

ELITE PRIVATIZATION AND THE SEARCH FOR JUSTICE

BY HU PING

Many observers anticipate that trade with the west stands to benefit all Chinese citizens in the long run. But Hu Ping finds that without a democratic system, those in power are poised to take the best for themselves at the outset, leaving little for those obliged to await the “trickle-down effect.”

Following China’s entrance to the WTO, we can expect an increasing number of state-owned enterprises (SOEs) to be sold to foreign investors. But this type of deal raises an important question: who is the seller?

From the legal standpoint, SOEs are the property of the Chinese people. The executives of SOEs are merely fulfilling the responsibility of managers and stewards. But the Chinese public has no opportunity to oversee or participate in the negotiations executives of SOEs undertake with potential foreign investors, creating a genuine risk that the executives will help themselves to a share of the profits. This breach of public interest is similar to a servant selling his master’s property and then pocketing the proceeds himself.

Many observers believe that China’s increasing contact with foreign trade will help establish the rule of law and control corruption. But as the example above suggests, corruption flourishes in an environment where a servant is entrusted with selling his master’s property. Whether or not the transaction conforms to the rules of market economics is simply not the issue. If the problem of corruption is actually to be addressed, the master must exercise his prerogative; i.e., the Chinese people must have the right to monitor and participate in any sale of a state-owned enterprise to foreign interests.

Everyone knows that China has undergone economic reform and not political reform, and that it has become a market economy but not a democracy. Ordinary Chinese citizens lack even the most basic civic rights, much less the right to public monitoring and democratic participation, and as a result those in power have ample opportunity to turn public property to private profit. To a very great extent China’s economic reforms have benefited those in power the most and

have given them even more power to profit from public property. In effect, China’s economic privatization has become privatization by the elite. As a result, a considerable share of China’s public assets have already been lost, and are still being lost, all to the benefit of those in power, and the gap between the rich and the poor has widened to a shocking extent.

Some people believe that the economic gap can be ameliorated through a better social security system imposed through more rigorous taxation. But this would presuppose that the wealthy – i.e., those who have profited from power and position – acquired their riches through legitimate means. And this very point is increasingly in doubt.

The National People’s Congress is scheduled to amend China’s Constitution in March, and it is generally believed that there will be amendments to the laws protecting private property.

Many people have opposed incorporating private ownership into the Constitution because they worry that it will provide a means of legalizing illicit profits. Strictly speaking, making private ownership constitutional is not the same as legalizing illicit profits; protecting private property is not the same as protecting illegal private property. For that reason, the Chinese public still has the right to pursue legal redress against the illegal acquisition of property. Making private ownership constitutional was meant to be one of the virtues of economic reform. The problem is, now that privatization has become an irreversible trend, how are we to deal with the illicit wealth that the elites have gained through personal disposal of public assets? In a system where social justice is virtually bankrupt, how can we pursue justice?

It must be borne in mind that this problem is unprecedented in China or elsewhere, and for that reason many people lack an adequate understanding of what the problem even is.

It is true that China’s economy has developed very rapidly over the past twenty-odd years. Many believe it has been the triumph of Deng Xiaoping’s policies to promote economic reform and a market economy but not political reform or democracy. It is hard to argue with this viewpoint. Because China underwent economic reform under autocratic suppression, the implementation was completely unimpeded and exceptionally smooth; when the government wanted to raise prices, it did so, and when it wanted to lay off workers, it did so. State-owned enterprises could set whatever prices



Workers protest corruption at a state-owned factory in Beijing. Photo: Reuters.

they wanted or simply give things away as they saw fit. The cost of privatization turned out to be very low.

But China's privatization has a fatal flaw, which is that it has never been legalized. Privatization in Russia and Eastern Europe, for all its problems, was still carried out under the prerequisites of public monitoring and democratic participation, and for that reason basic public trust and legality was never in doubt. Although those countries have undergone a number of changes in regime over the past ten years or so, there has always been proper distribution of property rights and settlement of proceeds. In China the exact opposite is true; privatization took place without the prerequisites of public monitoring and democratic participation, and as a result the proceeds are not disclosed to the public, and the resulting distribution of property rights has never been legalized.

It is fair to say that if China's economic reform had not so radically outpaced its political reform, it would not be suffering from the extensive corruption that plagues the country today, and the economic gap between rich and poor would not have developed to such an appalling degree. Likewise, if the Chinese Communist Party had initiated political reforms early on, even though some elites would have inevitably enjoyed relatively more advantages, the ordinary people may not have found it that hard to accept; rather, if seen in terms of a payoff, it would not have seemed a great price for political openness. But when corruption becomes too excessive, and in addition becomes so excessive under the protection of violent suppression – that is to say, when the people carrying out the bloody suppression of the masses are the same ones seizing the collective wealth created by those same masses – then how can the masses be expected to tolerate it? I concede that when people cannot rise up against the excessive power wielded by autocratic rule, and when they have no freedom of expression, the best they can do is tolerate the situation and satisfy themselves with a few moldering scraps from the luxurious feast of those in power. But what if they obtain democratic rights?

Of course we can imagine a situation in which the Chinese authorities will continue to pursue economic reform but not political reform, and in which they will continue to privatize state assets to the benefit of the elite, but in which at the same time, in the course of their plundering, they will toss a few scraps to the ordinary people, and use the suppressive organs of a modern state to nip any hint of unrest in the bud. After several generations the illicit gains may be transformed by the passage of time into something almost legal. But taking into account the increasing length of the average human life span, and considering the accuracy of the records regarding the many great events of the information age, it seems too much to expect that people can ever forget or forego retribution for the blatant pillaging they have witnessed with their own eyes, even after a hundred years have passed.

Two possibilities present themselves: 1) If a major crisis erupts during this time, and the Chinese Communist Party's suppression apparatus becomes ineffectual, all kinds of formerly repressed chaos will break loose, and Chinese society may descend into massive turmoil. It is doubtful that a democratic system could gain a firm foothold under these circumstances. 2) If the Chinese Communist Party's autocratic system endures through this long era by easing the gap between the rich and poor and "laundering" the elite's ill-gotten gains into clean money, this will lead the party to regard concepts such as human rights, democracy, and justice with even greater contempt. We will be facing an autocratic government that is increasingly confident, arrogant and powerful. Either prospect is horrible to contemplate, but the latter one is especially horrible.

The best hope we have of avoiding either situation is to push for democratic reform now, before it is too late.

Translated by Stacy Mosher.