, a town of 50,000 residents to utter ruins, reducing Tianjin's population from one million to 100,000, killing countless people when they entered Beijing, where more than 1,700 were slaughtered in Zhuangwanfu alone (IOSC, 1991).

The message is clear: how dare the West chastise China on human rights given the appalling legacy of human rights abuses by Western nations in China during the nineteenth and early twentieth centuries. More directly, following criticism by the French government of Chinese human rights and the actions of French demonstrators who attempted disrupt the 2008 Olympic torch relay in protest at China's human rights record, the CCP quickly recalled how French (and British) imperialist troops burnt down the Old Summer Palace in Beijing back in 1860 having looted the palace of its valuable antiques. As the 'People's Daily' put it 'if France wants to talk to China about human rights, they first need to apologise for what they did to the Old Summer Palace and then return the great quantity of Chinese relics that they stole' (RMRB, 2008).

Similar outrage followed comments made by Pierre Berge, owner of some of the most valuable antiques stolen by the French in 1860. When confronted by a pretend Chinese auction bidder who demanded that he give the antiques back to China, Berge said that he would happily do so on the condition that China improved its human rights record, gave Tibet back to the Tibetans and authorised the safe return to Tibet of the Dalai Lama (JFJB, 2009). Chinese Foreign Ministry spokesman Ma Zhouxu responded angrily by accusing France of cultural imperialism and condemning the double-standards of France and other Western nations on the question of human rights, noting that 'Western imperial powers have looted a lot of Chinese cultural relics. These cultural relics should be returned' (New York Times, 2009).

The CCP also accuses its Western critics of hypocrisy on rights within a contemporary context, citing continued Western, particularly US, violations of Chinese rights. This included the 1999 US-led NATO bombing of the Chinese Embassy in Belgrade, which killed three Chinese embassy officials. Although the Clinton administration insisted that the bombing was accidental, this was rejected by the CCP, precipitating several days of fierce anti-US demonstrations in Beijing and elsewhere in China which were carefully orchestrated by the party. Another frequently cited example of US violations of Chinese rights, in

this case its territorial rights, is the collision in 2001 between a Chinese fighter jet and a US spy plane which was flying in Chinese airspace (Hays Gries, 2004, pp.98–115). Both incidents were portrayed as conclusive evidence of America's continued disdain for China's right to national sovereignty. Significantly, though, the CCP's attempts to whip up a nationalistic fervour against the West on these and other occasions has sometimes backfired, with some people in China accusing the party of being weak on issues of national significance. We will examine this trend further in the next chapter.

America's domestic human rights record has come under attack by China, primarily in response to the annual US State Department report which invariably identifies China as one of the world's worst violators of human rights. Initially, the Chinese reaction was one of national indignation. Following a 1995 US report, the 'China Daily' (1996, pp.3–4) insisted that America was 'simply not qualified at all to feed its own arrogance and make indiscreet remarks or criticisms against China on this issue'. But now, the party responds by publishing full white papers on America's human rights record, cataloguing a variety of alleged violations. The 2006 white paper cites a US Justice Department report which identifies over 6 million violent crimes in the previous year (the majority of which were gun related), whilst on socio-economic rights it is claimed that the US has the highest poverty rate in the developed world, more than twice as high as other industrialised nations. Similarly, on the subject of racial discrimination, the white paper claims that the income level of African-American families is only one-tenth that of white families. In light of these and other findings, the report concluded that 'the US government ought to first clean up its own record of human rights before qualifying itself to comment on human rights situations in other countries, let alone arrogantly telling them what to do' (IOSC, 2006).

Chinese counter-accusations of American human rights infringements have also been prevalent within the UNHCR and the Human Rights Council. After the US raised concerns about China's treatment of Tibetans in 2008, the Chinese delegation responded directly to the US by asserting that 'you should reflect on your record of massive violation of human rights in Iraq and other places in the world. One may ask what other country in the world dares to violate human rights so blatantly' (Sceats and Breslin, 2012). Then, in 2010 following US criticism of China's repression of human rights activists, ethnic minorities, and public-interest lawyers, China retaliated by referencing the 'gross problem of domestic violence, and a huge gap between rich and poor'

as well as racial discrimination and the violation of indigenous peoples' rights (Sceats and Breslin, 2012).

European critics of China's record on rights have faced similar scrutiny from China. When Sweden raised concerns about the violent suppression of protestors in Tibet in 2008, China insisted that this was an internal matter pertaining to national security and retorted that 'acts of violence against children in Sweden were alarming and the Swedish government should rather take actions in this regard'. Similarly, when the EU responded to China's crackdown on Uighur protestors in Xinjiang in July 2009 by emphasising the importance of freedom of expression, the right to peaceful assembly and the rights of detainees, China defaulted to its usual position on domestic affairs and national sovereignty and expressed its 'great concern' about discrimination against Roma and other ethnic minorities and migrants in EU member states and the incitement of religious hatred 'in the fight against terrorism' (Sceats and Breslin, 2012).

Challenging the state orthodoxy

So far in this chapter we have identified what amounts to the official CCP orthodoxy on democracy and human rights as outlined in various white papers and the works of sympathetic academics, via the state-controlled media and through official proclamations within the context of the UN. But as with the previous eras analysed in this book, there has not always been a consensus of opinion on democracy and human rights in the post-Mao period. Other views have been expressed which not only challenge the state orthodoxy on what is understood by democracy and rights, but in discussing these topics such views make no direct reference to, or correlation with, the interests of the nation.

If we begin by looking at the views on democracy and rights of the 1989 Tiananmen demonstrators, it is notable that many of the student and worker groups that were established at this time were not particularly consistent or clear on what they meant when they insisted on the need to introduce greater democracy and human rights for Chinese citizens (Calhoun, 1994). Whilst a handful of these groups made very general and rather vague statements in favour of a multi-party system of democracy, most of the calls were for much needed intra-party democratic reform following the perceived failure of the 1980s political reforms. This included calls for greater accountability of CCP officials, the elimination of official corruption and greater transparency of CCP

decision-making. Freedom of press and association were the rights most frequently invoked by the demonstrators, although there were surprisingly few calls for the release of Chinese political prisoners, such calls usually being more frequently made by international human rights watchdog organisations. One high-profile advocate of releasing political prisoners was the liberal (and later exiled) astrophysicist Fang Lizhi who repeated the demands he had made during the smaller public demonstrations of 1986 (Goldman, 1994, pp.191–203).

There were inevitably references by some of the Tiananmen demonstrators to the May Fourth spirit of democracy and rights, most notably in the unofficially published 'May Fourth Manifesto' which claimed that the goal of the student movement was 'to facilitate the process of modernisation by raising high the banners of democracy and science' (Svensson, 2002, p.264). In addition, a Declaration of Human Rights was released by the Chinese Human Rights Movement Committee in late May 1989. This called for greater freedom of belief, speech and publication in China and insisted, in very broad terms, on the universality, equality and inalienability of human rights (Angle and Svensson, 2001, pp.321–3).

A more succinct advocacy of democracy and in particular human rights came from China's academic community. The first challenging voices emerged a year or so before the Tiananmen crackdown during the more relaxed political environment that flowed from an acceleration of economic reform after 1987. For example, the constitutional reformer Yu Haocheng published an article in 1988 entitled 'On Human Rights and Their Guarantee by Law' commemorating the fortieth anniversary of the UDHR and insisting upon the universal nature of human rights. This position was at odds with the CCP's espoused of class-based rights, an anachronistic throw back to the Mao era. Yu also took a swipe at what he saw as the anti-humanitarian political campaigns launched by the CCP during the 1980s, such as the Anti-Spiritual Pollution Campaign of 1983 and the Anti-Bourgeois Liberalisation Campaign of 1987 (Davis, 1995).

Xu Bing of the Chinese Academy of Social Sciences (CASS) also attacked the traditional class boundaries inherent in official Chinese rights thinking. In an article entitled 'The Rise and Historical Development of Human Rights Theory', Xu (1989, p.9) described the orthodox stance on class rights as a serious abrogation of the universal principles of human rights, arguing that 'to insist on the class character of rights and to advocate that rights should only be given to "the people" and not to class enemies has led to the fallacy of completely

denying human rights in China'. Xu (1989, p.9) singled out the Cultural Revolution as a time when an obsession with class struggle and class rights led to a total disregard for human rights:

> At that time, Lin Biao and the Gang of Four actively advocated intense class struggle and called for total dictatorship. Democracy, liberty, equality, fraternity and human rights were all criticised as bourgeois illusions. They repeatedly advocated cruelty to class enemies. It was supposed that the crueller one was, the more revolutionary one was; the crueller one was, the firmer was one's standpoint and the clearer one's flag.

Xu (1989, p.9) continued:

> Another theory justifying trampling on human rights was that benevolence towards the enemy meant cruelty to 'the people'. Therefore, the crueller one was towards enemies, the better it was, and benevolence was not to be allowed. The result was that barbarous behaviour spread throughout the country, various means were devised for damaging the human body, insulting the human personality became consistently more vigorous, human nature became bankrupt, morality suffered a considerable regression, atrocities were considered reasonable, humanitarianism was seen as sinful, and human rights were dismissed as reactionary.

Academic support for a non-class based, universal notion of rights continued after the Tiananmen crackdown as the CCP began to open up the domestic debate on rights to the wider scholarly community. In an edited volume entitled 'The Theory and Practice of Human Rights', the rights theorist Han Depei (1995, p.353) argued that restricting the provision of rights to members of "the people" whilst denying them to those vaguely defined by law as "hostile elements" (*didui fenzi*) was entirely unjust. Instead Han (1995, p.353 & p.356) argued that 'these individuals also deserve to enjoy the right to life, the right to human dignity and other human rights' and that human rights were 'the fundamental and equal rights of every person in every society'.

We should also note that the CCP has now moved away from a rigidly class-based paradigm of rights and towards a more universalist perspective. The first signs of this were apparent in the 1991 human rights white paper, although this was heavily qualified by familiar references to the relativism of national and historical circumstances. But

since then there have been more explicit commitments to the universality of human rights not only contained in official documents, but also in speeches given by CCP leaders (Weatherley, 2008, p.351). For example, at an international symposium on human rights held in Beijing in 1998, the then Foreign Minister Qian Qichen stated that whereas the enjoyment of rights was socially relative 'the world community has common ground and commonly shared norms to follow in recognising the universality of human rights'. Likewise, to mark the inception of the official journal 'Human Rights', Li Peng insisted that 'China respects the principle of universal human rights in the international community'. Perhaps most significantly, the 1982 state constitution as amended in 2004 now stipulates that 'the state respects and safeguards human rights'. This is the first time any Chinese constitution has acknowledged the existence of human rights.

In contrast to its position on universal rights, the CCP has not diluted its stance on the primacy of subsistence rights as we noted earlier and this stance has been contested by some Chinese scholars. The first such challenge came in 1993 from Du Gangjian, a political scientist from Shantou University and formerly of the People's University in Beijing. In an article entitled 'The Foremost Human Right and Freedom of Speech', Du (1993) acknowledged that China's problems of chronic over-population and socio-economic underdevelopment had, in the past, meant that an emphasis on subsistence rights was perfectly logical. But following the dramatic rise in living standards after the introduction of economic reform in the late 1970s, it was much less logical to maintain this position. Even in as early as 1993, Du was arguing that China had the socio-economic superstructure to guarantee the basic right to subsistence of the Chinese people. In light of this and the emergence of an increasingly vibrant civil society, Du argued that the freedom of speech had replaced the right to subsistence as China's "foremost" human right. This position has been made more recently by scholars such as He Ping (2006).

Other challenging voices have insisted that only individuals can hold human rights. According to Zhang Wenxian, a law professor from Jilin University, whilst it is correct to bestow rights to collectivities such as peoples or nations, it is inconceivable that these entities possess "human" rights. As Zhang (1992, p.36) suggests when examining the national rights to equality, freedom and development, 'these rights should simply be called the collective "rights" of nations. It is not accurate to call them the collective "human" rights of nations'. Zhang (1992, p.36) makes the same point when discussing the rights of

social groups such as workers: 'it is simply illogical to talk of the collective rights of pilots as "human" rights or to refer to the collective rights of taxi-drivers as "human" rights'.

The significance of these alternative views on rights for our purposes lies in the fact that those who espouse them conceive of human rights simply as ends in themselves. In stark contrast to the official discourse on rights and even in contrast to some of the more liberal opinions championed by May Fourth thinkers, there is no correlation made between human rights and national salvation or national self-determination. Nor is there any contemplation of rights as a reaction to foreign criticism or perceived foreign cultural imperialism. Rights are valued for the worth that they bring to individuals.

That said, the official view on rights remains very much the dominant view. Although liberal thinkers affiliated with CASS and other think-tanks such as the China Society for Human Rights Study increasingly have the sympathetic ear of the authorities, have been influential in amending the Chinese constitution and are probably more prominent now than at any other time in the history of Chinese rights thinking, the party line on democracy and rights remains closely linked to the interests and needs of the nation. As we have seen in this chapter, the attainment of democracy and rights in China is portrayed as part of a protracted struggle for national independence from foreign imperialism. In addition, great emphasis is placed on the apparent uniqueness of Chinese notions of democracy and rights as opposed to the pervasive Western model and the specific national rights of development and self-determination are frequently placed at the very fore.

Conclusion

We have seen throughout this book how Chinese perceptions of democracy and human rights have been shaped by a desire to protect China from foreign imperialism from the very first moment that these ideas entered Chinese thinking. At this juncture it is important to recap on our findings. Back in 1840 when the Guangzhou Commissioner Lin Zexu seized upon the idea that nations might have rights as contained in de Vattel's 'The Law of Nations', he was frantically searching for a way to make it illegal for Britain to continue forcibly importing opium into China and so weakening the fabric of Chinese society. Similarly, the interest shown in Wheaton's conception of national rights in his 1836 'Elements of National Law' was triggered by China's defeat in the Second Opium War. The translation of Wheaton's volume in 1864 and what the Chinese gleaned from this, assisted them greatly in securing financial compensation from Prussia following the seizure by a Prussian warship of three Danish merchant vessels that were moored in a Chinese port. The compensation was paid to China based on evidence that Prussia had breached China's territorial, national rights.

When the broader concept of democracy entered Chinese political discourse towards the end of the nineteenth, China was even more endangered from outside following a series of humiliating military defeats at the hands of foreign powers. Consequently, when late Qing reformers such as Yan Fu and Liang Qichao advocated the introduction of a constitutional monarchy which would bestow certain civil-political rights on the people, they did so with the sole aim of repelling the advancing foreign menace. As explained in Chapter 1, their logic was that greater political participation would engender greater feelings

of public loyalty to the Qing court and so unite ruler and ruled in the desperate quest to defeat the foreigners.

This nation-building rationale for embracing democracy and rights likewise underpinned the implementation of a representative system of democracy in 1912 and 1913 as China continued to look for methods of resisting the threat from abroad that persisted despite the establishment of the Republic. As we saw in Chapter 2, this threat included an increase in foreign-imposed "treaty ports", a rise in the number of foreign troops stationed in China and the preservation of the five foreign "leasehold territories" ceded in 1898. But when democracy was adjudged to be failing in its nation-building objective following persistent problems with corruption and party factionalism and in light of China's continued fragility as a nation, earlier supporters of democracy and rights such as Sun Yat-sen shifted their allegiance towards an authoritarian, single-party system of politics as the solution to China's problems. Under a system of political tutelage to be overseen by the KMT, constitutional democracy would be introduced gradually at the grass-roots level. This would give the masses enough time to fully understand how democracy worked, although in practise this system was never implemented.

The outbreak of the Second Sino-Japanese War represented the most acute national security threat that China experienced during the entire "century of humiliation". It was within the context of the national struggle against Japan that Mao Zedong began to advocate democracy, as discussed in Chapter 3. At a government level, Mao favoured a consensual form of democracy founded on a broad-based coalition of politicians, intellectuals and other influential figures in society. If China was to defeat Japan, Mao argued, it was essential to utilise the best and most experienced brains in the country. At this stage in Mao's thinking, political allegiance did not matter to Mao, provided those participating in government were genuinely nationalistic and under no circumstances prepared to collaborate with the Japanese. But Mao also saw a nation-saving role for democracy at the grass-roots level. Like his late Qing and early Republican predecessors, Mao believed that if the masses were accorded rights of political participation and freedom of expression, they could be more effectively mobilised into fighting for the future of their imperilled nation.

After the establishment of the PRC, Mao further developed his thoughts on democracy into a concept of mass participatory democracy, comprising the mass line and the mass campaign. Once again the objective was to safeguard a country that remained exposed to

hostile foreign forces on many of its borders, notwithstanding the national unification achieved by the victory of the CCP in 1949. As discussed in Chapter 4, Mao believed that mass democracy would help solve the foreign threat in two ways. Firstly, the wholesale immersion of the masses into the decision-making and policy-implementation process would serve to enhance the legitimacy of, and therefore popular loyalty towards, the new CCP regime and the nation-building designs of the regime. The land reform policy which was introduced as the CCP came to power was one example of this. Secondly, mass democracy would channel the masses towards projects that would make China "physically" strong by, for example, increasing production and strengthening China's infrastructure. The Great Leap Forward was an example of this, albeit with catastrophic consequences.

The rise of Deng Xiaoping and the emergence of his "open door" economic policy greatly reduced the likelihood of invasion by foreign powers given the importance of embracing the international community. But as the threat from foreign military imperialism diminished, it has since been replaced by a perceived threat from foreign cultural imperialism, an attempt by Western powers to turn China into a Western-style democracy, thereby forcing China to embrace political values at odds with its history, culture and traditions. This deemed threat is claimed to be most apparent when the West criticises China for its poor human rights record and lack of democracy, seen as a flagrant abrogation of China's rights of national sovereignty. However, in contrast to earlier periods when China sought to embrace new forms democracy (for example, monarchical, representative and mass democracy) as a way of resisting the foreign threat, during the post-Mao era the emphasis has been on safeguarding and developing a system that is already established in an effort to keep the foreigners at bay. We saw in Chapter 5 the evolution of a uniquely Chinese notion of human rights and the efforts made by China within the UN to protect this notion of rights and garner support for a relativist, "nation-specific" position.

The significance of the Chinese position

So what is the significance of China's consistent framing of democracy and rights within a nation-building, nation-safeguarding context? What does it tell us, if anything, about China? First and most obviously, it illustrates the extent to which China's quest for national salvation has utterly dominated Chinese thinking, not just during the "century of humiliation" when China was forced to endure the shame

of imperialist subjugation, but also during the Mao era when the foreign threat remained at the fore, with enemies present on most of China's national borders. Many of the ideas that were discussed and polices implemented during these years were, in some way, geared towards making China strong. This ranged from the military and diplomatic reforms of the late Qing to the radical policies of land reform and the Leap during the Mao era. The implementation of a system of democracy and rights (in varying forms) was just another in a long line of nation-building initiatives.

Whilst the post-Mao period has seen the spectre of foreign invasion recede, the pursuit of national strength has remained at the very top of the Chinese political agenda. This goal is finally being realised and what is significant for our purposes is that democracy and rights "with Chinese characteristics" is often portrayed by the CCP as integral to this success. We noted in Chapter 5 how attaining the right to subsistence is depicted as the outcome of a victorious struggle to dispel foreign oppression. So too the implementation of "Chinese" democracy.

A second point to make is that China's long-time search for national salvation has often been made at the expense of a genuine commitment to democracy and rights. Whilst not forgetting the views of those thinkers who have not necessarily linked democracy and rights with the destiny of the nation (particularly in the post-Mao era), these views have unquestionably been in the minority. Instead, if we look at late Qing political reformers – the oft-cited Liang Qichao, Kang Youwei and Yan Fu – they championed democracy as a vehicle for driving out the foreign menace. They were not really dedicated democrats because as soon as they felt (rightly or wrongly) that democracy was not solving China's problems of national fragility, they gave up on the idea and championed an authoritarian solution.

The same can be said of Sun Yat-sen, the founding-father of the new "democratic" Republic. His lack of commitment to democracy and rights was particularly apparent in 1924 when he urged the Chinese people to give up their democratic rights for the sake of the nation, admonishing them as a 'sheet of loose sand', selfish, undisciplined and easy for foreign powers to conquer. Chiang Kai-shek was never really interested in democracy and, to be fair, he never really pretended to be. His professed support for Sun's political tutelage idea was most likely an expedient way of keeping his KMT opponents placated and Chiang made no effort whatsoever to enforce the implementation of the tutelage model. Mao's radical vision of democracy was very different from his predecessors, but no less instrumentalist. As we have recalled, mass

participation in policy and politics would not only bind the people to the party, Mao believed, but could also strengthen the country's infrastructure. It was a means to the nation's ends and little else.

Human rights and democracy in contemporary China

The focus of this book has been very clearly and deliberately directed towards the Chinese discourse and philosophy of democracy and human rights in an effort to identify an almost symbiotic relationship with Chinese nationalism. But our analysis would be incomplete and less interesting without an assessment of the current situation in China from a more practical perspective.

Human rights

If we start with human rights, according to human rights watchdog organisations, China's human rights situation is bleak, to put it mildly. The most recent report compiled by Amnesty International (2012) catalogues a plethora of human rights abuses in China. These include the continued suppression of freedom of expression both in China and Hong Kong, a rise in "enforced disappearances" (for example, secret detentions and illegal house arrests) and an increase in the compulsory eviction of Chinese citizens from their homes and farms without adequate recourse to the courts or sufficient compensation. The report also identifies violations of the rights of religious and national minorities (for example, Tibetans, Uighurs and Mongolians) as well as persistently high levels of death penalty cases. This is notwithstanding revisions to China's criminal law code removing the use of the death penalty for certain crimes and the recent albeit illegal use of death penalty criminal reconciliation to "save" the lives of some people given a death penalty sentence in return for compensation payment to the victim's family by the offender (Pittam, 2013). The report further suggests that China uses its economic strength as 'leverage in the domain of global human rights – mostly for the worse' and is 'increasingly successful in using its growing financial and political clout to pressure other countries to forcibly return increasing numbers of Chinese nationals'.

An annual report compiled by Human Rights Watch (2012) is equally as critical of China. As well as repeating many of the findings contained in the Amnesty report, it cites a failure by the CCP to adequately protect the rights of workers, women and the disabled and notes a rise in instances of illegal adoptions and child trafficking despite recent changes to the relevant legislation. However, in contrast

to the Amnesty report, the Human Rights Watch document identifies a growing rights-consciousness amongst the Chinese population 'challenging the authorities over livelihood issues, land seizures, forced evictions, abuses of power by corrupt cadres, discrimination and economic inequalities'. It suggests that internet users and reform-minded journalists are 'aggressively pushing the boundaries of censorship' and claims that 'civil society groups continue to try to expand their work, and increasingly engage with international NGOs'.

This emergence of a more vocal and assertive Chinese populace is significant for two inter-related reasons. Firstly, the fact that an increasing number of people in China feel sufficiently emboldened to take a stand on certain sensitive issues demonstrates that China is perhaps not the dark and repressed society typically portrayed by the Western media, human rights organisations and those scholars who are acutely critical of China. Secondly and perhaps more importantly, it is apparent that, in some cases, the assertion of citizens' rights and viewpoints on certain issues is both permitted and sometimes even encouraged by the authorities, suggesting a greater official tolerance of dissent than is conventionally depicted. We will come back to this point in the later section on nationalism.

If we look now at some of the relevant points raised in the Human Rights Watch report, the report is correct in stating that the number of outward expressions of dissent in China is on the rise. Anyone who keeps an eye on the international news media will know that dozens of protests take place in China every day on issues cited in the report, as well as on many other issues. The report cites official and scholarly estimates that between 250 and 500 protests occur in China on a daily basis. A recent article published on the Chinese website 'Legal Network' concurs with these estimates (FZW, 2012). Of significance here is that, although some of these protests are suppressed with the use of force, especially in relation to regime-challenging labour disputes (Solinger, 2004; Weston, 2004), there is sometimes official sympathy for the cause of the demonstrators and a willingness on the part of the state to deal with the problem at hand. This ranges from clamping down on the imposition of illegal and unlikely-sounding local taxes such as "flood prevention", "sanitation" and "slaughtering" fees (Bernstein and Lu, 2003; Thornton, 2004) to prohibiting the use of IOUs by some local authorities to acquire grain, but never actually pay for it. There have also been efforts to eliminate arbitrary price rises in chemical fertilisers and other production necessities (Wederman, 1997).

The Human Rights Watch report also refers to the challenges posed to the CCP by Chinese internet users and this is worth exploring further. We will see in the final section of this chapter how an increasing number of internet activists (or "netizens") are using the web to articulate their views on issues of national concern such as sovereignty claims to the Diaoyu islands or what to do about Taiwan. Some of these voices are highly critical of the CCP, alleging that the party is not doing enough to protect China's national security notwithstanding its claim to be the sole representative of Chinese national interests. Foreign media outlets often focus on the efforts of official censors to stamp out dissenting voices or, at the other extreme, the apparent inevitability of regime collapse in light of the massive growth in internet use in China. But they invariably fail to note that the CCP is becoming increasingly tolerant of certain on-line views, especially if there is a perceived benefit to the party's legitimacy.

Another example of China's improving human rights situation is the freedom of expression enjoyed by the independent-minded Chinese rights thinkers that we looked at towards the end of Chapter 5, many of whom put forward arguments that cut deep into the official position. Although the views of these thinkers are "non-official" in the sense that they question the establishment line, those who espouse them are not dissident opponents of the state, operating from outside China. Rather, they are an integral part of the state system in that they are employed by the government as university lecturers and researchers and publish their work in government-sponsored journals and through government-approved publishing houses. Better known for its suppression of unorthodox thoughts than for its pluralistic instincts, the CCP has clearly become more accepting of intellectual freedom of expression in this area. Indeed, some of China's more liberal rights theorists are providing input into policy and constitutional change.

Finally on the question of China's human rights record, we should bear in mind that, despite the serious breaches of human rights that unquestionably persist in the PRC under the CCP's watch, things are a whole lot better now than they were during the dark years of the Mao era, a point that is rarely, if ever, considered by critics of China's rights practise. Under the Mao regime, persecution was commonplace as one political campaign replaced another. This reached a zenith during the Cultural Revolution when thousands of people were murdered, thousands more committed suicide and just about anyone ran the risk of being targeted by Red Guards, irrespective of profession or class background. Without intending to romanticise the present in any way, the

bad old days in China (when ironically there was barely any international scrutiny of China's human rights record) are long gone.

Democracy

If we turn now to China's record on democracy, the most obvious point to make is that, as an authoritarian single-party state since 1949 (and indeed during much of the Republican era), China falls well short of liberal democratic standards, relating to, for example, the right to elect a government, diversity of choice of political party, accountability of decision-makers and transparency of decision-making procedures. So in many respects, if we take the liberal democratic system as the ideal for measuring a country's democratic credentials (rightly or wrong), China fares pretty badly.

But we already know this. There is nothing new about this kind of conclusion. Of greater interest from an analytical perspective is whether or not China has democratised from "within". In other words, whether or not the CCP has implemented reforms that have made Chinese politics more democratic within the framework of a one-party system. There is some evidence to suggest that it has. If we start with the issue of political succession, we noted in Chapter 5 the introduction of constitutional reforms limiting tenure in office to two consecutive five year terms. This was first put to the test during the Sixteenth National Party Congress in October 2002 when power was scheduled to be transferred from the third generation of CCP leaders represented by Deng's anointed successor Jiang Zemin to the fourth generation represented by Hu Jintao (Lyman Miller, 2002; Fewsmith, 2003). The process itself went smoothly. There was no resort to the bloodshed, purge or humiliation that characterised changes in high-level personnel during the Mao and early post-Mao eras. This in itself was a breakthrough.

But whilst Jiang handed over power without a fight, he did retain some "behind the scenes" influence after stepping aside. For example, Jiang was allowed to continue receiving minutes of PSC meetings, apparently with Hu's blessing. He also retained a considerable say in the appointment of new PSC members. Jiang maintained a similar unofficial influence over the government apparatus after he relinquished the presidency to Hu at the Tenth National People's Congress in March 2003. More significantly, despite pressure from some of his colleagues, Jiang retained his position as Chair of the Central Military Commission beyond 2003 when he was constitutionally obliged to give it up. This was apparently in an attempt to ensure that there was

continuity in Chinese foreign policy, particularly with regard to the US. Jiang finally relinquished the post to Hu in September 2004 (Fewsmith, 2003). So, in some respects, the transition of power from Jiang to Hu should only be considered a limited success.

At the time of writing, it is too early to tell just how successful the transition has been from Hu Jintao to the new General Secretary Xi Jinping which took place during the Seventeenth National Party Congress in October 2012. That said, plenty of scholars put forward views on how they anticipated the succession would go and this was made all the more interesting by the purge and incarceration of leadership hopeful Bo Xilai (Dillon, 2012; Li, 2012). Certainly, there was no obvious resistance from Hu or his fourth generation colleagues. Adherence to constitutional procedure was closely followed. But it is not yet clear whether Hu or his colleagues may have retained a semblance of political power and influence in the same way that Jiang did after 2002. It would be surprising if they have not (Breslin, 2012). But ultimately, we can only properly assess the comprehensiveness of the handover of power once Hu has relinquished his other posts as head of the military and head of state during 2013.

If we look at the other end of the political scale in China, one of the most striking developments in Chinese democracy has been the increasing sophistication of elections and the electorate at the Villagers' Committee (VC) level, following the enactment of the Organic Law of Villagers' Committees (OLVC) in 1987, revised in 1998. One of the main factors that distinguishes VCs from Township People's Congresses (the lowest level in the state apparatus) is the greater autonomy that the former are accorded (He, 2007). Whilst VCs (each of which comprise between three and seven members elected for a three year term) are empowered to assist in township work, Township People's Congresses are prohibited from participating in VC affairs. VCs also enjoy more control over local resources than their township counterparts. In a study of eight villages in Fujian (a province widely recognised as a pacesetter in VC electoral developments), VCs were found to control an average of 15 per cent of the annual income earned by village residents (O'Brien, 2001, p.416). Moreover, as Oi and Rozelle (2000) have shown, although the local party secretary usually controls enterprise management in wealthy regions, the VCs own the village land and usually have a veto over decisions relating to the application of village resources.

In terms of empowering citizens' with political rights, the VC system allows all adults registered in a particular village to vote and stand for

election, although in some areas the mentally handicapped are still excluded (Elklit, 1997, p.6). Women's rights have become increasingly robust, with women being guaranteed "appropriate" representation on VCs. In addition, the informal tradition of "family balloting", in which the male head cast a vote on his family's behalf, has been prohibited initially in Fujian then in other provinces (Shi, 1999, p.394). The 1998 amendments to the OLVC have increased voter privacy and freedom of choice. In contrast to the 1987 document when many voters filled out their ballots in public, secret voting is now guaranteed. Furthermore, open counts are now compulsory and the number of candidates must exceed the number of posts (for example, a minimum of five candidates for four posts). Here again, Fujian has led the way by requiring that more than one candidate must stand for each post (for example, a minimum of eight candidates for four posts). Fujian and other provinces have also banned voting by proxy, experimented with absentee ballots and made primaries compulsory (O'Brien, 2001, p.417).

But inevitably, there are some failings with the VC system. For example, the provision empowering residents of a particular village to vote or stand for election means that non-residents are logically precluded from doing so, disenfranchising millions in the modern Chinese era of inter-rural migration. Women are under-represented despite, or perhaps because of, the statutory guarantee of "appropriate" representation which is a rather vague term. According to O'Brien (2001, pp.419–20), a VC often contains only one woman 'and it is easy to guess her portfolio – the thankless job of enforcing family planning'. Furthermore, as Howell (1998, pp.99–100) points out, female representation has declined following a central directive to combine neighbouring VCs as part of a cost-cutting exercise.

Election malpractice is also a problem. So-called "steering groups", usually headed by the village party secretary and sometimes even containing VC candidates, often dominate the candidate nomination process at the expense of genuine villager participation (Pastor and Tan, 2000, p.494). More generally, many communities, township authorities, CCP branches and social forces (for example, clans, religious groups and underworld elements) with "access to power" can impede democratic rule (Bernstein, 2006; O'Brien and Han, 2009). The procedures for choosing VC candidates from the original nominees are unclear with local party branches often in a position to obstruct the progress of "inappropriate" nominees (Kelliher, 1997, p.82). The persistent use of mobile ballot boxes in areas that do not require them (this

method of voting is meant only for use in isolated regions or to assist the sick and elderly to vote) casts serious doubt over ballot secrecy. In a study of a Liaoning VC election over 90 per cent of the votes were cast in mobile boxes instead of at polling stations (Pastor and Tan, 2000, pp.497–8). Perhaps most significantly (although not necessarily a form of election malpractice), research suggests that on important economic matters real decision-making authority continues to rest with the local party secretary rather than with the VC (Oi, 1996, p.136).

One of the principal reasons for instituting the VC elections has been to ensure that corrupt or self-serving local leaders, whose rule may have alienated their constituents, are held accountable at the polls. In so doing, the CCP has not only sought to bolster the legitimacy of local level democracy but also its own national legitimacy, given the problems that official corruption continues to pose for the party (Kennedy, 2009). The party also hopes that in offering villagers an opportunity to oust unpopular leaders, the electorate will not take to the streets in a protest that might ultimately be directed at the party. As O'Brien (2004, p.109) explains, 'by making the lowest level cadres more accountable to the people they rule, Party leaders in Beijing hope to shore up the regime, boost their legitimacy and prevent wayward officials from driving the people to rebellion'. But some scholars believe there is an inherent danger for the CCP in opening up the democratic process at the VC level in that it may create a "snowball effect" such that democracy sweeps inexorably through all levels of the party-state (Tan, 2006). China would not be the first country to experience this. Significantly for the CCP, as Chao and Myers (2000) point out, local election activity was the beginning of democratic development in neighbouring Taiwan which ultimately spelled the end of single-party rule by the KMT.

Contemporary nationalism and CCP legitimacy

Turning now to a discussion of Chinese nationalism in the contemporary era, a subject which is extremely topical at the time of writing, it is important to begin our analysis by reference to the Tiananmen demonstrations of 1989. Without meaning to dismiss the importance of Tiananmen as a movement for political change, it is widely accepted that the majority of those who joined forces with the initial wave of student protestors were more aggrieved about the socio-economic dislocations thrown up by the piecemeal economic reforms of the 1980s than they were about the failure of political reform during this decade.

One key anxiety, for example, was the growth in unemployment, particularly after the promulgation of the 1987 Enterprise Reform Law which put pressure on employers to cut costs and concentrate on profit margins. Another concern was rising inflation, previously unheard of in the PRC (Naughton, 1989). By 1987 inflation had reached around 35 per cent in some urban areas, forcing up the price of luxury household goods and then more alarmingly the cost of essential foodstuffs such as meat, fresh fruit and vegetables. The growing crisis was accentuated in April 1988 when price controls were officially lifted on 14 kinds of foodstuffs. Shortly afterwards, when the Politburo announced that price controls were to be relaxed on all consumer goods, a spate of panic buying swept the country (Baum, 1997). To the extent political reform was important to the demonstrators, it was primarily a call for intra-party reform on issues pertaining to greater transparency and accountability of officials and a more effective process for dealing with the numerous instances of corruption that had arisen during the 1980s, most notably amongst the relatives of senior state officials known as "princelings" (Chang, 1985).

In light of the predominantly socio-economic nature of the Tiananmen protests, the political lesson learned by the CCP was the inherent danger of relying too heavily on economic performance as the basis of its legitimacy. After the death of Mao, the CCP had little choice but to look to the economy to save its skin. The turmoil of the Cultural Revolution all but destroyed the traditional Maoist modes of legitimacy such as charismatic authority, mass mobilisation and Chinese Marxism (Weatherley, 2006) forcing the CCP to re-invent itself as the party of economic reform rather than political revolution (Kluver, 1996). But as the economy took a turn for the worse in the late 1980s, so too did the party's popularity in the absence of any alternative form of regime legitimacy to fall back on. Consequently, the CCP sought to diversify its popular appeal by propagating itself as a nationalist party, the sole representative of Chinese national interests in the face of an international community that was hostile to China for using military force to disperse the Tiananmen demonstrators.

The hard-line approach

The international furore that erupted after the Tiananmen crackdown created an opportunity for the CCP to develop a xenophobic, almost anti-foreign form of nationalism that we identified in Chapter 5 as defensive nationalism. One manifestation of this new nationalism (again as noted in Chapter 5) was to remind the Chinese people of past

humiliations suffered by China at the hands of foreign powers in an attempt to whip up a sense of public indignation against Western powers and in support of a beleaguered and "internationally persecuted" CCP. One of the first instances of this took place in May 1990. As part of a joint commemoration to mark the anniversaries of the May Fourth movement and the First Opium War, Jiang Zemin told over 3,000 attending students that the Opium War symbolised the beginning of China's humiliation by foreign imperialists and that certain Western nations were still intent on humbling and embarrassing China. A month later, under the heading "hold much higher the great flag of patriotism", the 'People's Daily' wrote a piece on the First Opium War concluding that 'we have to open our country to the world, but we cannot advocate total Westernisation and must resist the pressure from the West' (Xu, 2001, p.156). A few days later, the 'Liberation Army Daily' insisted that:

> Since the [First] Opium War, the West has never stopped its aggression against China. After the PRC was established, the West first imposed an economic embargo on China and then isolated and contained the new socialist country in order to overthrow this government in its cradle (Xu, 2001, p.156).

On the back of these and other proclamations by the Chinese media, the party began to release official documents which pushed the nationalist line even harder, including in 1991 the 'Notice about Conducting the Education of Patriotism and the Revolutionary Tradition' and the 'Circular on Fully Using Cultural Relics to Conduct Education in Patriotism and Revolutionary Traditions'. The publication of these documents signified the official inception of the Campaign for Patriotic Education which emphasised the self-claimed nationalist achievements of the CCP and re-iterated the national degradations inflicted by Western imperialist powers (Zhao, 1998; Xu, 2001; Wang, 2008, 2012). Local party leaders were instructed on how to propagate the new campaign at the local level through public meetings and study sessions. The campaign was also propagated in schools where primary children learned patriotic songs and were taught at length about the "century of humiliation", after which they were encouraged to articulate their feelings of disgust towards Western nations. First year university students were required to take a course in modern Chinese history highlighting the suffering imposed by the imperialists and students of all ages were encouraged to visit "patriotic education bases". These included the

Memorial Hall of the War to Resist US Aggression and Aid Korea in Dandong, the Chinese People's Memorial Hall of Anti-Japanese War in Beijing and the ruins of the Old Summer Palace (Wang, 2008, pp.795–6).

The burning of the Old Summer Palace (or Yuanmingyuan) is particularly pertinent to our discussion because although the Campaign for Patriotic Education has subsided in recent years, the CCP often refers to this humbling incident in an effort to ignite popular nationalist sentiment (Bickers, 2011; Lovell, 2011; Weatherley and Rosen, 2013). This is aided by the fact that the ruins (ironically, all that remains of them are the old European-style stone buildings) are on full display for Chinese (and foreign) tourists to visit and reflect on their significance. Sometimes the incident is recalled when the party believes that the West is still acting aggressively towards China. Although a little out of date now, the May 1999 US bombing of the Chinese Embassy in Belgrade is a good example of this. In a 'People's Daily' article published shortly after the attack, the author stated dramatically that 'through the Embassy riddled with bullet holes covering the charred building, I can see reflected the destroyed ruins of the Yuanmingyuan' (RMRB, 1999a). Another 'People's Daily' article insisted that China would never again be downtrodden by Western powers, citing the burning of the Yuanmingyuan as one in a series of past humiliations that must never be repeated: 'this is not a period when Western forces can plunder the imperial palace at will, burn down the Yuanmingyuan and snatch Hong Kong and Macao' (RMRB, 1999b).

The Beijing Olympics provided a more recent opportunity to resurrect the memory of the Yuanmingyuan. The Xinhua News Agency used the Olympics to draw a symbolic comparison between the ruins of Olympia and the ruins of the Yuanmingyuan. Further comparison was made between the flames of the Olympic torch and the flames that engulfed the site (XZX, 2008). The tone became more confrontational in reports about overseas demonstrators disrupting the Olympic torch relay in protest at China's human rights record. Particular venom was directed towards French protestors who were accused of gross hypocrisy.

The media interest in the Yuanmingyuan intensified in the build up to the 150th anniversary of its destruction on 17 October 2010. The first commemorative articles started appearing as early as January 2010, with the Wenhui Bao suggesting (somewhat controversially as it turned out) that China was considering inviting an Anglo-French delegation to attend the anniversary ceremony (WHB, 2010). This was fol-

lowed by a plethora of other articles and new reports about, for example, the month-long schedule of events prior to the anniversary date culminating in a live performance by Jackie Chan (XZX, 2010) and a salt sculpture exhibit in Taibei replicating the looted and much-heralded "12 Zodiac Animals", thereby emphasising the cross-straits significance of the anniversary (ZXS, 2010). There was also a story covering an official essay-writing contest about the ruins, specifically designed 'to arouse the population's patriotic passion and encourage the public to give more attention to the Yuanmingyuan' (ZJCB, 2010).

Recalling the trauma of the Yuanmingyuan and other foreign humiliations such as the First Opium War and the Second Sino-Japanese War, serves the party's nationalist credentials in two inter-related ways. Firstly, it sends a chilling reminder to the Chinese people of the horrors of Western imperialist subjugation and in so doing enables the party to remind the masses that it liberated China from this subjugation back in 1949. Secondly, the CCP is able to point to the success of its post-Mao economic reform programme and argue that not only did the party free China from foreign oppression but it has made China a major economic and international power. For some of China's "netizens" this message is welcomed. According to a blogger known only as Cedar (2012) who has posted extensively on the recently-established 'Seek Truth' website, 'this glorious victory of modern history is down to the CCP, which, as before, has risen up as the backbone of the Chinese people, uniting everyone to bring about a unity of strength'. However, as we will see in the final section in this chapter, not everyone has automatically rallied in support of the party.

The softer approach

It should be noted that the party does not always adopt a hostile or confrontational position when seeking to propagate its nationalist credentials. At other times, the approach has been more conciliatory, almost partnerial especially in relation to the thorny issue of reunification with Taiwan. After the Mao years of aggressive posturing and occasional military assaults on the island, post-Mao leaders have, by and large, opted for a calmer approach to reunification through dialogue and co-operation with the KMT. This has included a formal acknowledgment of the pivotal role played by the KMT in the Second Sino-Japanese War as part of a nationalist-oriented effort by the CCP to present a united patriot front with the KMT that might appeal to the Chinese people (Zhang and Weatherley, 2013). No longer the villain of the piece, an inefficient, ill-trained army led by a band of corrupt

generals, the KMT is increasingly portrayed as a major force in defeating the Japanese. For example, senior KMT generals such as Li Zongren and Zhang Zizhong have been officially recognised as national heroes (Waldron, 1996), large-scale KMT-led battles have been made into popular films (Mitter, 2003) and museums commemorating the war and the KMT's role in it have sprung up all over the country. These have included the Nanjing Massacre Memorial Hall built in 1985 and Memorial Hall of the War of Resistance Against Japan which opened in Beijing in 1987 to mark 50 years since the war began (Mitter, 2000). More recently, in commemorating the 65th anniversary of the end of the war in 2005, Hu Jintao acknowledged the front-line role played by the KMT: 'resistance forces under the leadership of the KMT and the CCP were engaged in operations against Japanese aggressors on frontal battlefields and in the enemy's rear respectively, forming a strategic common front against the enemy' (XHNA, 2005).

This more placatory approach towards relations with the KMT has also been apparent in the party's toleration of "Republican fever" (*Minguo Re*), an increasingly positive public perception of the Republican era (1912–49) and the KMT's record during that era. For example, since around 2005, scores of Republic-related books have appeared in book stores across the country (Zhou, 2008). In contrast to the erstwhile official depiction of the Republic as shady, dangerous and corrupt, these new books have presented an era of diversity, sophistication and unrealised potential. There has also been a massive increase in Republican-themed period dramas screened on Chinese TV drawing huge audiences (XZK, 2010). Titles have included 'The Grand Mansion Gate' based on the real life experience of the family who owned the renowned Chinese pharmaceutical company Tongrentang and 'Like Mist, Like Rain and Like Wind', a love story set in 1930s Shanghai. Public support for the Republic has been particularly apparent on the internet. Douban.com, one of China's largest social networking sites, hosts a number of Republic interest groups such as 'Republican Style' (*Minguo Feng*) and 'Republican Years' (*Minguo Suiyue)* with topics of discussion ranging from history and politics to art and literature. Similarly, academic interest has exploded with a number of Chinese scholars publishing very candid opinions on-line or in the increasingly independent commercial media.

In slight contrast to the public discourse surrounding in the Second Sino-Japanese War, the emergence of "Republican fever" has not been actively encouraged by the CCP. There has not really been an official acknowledgement of the positive aspects of the Republic. There are no

museums, official documentaries or films applauding the era. But simply permitting the growth of the "fever" serves the CCP's nationalist purposes because it presents an image of a tolerant party, in touch and comfortable with its post-imperial heritage as an emerging and powerful nation.

Nationalism as a double-edged sword

Notwithstanding the party's best endeavours to fortify its legitimacy through nationalism, such an approach may well be backfiring. This is because an increasing number people in China, comprising not only "netizens" but also academics and independent sections of the Chinese media, are not slavishly accepting the party's claim to represent the nation. Instead, they are questioning and even doubting the true extent of the CCP's nationalist credentials, a phenomenon which the CCP is struggling to control. We will finish this book by examining some current examples of this.

If we look firstly at the more xenophobic form of nationalism that the party has encouraged, rather than obediently rallying behind this position as the party might have hoped, some people in China have been asking whether the party is in fact doing enough to defend Chinese interests against foreigners, with Japan as a key focal point of hostility. There are, of course, a number of issues which incite Chinese hatred towards Japan, the Second Sino-Japanese War being one of them. But a more current issue is the dispute surrounding the sovereignty of the Diaoyu or Senkaku islands, which Japan controls but to which China (and Taiwan) makes strong claims (Deans, 2000; Wiegand, 2009). In recent years, a number of unofficial internet websites have sprung up in China (for example, 'Strong Nation Forum' and 'Utopia') through which impassioned Chinese "netizens" have accused the CCP of not being robust enough in its attempts to recover these islands from Japan. This sentiment recently intensified, spilling over into public violence against Japanese restaurants and cars following Japan's expressed intention to "nationalise" or "purchase" the islands. On some occasions, persistent agitating by "netizens" has forced the islands dispute on to the agenda during high-level meetings between China and Japan, such that it ends up dominating and sometimes even disrupting the talks (Deans, 2000). This is surely not what the CCP wants when it holds high-level meetings with its Japanese counterparts to discuss matters of mutual economic interest and co-operation.

A comparable type of hard-line nationalist assertiveness has been apparent in relation to Taiwan. The CCP has tried to pursue a more conciliatory policy on Taiwan in the post-Mao era by constructively engaging with the KMT on issues to do with reunification and the KMT's key role in the Second Sino-Japanese War. Similarly, there has been a concerted effort on the part of the CCP to lock Taiwan's economy into the PRC's development trajectory with Taiwan as a major investor in the PRC and fundamental to the success of its economy. But just as the "netizens" have succeeded in keeping the Diaoyu islands dispute firmly on the CCP's political agenda, so they have kept Taiwan on that agenda as well. Increasing calls to take Taiwan back through resort to military force have clearly not been pursued. But it is widely thought that the promulgation of the 2005 Anti-Cessation Law, with its implicit threat of extreme repercussions if Taiwan was to declare independence, was a concession to the hard-line, vocal elements of Chinese public opinion. Again, the message is clear. the CCP is weak on issues of national sovereignty, despite claims to the contrary.

A similar message has emerged from debate over the Yuanmingyuan incident. One impassioned blogger known as PLANavy (2012) insists that Western imperialists are still trying to degrade and embarrass China as they did at the Yuanmingyuan and calls on the CCP to finally 'wake the sleeping Chinese dragon'. This blogger has also called for the PLA to take the Spratly islands by force. Zui Huayin (2010) in a blog entitled "Forgotten Memories" insists that 'China must wake up! We cannot again lag behind, we cannot be weak again! We cannot allow a tragedy like Yuanmingyuan to happen again!'. Others are scathing about the time and money spent by the CCP in keeping the legacy alive, particularly given some of the more pressing socio-economic issues facing China. As one blogger writes:

> What is national humiliation? When government buildings are extravagant in the extreme and village schools are shabby and leaking, this is national humiliation. When we believe that building the Birds Nest, constructing arenas and rebuilding the Yuanmingyuan are able to 'restore the nation's glory' and the dignity of the Chinese people, to take ignorance and treat it as honour, that is the biggest national humiliation (Nmghongjing, 2011).

A public backlash has also arisen on issues where the CCP has tried to take a more conciliatory and less abrasive approach on nationalism. This has been particularly apparent following the official recognition of the role played by the KMT during the Second Sino-Japanese War. Many people have reacted with sympathy for KMT veterans who fought the Japanese, especially after the Chinese media began to identify elderly survivors with a story of unsung bravery to tell, such as Yang Yangzheng who participated in the Defence of the Sihang Warehouse, an historic seven-day battle that took place during late October 1937 (CQCB, 2005; CQWB, 2010). With this sympathy has come antipathy and outright hostility towards the CCP, including hostility from academics. The historian Xie Youtian (2002) has claimed that the CCP had no interest in fighting the Japanese from the moment they invaded Manchuria in 1931, accusing Mao of being 'a great sinner'. Similarly, the economist Mao Yushi (2011) has insisted that Mao deliberately allowed the KMT to fight the Japanese single-handedly and thereby 'focused on his selfish calculations, preparing to reap the harvest after victory was won'. This article was published on the 'Caixin' website, reposted on the 'China Report Weekly' website and then widely circulated throughout the country before being removed by the authorities.

Likewise, the official tolerance of "Republican fever" appears to be rebounding on the CCP, with some people questioning exactly what the party has done for China since 1949 by comparison to the Republic. Once again, Chinese academics are at the very forefront of this. For example, scholars such as the historian Zhang Lifan (2010) and Professor of Chinese literature Xie Yong (2011) have not only heralded the Republican era for its high level of scholarship, but have also insisted that post-49 Chinese intellectuals are some considerable distance behind their Republican-era predecessors in terms of the quality of their scholarship. Political scientist Zhang Ming (2011) has suggested that media freedom was much more entrenched during the Republic compared to the post-49 era during which official censorship has been rife. Of particular note given the subject of this book, Tianjin-based media commentator Li Shumin (2005) has praised the Republican efforts towards implementing a system of representative parliamentary democracy, suggesting pointedly that the CCP has a lot to learn from this era. This positive view of Republican democracy has since spread to a much wider public audience, partly (and ironically) because of the release in 2011 of the official PRC film commemorating

the ninetieth anniversary of the founding of the CCP entitled 'Beginning of the Great Revival'. Although the objective of the film was to bolster CCP credibility, what really captured public attention was the depiction of the Republic as an era of political dynamism in stark contrast to the modern era.

Although the CCP is cracking down on nationalist-style internet sites and blog postings that it finds objectionable, new sites and blogs appear every day as people become increasingly sophisticated at finding new ways of avoiding the censors and expressing their views (Endeshaw, 2004; Yang, 2009). Ironically, therefore, the party's attempts to re-invent itself as a nationalist force in an effort to bolster its post-Tiananmen legitimacy may well be having the exact reverse effect. This is because more and more people are accusing the party of letting the nation down during key periods of conflict such as the Second Sino-Japanese War, of failing to build on the promising start made by the KMT during the Republican era and of weakness on questions of national concern during the contemporary era.

As a final observation as we tie together the three political themes of this book, it is worth examining what this rise in internet nationalism tells us about the prospects for democracy and rights in modern-day China. We noted earlier the very general point that greater internet expression in China can be seen as evidence of a more open and assertive society, a point also made by China watchers such as Rebecca MacKinnon (2008a; 2008b; 2008c). Indeed, when the internet first began to take off in China more than a fifteen years ago, some foreign observers, including most notably the media tycoon Rupert Murdoch, predicted the demise of the CCP. The rationale for this prediction was based on the belief that the internet would inevitably lead to the inexorable spread throughout China of democratic ideas which would be corrosive to the existence of China's authoritarian, single-party system.

So is there any evidence that this might be happening? Certainly, some people in China are using the internet to call for greater democracy. Moreover, in so doing, some pro-democracy advocates are harking back to the Republican era as a period to which China should aspire. For example, Douban.com, one of China's largest social networking sites, hosts a number of democracy-oriented RoC interest groups including a group formed in memory of Hu Shi (Douban, 2013a), another called "Republican style" (Douban, 2013b) and one called "Republican years" (Douban, 2013c) as noted earlier. But many of the on-line voices in support of Chinese nationalism are not particularly democratic and are not calling for greater democracy. Rather they are calling for a stronger,

more aggressive foreign policy on Japan, Taiwan and the US. We have cited a handful of voices above and there are many others. It is, of course, hard to generalise, but if the internet is putting any kind of political pressure on the CCP, it is not so much pressure to be more democratic, but to be more fervently nationalistic in defending China's interests.

At his inaugural presidential address to party congress delegates in March 2013, Xi Jinping spoke at length about protecting national sovereignty and security by continuing with the sustained economic growth that China has enjoyed during the last two decades or so. In making this point, Xi referred specifically to what he saw as the 'great renaissance of the Chinese nation' (XHNA, 2013). But Xi also insisted that it was not only a strong economy that would guarantee China's greatness in years to come. Just as important, he suggested, was safeguarding China's 'unique' system of democracy and human rights, 'established after decades of struggle by the Chinese people against foreign imperialism and aggression'. More than 170 years have passed since the outbreak of the First Opium War and little has changed. The centrality of the nation in discussions of democracy and rights is just as evident now as it ever was.

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