Modernization and legal reform in post-Mao China: the rebirth of socialist legality.

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It is imperative to strengthen the socialist legal system so that democracy is systematized and written into law . . . . There must be laws for people to follow, these laws must be observed, their enforcement must be strict, and lawbreakers must be dealt with . . . .

**COMMUNIQUÉ OF THE THIRD PLENUM OF THE ELEVENTH CENTRAL COMMITTEE OF THE CHINESE COMMUNIST PARTY (December 1978)**

In calling for an end to the arbitrary and unpredictable administration of justice that marked the final turbulent decade of Maoist rule, the Communiqué of the Third Plenum heralded a new era of ‘rule by law’ and ‘socialist legality’ (shihui zhuyi fazhi) in China. Although these concepts were not without precedent in the PRC, subsequent developments in the legal sphere—including adoption of a reformist state constitution, passage of comprehensive new criminal and civil codes, and formal CCP acceptance of the principle that ‘no one stands above the law’—signalled a clear departure from previous Chinese judicial norms and practices.

Some observers find in this departure important evidence of a broad trend toward rationalization, legalization, and liberalization in the structures of governance in post-Mao China.¹ Others argue that the reforms have already begun to undermine the state’s traditional unchallenged dominance over a weak, fragmented society.² In this view, the most profound implication of the reform program has been a substantial expansion in the scope and frequency of quasi-autonomous (i.e., depoliticized and administratively deregulated) social and economic activity. A few bold observers have even speculated about the likely emergence of genuine pluralism in the People’s Republic.³

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