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China's Future: Rule of Law, Inclusive Growth and Lessons from History

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Introduction

Since the beginning of 2014 the signs are unmistakable that economic growth in China is slowing, suggesting that China has indeed reached a crossroads where serious reform efforts are at play against inertia and the status quo. Much of the discussion and debate about China being at a crossroads focuses on the stupendous imbalance in China's economy today and, correspondingly, the daunting challenge in addressing it. Many observers have also correctly identified the beneficiaries of imbalanced growth in the past decade being the state-owned enterprises, local governments and associated vested interests that benefit from China's state-led and investment-driven growth model. Accordingly, the focus is now on whether the top leadership has the political will and the wherewithal to take on these vested interests in order to curb corruption and rebalance China's economy and to reverse the trend of worsening income distribution.

Such a top-down focus is not wrong, but it is incomplete; it misses some other vital ingredients needed in dealing with China's massive socio-economic imbalance. The fact of the matter is that vested interests exist everywhere in the world, not just in China. The real difference between countries lies in how successful they are in keeping such vested interests in check. While political will at the top leadership level is clearly important, overwhelmingly the evidence is that it is the rule of law that is most critical in discouraging the abuse of power by the vested interests and in ensuring that justice is done when there is abuse of power. In the context of China today, this requires establishing effective legal institutions and a credible and independent judiciary that ordinary Chinese citizens can access to challenge the vested interests -- regardless of how powerful they may be -- and have the assurance that their cases can be heard impartially with due legal process. In other words, the rule of law will allow grassroots actions to play a key role in curbing China's powerful vested interests and the increasingly endemic corruption, and help address the severe socio-economic imbalance in so doing.

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The need to establish the rule of law as a prerequisite for reform success is the defining feature of today's task in reforming China's economy. In the two previous episodes of successful reforms in 1978 and 1992, Deng Xiaoping and his colleagues had to take on opponents that were ideologically driven. Deng won the ideological battle as a result of his personal authority, the utter bankruptcy of the Maoism as an economic program, and rapidly growing evidence of rising prosperity coming from liberalization and opening.

The battleground today is very different, however. Ideology is hardly involved at all. Instead, market-oriented reform now faces opposition from members of the ruling elite, including those who were among the strongest supporters and executors of previous reforms, who have benefited massively from China's current stage of state-dominated economy. In opposing reform, they are defending their self-interests as opposed to

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an ideology-based power struggle. This is why the rule of law operating through a credible judiciary and effective legal institutions is so critically important today. This is the only means through which vested interests, however powerful, can be untangled and combated in a non-arbitrary, orderly, impartial, and legitimate process. And this makes the challenge very daunting in the context of today's China.

Pessimists typically point to the fact that China, being a long way away from having the kind of democratic institutions that would qualify it as a liberal democracy (its village election notwithstanding), would not be able to institutionalize the rule of law. Thus, according to the pessimists, without democracy China's reform efforts today will fail.[2] Optimists, on the other hand, typically point to China's impressive growth record to argue that China is actually evolving a unique governance system that, without the institutional trappings of western democracies, can actually deliver the same or even better results.[3]

While both the pessimists and the optimists captured some elements of China's multi-faceted reality, the pessimists are, well, too pessimistic, whereas the optimists are being unrealistic. There is a middle ground in mapping China's way forward, and the success or failure of China's reform does not hinge on whether there is democracy per se. As Samuel Huntington pointed out decades ago, the process of political development is not a linear progression of democratization leading to the rule of law leading to economic growth. In fact, these are three separate and largely independent processes, each of which could develop following its own dynamics, even though they are also closely intertwined.[4] In this context, we argue that the rule of law in China can evolve in the absence of democracy as defined by the standard set by the liberal democracies of the West today. In fact, an organically evolving rule of law with strong grassroots foundation may well prove to be a more successful pathway to democracy than one that is imposed from top down.

The Diverse Paths to Democracy

In the decades after the end of the Second World War decades there was a proliferation of new democracies as colonies of the European empires, the British Empire in particular, became independent. These newly independent countries invariably adopted the democratic institutions of their former colonial masters. However, many of these instantly created democracies did not last. Some of them degenerated into dictatorships in various forms and guises and a few others decayed into failed states. Over half a century later, it is clear that democratic institutions imposed from the top do not always result in a democratic society; more often than not poor countries lacking economic development may retain the form but not the substance of democracy.

In many underdeveloped countries, politics are dominated by family dynasties in spite of being nominally democratic. Leaders of the two dominant political parties in Bangladesh, for example, based much of their claims to authority on being the daughter and the wife, respectively, of the "father of the country" and the "hero of independence". Pakistan's former prime minister is himself the husband of a former prime minister who was in turn the daughter of yet another prime minister, and his son is getting ready to enter politics soon. The current president of Philippines is the son of a

2 A leading proponent of a pessimistic view on China's reform is Minxin Pei, professor of political science at the Claremont McKenna College, California.

3 A representative argument of this kind can be found in the commentaries by Eric X. Li at Fudan University; for example, see his "Debunking Myths about China" in *International Harold Tribune* [19 July 2011].

4 Significantly Huntington made this point as part of his critique of the so called modernization theory, which emphasizes the primacy of economic change as a driver of political development. See his 1968 work *Political Order in Changing Societies* (Yale University Press).

former president who in turn was the wife of a senator who achieved political sainthood in being assassinated for challenging Marcos, who ruled Philippines as a dictator until he was ousted by a mass uprising. Even in India, frequently referred to as the world's largest democracy, the Nehru dynasty ran the country for 55 of the 66 years since independence until it was decisively rejected by voters in the recent election. Yet, the president of the Congress Party today is the widow of a former (and assassinated) prime minister, who was the son and grandson of earlier prime ministers. Today, a fifth generation Nehru (if we include Motilal, father of Jawaharlal Nehru, India's first prime minister) is being groomed to rule India.

In contrast with the top down imposition of democracy in the post-colonial period, the experience of the emergence of democratic institutions in Europe in previous centuries suggests that democracy evolved gradually and organically, sometimes over several centuries. Indeed, we would argue that the best exemplar of a gradual and by and large peaceful evolution from absolutist feudal monarchy to democracy is Great Britain (and England before that). And it began there with the rule of law being slowly but firmly established, and strengthened over time, with the consequence that the absolutist power of the monarch was rolled back gradually, long before democracy was established. This is an important process that created conditions conducive to the emergence of a market economy, which in turn made possible a widened distribution of wealth. With economic empowerment came demand for a more equitable distribution of political power, setting into motion the virtuous circle of a mutually reinforcing evolution of inclusive economic and political institutions. And one of the most important lessons learned is that the rule of law was established in England prior to the appearance of anything that could be recognized today as democracy. In this historical context, the rule of law is not only a critical prerequisite for democracy to emerge, but it is capable of exerting powerful influences in the absence of any formal democratic institutions to foster a market economy and to set into motion the virtuous circle of inclusive economic and political growth. We argue that this historical insight is of great relevance for understanding and mapping how the trajectories of China's political evolution may unfold in the coming years and decades.

The Economic Basis for the Emergence of Inclusive Political Institutions in Europe

It started with a social and economic disaster in Europe. The bubonic plague reached Western Europe from central Asia in the mid-14th century – which became known as the Black Death. The devastation that came in its wake shook the foundation of Europe's social order. At the turn of the 14th century Europe had a feudal order that evolved over several centuries after the collapse of the Roman Empire. It was based on a rigidly hierarchical pyramid of power with the king at the top, the lords beneath him and the peasants at the bottom. The king, by rights of conquest, owned the land and granted it to the lords in exchange for their allegiance and military services. The lords then assigned the right to till the land over to the peasants in exchange for a wide range of feudal obligations owed to the lord. Typically such obligations included unpaid labour, taxes and duties for specific activities. The peasants were also tied to the land, unable to move elsewhere without

permission of their lord, who was not just the landlord but in practice their overlord, who controlled virtually all aspects of the peasant's life. The Black Death took a massive toll on Europe's population; over a period of several decades, Europe's population was reduced by between one-third to one-half. It was an unmitigated social and economic disaster which unleashed new social forces for political change.

Depopulation in Europe created acute labour scarcity, which in turn encouraged peasants to demand changes to lessen their feudal burdens, effectively challenging the rigid pyramid of feudal power hierarchy. And it elicited very different responses between Western and Eastern Europe. In Western Europe, and In England in particular, peasants were more successful in getting their fines and unpaid labour reduced, and subsequently wages started to rise. And labour mobility increased as well, with peasants moving to where they could earn more, ushering in an embryonic labour market. When attempts by the lords in England to reverse the changes in labour mobility and rising wages, a Peasants' Revolt broke out in 1381. At one point the rebellious peasants briefly occupied London itself. Though the revolt was ultimately defeated with the peasants leaders brutally executed, there were no more attempts to stop wage increase and labour mobility in England. This is one of those seemingly small but highly significant changes that shifted England onto a whole different historical trajectory.

In Eastern Europe, however, labour shortage led to a very different outcome. Similar to Western Europe, fewer people there also created the pressure for higher wages and demand for greater freedom. But it also created greater incentive for the feudal lords to use more repressive means to tie the peasants to the land to ensure that they had adequate supply of labour. They resorted to forcibly tying down the peasants to their lands. Thus, after the plagues, feudal lords in Eastern Europe started to take over large tracts of under-cultivated, and sometimes abandoned, land and expanded their holdings (which were already larger than those in Western Europe, especially England before the Plague), and introduced more draconian measures to forcibly keep the peasants tied to their estates. Peasants became serfs in Easter Europe.[5]

Thus, the Black Death and its aftermath altered radically the structure of landholding throughout Europe, with sharply different consequences between Eastern and Western Europe. In Eastern Europe, landlords turned their peasant-tenants into serfs, while in Western Europe many peasant families escaped tenancy altogether and acquired land of their own. In England in the decades after the Black Death, a new class of economic actors emerged - the independent farmers known as the yeomen or freeholders. They along with their tenants farmed large tracts of land. Working for themselves, these independent English farmers were in a better position to take advantage of new innovations in farming (e.g. the new technique of four field rotation of grain, turnips, hay and clover, first introduced by the Dutch). This in turn led to increase in productivity, allowing farmers to leave behind subsistence farming to produce for a nascent market economy in agriculture. Thus, a small step in political inclusiveness in England created, over time, better conditions for the arrival of the capitalist market economy. For example, by 1700 English annual output in agriculture was at least twice that of any other European

5 North, D.C. and R.P. Thomas. 1973. *The Rise of the Western World: A New Economic History.* New York: Cambridge University Press.

country and continued so until the 1850s. This powerfully facilitated the emergence of a single national market in England, which became the largest free trading zone in Europe in the 18th century. In contrast, agricultural productivity stagnated in Eastern Europe. Frozen in its rigidly hierarchical order, there was little agricultural market to speak of, let alone pressure for change brought about by market competition.[6]

In the mid-fourteenth century before the arrival of the Black Death, there were few differences between Western and Eastern Europe in terms of political and economic institutions. By 1600, they were radically different. In the West, workers were mostly free of feudal dues, fines and regulations, and were becoming a key part of a booming market economy. In England, independent farmers with clear titles to their own land emerged. In contrast, peasants' lives in Eastern Europe were worse than before the Black Death; they became the coerced serfs tied to the land of their lord. This dramatic divergence between Western and Eastern Europe was the result of a small difference in how the elites initially responded to the disaster of de-populations. In Eastern Europe, feudal lords were a little better organized; they had slightly more rights and larger consolidated holdings. Towns were weaker and smaller, peasants less organized. These small advantages were sufficient to give the feudal lords in Eastern Europe the leverage to crush the demand for labour mobility and higher wages, then brought in draconian measures that virtually enslaved the peasants. In the long sweep of history, the initial differences between West and East in Europe were very small. Yet these small differences between them became very consequential for the future path of institutional development when the feudal order was shaken up by the Black Death.

History Lessons from England

It may seem far-fetched to look for historical insights from medieval England for China's political evolution today. But at a deeper level, there are profound lessons learned that elucidate why England is the birthplace of both modern parliamentary democracy and the First Industrial Revolution, that are very relevant to contemporary China. Being the cradle of the First Industrial Revolution, there has been a great deal of theorizing after the fact as to how and why England led the world when it did. The fact of the matter is that England, compared with rest of Europe, was an unlikely candidate to play such a role, given its small population and isolated geographical location. England's rise was so unexpected that it led the economic historian Joyce Appleby to ask, "How counter-intuitive that a poor, cold, small, outlandish country should be the site of technological innovations that would relentlessly revolutionize the material world?"

In many ways England was unique in Western Europe even before the Black Death. In 1215, England's powerful, quarrelsome, and independent-minded feudal barons stood up to King John and made him sign the Magna Carta (the Great Charter) at Runnymede, which enshrined some basic principles that imposed significant limits to the king's power. Most important, it established that the king had to consult with the feudal barons in order to raise taxes, through a Parliament representing their interests. Although King John got the Pope to annul the Magna Carta as soon as the barons dispersed, both the power of the barons and the influence of the Magna Carta

6 Clark, G. 1999. "Too Much Revolution: Agriculture in the Industrial Revolution, 1700-1860", in Mokyr, J. ed. *The British Industrial Revolution: An Economic Perspective.* Boulder: University of Colorado Press.

survived King John. In 1265, the power of the barons was further strengthened by the first elected parliament, with members drawn from feudal nobles and later on from knights and the wealthiest aristocrats of England. Despite its unmistakably elite nature, the English parliament developed two distinct characteristics: first, it represented a broad coalition of interests of the elites, extending far beyond those closely allied to the king, including minor aristocrats active in commerce then thriving in the growing towns, and later the "gentry", a new class of commercial, wealthy, and upwardly mobile farmers was also admitted. Thus, the English parliament empowered a relatively broad section of society, including significantly those who were commercially dynamic and upwardly mobile. Secondly, and largely as a result of the first, many members of the parliament consistently opposed the monarch's attempts to increase its power, and would become the backbone of those fighting against the monarch in the English Civil War, and then in the Glorious Revolution.[7]

The power of the parliament, an extraordinary English innovation, was by no means assured in its early days. The convention that emerged after the Magna Carta was that the king was required to convene the Parliament to get assent for new taxes. However, when Charles I came to the throne in 1625, he intended to re-establish an absolutist monarchy unencumbered by the Parliament. In 1629, five years into his reign, he stopped calling Parliament altogether. He then introduced "forced loans", which were nothing more than his demand for funds from the lords, especially those deemed wealthy, and once the "loan" was provided, he refused to repay it. Such "loans" were thinly disguised royal extortions. He also levied new taxes and charges without the consent of Parliament; for example, the 1634 "ship money" was a tax on coastal counties for paying the upkeep of the Royal Navy, which was extended to inland counties in 1635. Needless to say, he was on a collision course with the feudal barons who saw clearly the threat to their independence and security of their land holdings.

In 1642, the tension came to a head and a civil war broke out between Charles and Parliament. Led by Oliver Cromwell, the Parliamentarians defeated the royalists and Charles was tried and executed in 1649. Following Cromwell's death, the monarchy was restored in 1660. Charles' son, Charles II, also tried to reestablish the absolutist monarchy, a struggle continued by his brother James II who succeeded Charles II. A new crisis erupted in 1688, igniting another civil war between the king and the Parliament. This time the Parliament invited the Dutch pretender, William of Orange and his wife Mary (who was James's protestant daughter) to replace James. William and Mary landed in Devon to join forces with the army of the Parliament and marched north to challenge James. Within two months, James's army disintegrated and he fled to France. William ascended the throne and his victory was hailed as the Glorious Revolution.[8]

Parliament and the newly-crowned William negotiated a new constitution, enshrined in the Declaration of Rights that the Parliament produced in February 1689, more commonly known as the Bill of Rights. It crucially asserted that the monarch could not suspend or dispense with laws and reiterated the illegality of taxation without parliamentary consent. The principle of rule of law and protection of private property was firmly established by the Bill of Rights, in spite of ambiguities in how these

7 Neal, J.E. 1971. *Elizabeth I and Her Parliaments,* 1559-1581. London: Cape.

8 Pincus, Steven C.A. 2009. 1688: *The First Modern Revolution*. New Haven: Yale University Press.

principles were to operate in practice. It provided the best protection of private property rights in Europe at that time. It was the end of absolutism in England, and subsequently Great Britain after England and Scotland were united in 1707. Now the Parliament controlled taxation and spending. This in turn paved the way for the emergence of pluralistic political institutions. For the first time people in Britain had unprecedented access to Parliament and the making of economic and political policies. This was not democracy as understood today, however. In the 18th century, less than 2% of the population, all male, voted in all the Parliamentarians. But this was enough to usher in new institutions and practices that were increasingly rule-based, including an independent and assertive judiciary who vigilantly guarded its authority to dispense justice. These pluralistic and inclusive political institutions in turn led to the emergence of increasingly inclusive market institutions. A case in point was the gradual dismantling of many of the monopolies sold by the Stuart kings in previous decades. The Parliament also enacted legislations to completely reorganize property rights, eliminating many archaic forms of property and user rights, making property rights widely applicable to anyone who could legitimately establish a claim to an asset, regardless of the person's background, social status, or wealth.

Another important step in the evolution of inclusive economic institution was the establishment of the Bank of England in 1694, which quickly became a major source of funds for industry. The founding of the Bank of England opened the door for a much more extensive financial revolution, leading to a great expansion of financial market and banking. By the early 18th century, bank loans would be available to anyone who could put up the necessary collateral. Banking services became a powerful equalizer in a rapidly industrializing Britain.[9]

This dynamic process of the co-evolution of inclusive political and economic institutions then paved the way for Britain to become the cradle of the First Industrial Revolution, a process that was quietly evolving while the Portuguese and the Spanish Empires seemed to rule the world (even though the Spanish Armada failed to invade England) and when the glory of the French court was the envy of Europe. It was Britain's uniquely inclusive economic institutions, unmatched in all of Europe; that enabled the First Industrial Revolution to start and make its biggest strides in Britain. These inclusive economic institutions were built on the foundation laid by Britain's inclusive political institutions brought about by the Glorious Revolution and the Bill of Rights. It was the Bill of Rights and its gradual implementation that strengthened and rationalized property rights, improved financial markets, undermined state-sanctioned monopolies in foreign trade, and removed barriers to the expansion of industry. Inclusive political institutions made the political system open and responsive to the economic needs and aspiration of the society. Inclusive economic institutions opened the door to, and facilitated men of talent and know-how to build the new industries and start innovative businesses.

The mutually reinforcing currents of pluralistic politics and market economy in Britain ushered into being a nascent consumer economy. By 1700, it is estimated British labourers earned much higher wages than labourers in the rest of Europe and around the world. Britain was unique in having a large and growing work-

9 Brewer, J. 1988. *The Sinews of Power: War, Money and the English State, 1688-1773.* Cambridge: Harvard University Press.

ing class capable of buying the new crockery, calicos, cutlery, and cheap printed pictures now available to them. This large body of domestic consumers fueled Britain's commercial expansion both domestically and overseas. Thus, ordinary men created the infrastructure for a national market, while overseas trade linked this internal commerce to an expanding world trade.[10]

Britain entered the 18th century with a new kind of society, one that abandoned religious censorship and tamed political absolutism with a balanced constitution that distributed power among the king, the nobility and the commoners. While the House of Commons did not exactly represent ordinary people, it in principle stood for the people. The parliament was strongly entrenched as a political institution that was inclusive in its purpose, even though not always in practice. And its rising power was undeniable; the accumulated wealth of its members exceeded that of the aristocracy[11]. What followed next could be best described as a slow march of democracy.

While the rule of law had been steadily strengthened in the preceding centuries, democracy as it is understood today did not exist in 18th century Britain. Few adult men, and no women, could vote. However, ordinary people in Britain, the commoners, could defend their traditional rights and economic interests both in court and in parliament through the use of petition and lobbying. Over time, this practice had the virtue of becoming a tradition that was jealously protected and highly valued. It provided a strong foundation for the virtuous circle of inclusive institutions, once given an early start, to evolve greater inclusiveness. As a consequence, the odds were against the British elite of the 18th century maintaining their grip on political power without serious challenges. British political elite had come to power themselves by challenging the divine rights of kings and opening the door to participation by the people in politics, even though in practice they gave this right only to a small minority. Once such a tentative step was taken, however, it was only a matter of time before more of the population, especially those who were economically successful and upwardly mobile, demanding the right to participate in the political process.

Consequently, the first three decades of the 19th century witnessed increasing social unrest in Britain, mostly in response to increasing economic inequities and demands from the disenfranchised masses for greater political representation. The Luddite Riots from 1811-1816, the Spa Fields Riots of 1816 in London, the Peterloo Massacre of 1819 in Manchester and during the Swing Riots of 1830, agricultural workers protested against their falling living standards and the use of new labour-saving technologies. Thus, it was no surprise that the 1831 election was mostly about a single issue: political reform. The Whigs (the Liberals) were much more responsive to the wishes of the common man and campaigned to extend voting rights. But the concessions made by the elite were piecemeal and gradual. In response to rising pressure from the general population, the elites were prepared to grant only small increases in the electorate. Universal suffrage, even for men, was simply out of the question. The Whigs won the election and their leader, Earl Grey, became the prime minister. Earl Grey was actually a conservative, but one who saw the need to compromise in order to conserve. He made clear that "the principle of my reform is to prevent the necessity of revolution … reforming to preserve, not to overthrow".[12]

10 Appleby, J. 2010. *The Relentless Revolution: A History of Capitalism.* New York: W.W. Norton.
11 Cited in Appleby, J. 2010. *Ibid.*
12 Cited in Evans, Eric J. 1996. *The Forging of the Modern State: Early Industrial Britain,* 1783-1870. New York: Longman.

Reforms were granted because the elite judged that it was the only way to secure the continuation of their rule. Earl Grey was successful in both ensuring the passage of the First Reform Act and in defusing the revolutionary tides without taking any major strides toward universal mass suffrage. The 1832 reforms were modest, only doubling the voting franchise from 8% to about 16% of the adult male population (from about 2% to 4% of the total population). They also got rid of the so-called rotten boroughs which secured parliamentary seats for some of the elite without adhering to the form of electoral representation, let alone the substance. The reform also gave independent representation to the new industrialized cities such as Manchester, Leeds, and Sheffield.

Why did the British elites give in to these demands? In most of continental Europe, and across of much of the European empires overseas, the elites opted to do the opposite. They sought to secure their rule by crushing challenges to their authority. This was precisely what the Austria-Hungarian and Russian monarchs would do in the next few decades when agitations demanding reforms were gathering strength in their lands. The answer to this question comes from the virtuous circle of co-evolution of inclusive political and economic institutions described earlier. The economic and political changes that had already taken place in Britain made using force to repress demands both unattractive and costly for the elite, and increasingly infeasible. The rising tension between demand for greater political representation and the continuing dominance of a small elite over the 1790 – 1830 period presented the rulers of Britain with sharply defined alternatives: they could either dispense with the rules of law and dismantle their elaborate constitutional structures and use force to suppress the masses or they could submit to their own rules and surrender their hegemony. In the end, rather than repudiating 150 years of constitutional legality and the even longer tradition of parliament, they surrendered to the rule of law.

There was also a positive feedback between inclusive economic and political institutions that made the course of reform more attractive. Inclusive economic institutions led to the development of inclusive markets, inducing a more efficient allocation of resources, greater encouragement to acquire education and skills and further innovations in technology (and less resistance to technological change). All these forces were in play in Britain by 1831. Clamping down on popular demands and undertaking a coup against inclusive political institutions would mean destroying these gains. The elites opposing greater democratization and greater inclusiveness might find themselves among those losing their fortune from this destruction. Simply put, the bottom line was that the elites had more to lose from political repression than from reforms. Britain in the beginning of the 19th century had no serfs, relatively little coercion in the labour market and few monopolies protected by entry barriers. Clinging to power on a more exclusive basis was less valuable for the British elites than pursuing reform.

Inclusive economic growth over the previous 150 years also empowered the citizens at large, thus creating a more level playing field, even when it comes to the fight for power. It was British inclusive economic institutions that unleashed the Industrial Revolution, and Britain was among the most urbanized societies in Europe in early 19th century. Using repression against a concentrated, urban and partially organized and empowered group

of people would have been much harder than repressing a peasantry or dependent serfs. And the First Reform Act of 1832 was just the beginning. The issue of parliamentary reform was taken up by the Chartist Movement (the People's Charter) in 1838, which organized a series of mass demonstration and put pressure on the Parliament to discuss the potential for further reforms. The Chartist Movement disintegrated in 1848, but was followed by the National Reform Union (1864), and the Reform League (1865). The continued pressure brought results in the form of the Second Reform Act of 1867 in which the total electorate was doubled and working class voters became the majority in all urban constituencies and secret ballots were introduced shortly thereafter.[13]

The First and Second Reform Acts were followed by the Third, which doubled the electorate again in 1884, when 60% of adult males were enfranchised. Following the First World War, the Representation of the People Act of 1918 gave the vote to all adult males over the age of twenty-one and to women over the age of thirty who were taxpayers or married to taxpayers. Finally, Britain's gradualist political reform cumulated in all women given the vote on the same terms as men in 1928. It was a very long process of political evolution of 94 years from 1832 to 1928. Not surprisingly, parallel with the gradual development of more inclusive political institutions was a movement toward even more inclusive economic institutions. One major consequence of the First Reform Act was the repeal of the Corn Law in 1846 (which barred import of grains and cereals, keeping their prices high and ensuring lucrative profits for large landowners). The new parliamentarians from Manchester and Birmingham wanted cheap corn and low wages. They won, and the landed interests suffered a major defeat. And in 1871, the Liberal Prime Minister Gladstone opened up the civil service to public examination, making it meritocratic. The Education Act of 1870 committed the government to the systematic provision of universal education for the first time, which became free of charge in 1891 and the school-leaving age was set at eleven in 1893.

Britain is an example of the virtuous circle of inclusive institutions at work through gradual and incremental changes. Every decade another step, sometimes smaller, sometimes larger, was taken toward democracy as the term is understood today. There was conflict over each step and the outcome of each was never pre-ordained, but contingent upon all sorts of factors, including seemingly insignificant developments that turned out to have far-reaching consequences. But the general pattern was that the virtuous circle of the co-evolution of inclusive political and economic institutions, once set into motion, created independent forces that reduced the stakes involved in clinging to power by the ruling elites. It spurred the rule of law, making it harder to use force against those who were demanding what the elites had themselves demanded from the Stuart monarchs. Thus, the great virtue of gradual change is that it reduced the chances of the conflict turning into an all-out revolution, while pushing the outcome in favor of greater inclusiveness. It was a classic case of private vice (greed and self-interests of the elite) leading to public virtue (inclusive political institutions). Only the rule of law could make it possible.

The Rule of Law: China's Pathway to Democracy

The rule of law, as illustrated by Britain's historical develop-

13 Acemoglu D. and J. A. Robinson. *Economic Origins of Dictatorship and Democracy. Cambridge*: Cambridge University Press.

ment, is a very relevant and useful example of how China could evolve toward democracy from the ground up, as opposed to imposing it from the top down. Unlike Britain which took over a century in its slow march to democracy, China today certainly does not have the luxury of such a leisurely pace. Thus far, China has been able to compress its economic development into a much shorter time frame compared with its East Asian neighbours, let alone with Britain a century ago. The same time compression obviously will be needed in building solid and effective institutions for the rule of law. However compressed, the successful evolution of the rule of law will also require careful sequencing, underpinned by continuity, gradualism and due process in order to avoid open conflict and chaos.

The likelihood of success of such a pathway for China is enhanced by the fact that the principle of the rule of law is already well embedded in its constitution. In 1999, the phrase of "govern the country by law to build a socialist rule-of-law society" was inserted into constitution. In 2004, the constitution was further modified "to respect and safeguard human rights" and "protect property rights".

Economic reform and liberalization in the last two and a half decades continuously necessitated the introduction of new legislations required to manage and govern China's expanding market economy. For example, laws governing private property disputes, business bankruptcy, labour contract, governance of private enterprises, monopoly, and environmental protection -- all unheard of under Maoist China-- were articulated and introduced over this period.[14]

The fact of the matter is that China today does not lack laws; what is lacking is their effective implementation through independent, impartial and credible legal and associated institutions. The picture is not a static one, however. China's legal system has actually gone through a few stages of evolution since 1949[15] . The first may best be described as "rule of man" (and effectively the "rule of Mao" until his death), which cumulated in the Cultural Revolution when the entire legal system was effectively abolished. With Deng Xiaoping's 1978 economic modernization and reform, China's legal system gradually moved into a second stage of "rule of policy", first initiated in the Third Plenary Session of the 1978 Chinese Communist Party meeting. As mentioned above, many new laws were subsequently necessitated by the pragmatic need for governing and regulating the fast growing market economy. For example, the "rule of policy" took a quantum leap when China joined the WTO, which required that the regulation of the economy in China meet certain standards and compatibility with international norms. The new frontier today is to evolve from "rule of policy" to "rule of law".

The challenge is a daunting one as it will require a delicate balancing between a compressed evolutionary time frame and the desire for gradualism and continuity. In this context, the emphasis on continuity with past history and traditions could be an important facilitating factor. Returning to the historical example of Britain's path to democracy through the evolution of the rule of law, it is instructive to note that the "rights and liberties of the subject" referred to in the 1689 Bill of Rights were presented as ancient instead of new ideas, even though the consequences were shockingly novel.[16] A more recent example can be found in the sharply different outcomes between the successful and effective restoration of property rights in West Germany in 1948 after the collapse

14 See S. Li, 2007. *The Transformation of Law and Jurisprudence in China. Beijing: China* University of Law and Politics Press (in Chinese).
15 S. Li, 2007, ibid.
16 See Ferguson, N. 2013. *The Great Degeneration: How Institutions Decay and Economies Die.* New York: The Penguin Group.

of Nazi Germany, versus the disappointing outcome in the transition of former Soviet economies in the early 1990s when there was no historical traditions to fall back on.[17] From a conceptual point of view, this is also entirely consistent with Samuel Huntington's thesis, mentioned earlier, that developing countries strive for order per se, hence institutionalization of the rule of law is an independent and important dimension of political development, alongside economic development and democratization.

In this connection, China's long cultural history and traditions could lend a helpful hand in ensuring a smooth transition to the rule of law is successful. After all, the very notion of mandate of heaven, the traditional basis of legitimacy of government rule that continues to resonate in China today, is all about just rule, peace, and prosperity. At this juncture in China's development, the rule of law is the government's best guarantee that its mandate of heaven is intact.

17 See Carlin, W. "Institutions and Economic Reform", *Review of Economics and Institutions.* Vol. 1, No. 1, Spring, 2010.

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