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On Legitimacy: How the Prison-Labor Complex Changes with the Political Terrain in China

By

Mao-hong Lin

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Juridical Science

in

the School of Law

of the

University of California, Berkeley

Committee in charge:

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Abstract

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University of California, Berkeley

Professor Jonathan Simon, Chair

The dissertation is centered on the dispute over the prison-enterprise dichotomy in the discourse of CCP administration and the scholarly discussion resulted from the financial crisis of the Chinese prison system in 2003. The official statements and the relevant studies by Chinese scholars have demonstrated their endogenous limitations that the prison system in China needs to be either in the form of combination of prison and enterprise or in the form of their separation for adapting itself to the tremendous shift in the state's economic structure. Instead, setting off from a viewpoint of the school of punishment and society, the dissertation aims to take the historical, economic, legal and political parameters into consideration and then to unveil the full picture of penal labor camps in the Chinese socialist society.

The dissertation employs a historical institutionist approach as the main theoretical backbone, trying to clarify the formation and development of the carceral mechanism from an economic point of view and to match the carceral strategies utilized by the state with the CCP regime's legitimation plans in different periods of time. The dissertation finds that the prison system functioned with other social institutions as a massive social control mechanism in the pre-reform age; its orientation of special state-owned enterprise and its usage of forced labor as punishment made itself a prison-labor complex that allowed it to stand the following grand transformation in the economic structure. When in the post-reform era the prison system moved towards three distinct directions: its economic role was emphasized, its organization was restructured for the economic adjustments, and it underwent a large-scale legal reform. Finally, the dissertation finds that these changes of the prison system over time can be placed on the trajectory of the CCP's legitimation plans when the CCP regime faced crises in different periods.

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List of Chinese Terms and Their Translation

Chinese Terms	English Translation
Anzhi	Settle down
Bangjiao	Reeducation assistance
Dangan	Political dossier
Danwei	Work units in the urban areas
Gongan	Public security, i.e. the police
Hukou	Household registration system
Jiuye	Forced job placement
Laogai	Reform through labor
Laojiao	Reform through education
Xiagang	Step down from a post

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In memory of my dearest grandfather, Chia-Hsi Chao (1931-2015).
Everything in my current life was meaningless without his unreserved love, care and support.

Chapter One Introduction

1. The Entanglement of Prison and Enterprise

1.1. Crisis of the Prison System

The promulgation in January 2003 of the “Instructions from Ministry of Justice for Prison System Innovation at Certain Experimental Units,”¹ which was later forwarded to notify every province and government organization by the State Council, sparked an overhaul of Chinese prison structure. The innovation was firstly conducted as an experiment in six cities and provinces, inclusive of Heilongjiang, Shanghai, Jiangxi, Hubei, Chongqing and Shanxi, for the four crucial goals: budget to be fully guaranteed, prison and enterprise to be separated, different financial schemes for prison and enterprise, and to operate prison through legal rules.² This experiment was expanded to other eight provinces in 2005 and later became a nationwide policy in 2008 to revamp the prison system thoroughly.

The first goal requires government, primarily the provincial governments, to fully subsidize the prison expenditure, and the central government will weigh in as an auxiliary role. Separation of prison and enterprise, the second goal, demands that there have to be two independent entities, prison enterprise and prison administration, of their own structure and personnel within one prison system, and earnings from prison enterprise and expenses of prison administration can thus be separated as the third goal expects. In order to normalize these three goals and eradicate previous undesirable customs, the fourth goal to operate through legal rules was expected to work as a watershed here.

This innovation reflected the central government’s intension to deal with the deep-rooted illness of the long-time combination of prison and enterprise in China. Due to the imbalance between its heavy financial burden, mainly from the personnel expenses and operating expenses, and the limited government financial support, the prison-enterprise combination had been facing corruptions and malpractice among prison officials, inefficiency and inefficacy of the functions of prison, inclusive of to reform the inmates and to create profits for the prison itself as well as the government, and the deterioration of prison finances and carceral environment.

What is the prison-enterprise combination? Fusen Zhang, Minister of Justice then, gave us a definition. He explained in an interview (Zhang 2003) that the combination of prison and enterprise was a product resulting from the system of planned economy. When in the planned economy era, the state adopted an economic policy in November 1953 called “unified purchase and sale,”³ by which local governments purchased all surplus grain and edible oil from households at prices set by the state in the summer and autumn and resold them to households if they needed in the spring (Li 2006:145). The same method was also applied to the prison production, and thus the prison administration used

¹ 司法部关于监狱体制改革试点工作指导意见的通知。

² 全额保障、监企分开、收支分开、规范运行。

³ 统购统销。

a financial scheme featuring “receipts used to effect payments”⁴ and “full responsibility to prison,”⁵ within which every single prison was treated as a profit-seeking entity as well as a penal facility. As a consequence, prison and enterprise were inevitably mixed together.

When looking into the possible reasons for the malfunction and struggle of prison enterprise in recent decades, Zhang also pointed to the peculiar penal-economic conflation. The prison-enterprise combination worked well under the planned economy in the past, but the inherent contradiction within the combination gradually surfaced as the country moved towards the market economy and reflected on three dimensions. First, the mismatch of different goals of prison. A warden had to work as both a correctional officer and a factory director, had to rehabilitate the criminals and earn profits over their labor. Second, the linkage between prison receipts and its budget. The income and benefits of prison staff fully hinged on the efficiency of prison production. Third, due to prisons were usually located in the remote and secluded areas, Chinese prison under planned economy were in fact a mixture of prison, enterprise, and commune. Prison sometimes contained other facilities like hospital, police station, court, kindergarten, etc. (Zhang 2003).

The separation of prison and enterprise was therefore treated as the foremost one among the four goals. Since embarking on the innovation of prison system, the government has tried hard to single the profits-seeking units out of the prison administration and transformed them into a state-owned company, and all the affiliated enterprises which provided necessary facilities to prison would become subsidiary companies. The state-owned company and its subsidiaries would thus form a special prison conglomerate (Zhang 2003). There are two types of leadership in this conglomerate. One is that, following the modern company management strategy, the general manager is under the instructions of and responsible for the board of directors, and the other is, following the regular state-owned company principles, the general manager is under the instructions of and responsible for the committee of the Communist Party (Fan 2004). After this separation, it was expected to have a new prison system comprising two independent as well as mutually connected mechanism. One is for punishment administration under the Prison Law, which would be dubbed “prison,” and the other is for creating profits pursuant to Company Law under the name of “prison enterprise” (Zhang 2003).

In order to mitigate the overwhelming financial problem and renovate the old prison system, the Ministry of Finance and Ministry of Justice published a joint notification about the standards for the basic expenses of prison administration in March 2003,⁶ which required the provincial governments’ subsidy for prison shall be up to this standard within 2-5 years. Later in the same month, the State Council issued an epochal guideline “Notification from State Council regarding the Solution for the Problems of Prison Enterprise,”⁷ requiring all the prison enterprises to improve their economic structure, production strategy and internal management. Besides, Ministry of Justice and other related government units issued a joint order “Notification regarding Questions about the Policy For Prison

⁴ 以收抵支。

⁵ The original version was full responsibility to “household,” i.e. 大包干 or 包干到户. It means households needed to negotiate with production teams about how much of their crops should be procured by the government before they farm. After fulfilling their collective and state obligations by returning a certain quantity of the crops, households were permitted to retain the surpluses for their own use or sale (Crook 1985:291).

⁶ 财政部、司法部关于印发《监狱基本支出经费标准》的通知。

⁷ 国务院印发关于解决监狱企业困难实施方案的通知。

Closure and Enterprise Bankruptcy”⁸ in February 2004, laying down the criteria of closure and bankruptcy for prison enterprise.

As to the legal status of prison enterprise, following the instructions from State Council, Ministry of Justice in June 2006 published an order, “Ministry of Justice’s Opinion on Achieving ‘Summary of the Research on the Problems of the Redeployment of Prison and Prison System Innovation at Certain Experimental Units,’”⁹ requiring relevant organizations to provide legislative suggestion with reference to the Company Law and Enterprise Law.

In a speech to the Standing Committee of the National People’s Congress¹⁰ in April 2012, Minister of Justice stated that due to the efforts from 2003 through 2012, the goals of prison innovation had been basically achieved and the socialist prison system with Chinese characteristics had been fundamentally established (Wu 2012). Since then research on the current prison system has mostly moved to how to manage the prison enterprise under Company Law, how the prison administration and prison enterprise can cooperate with each other well, or how to strengthen the legal infrastructure of whole prison system (Huang & Zhao 2012:108-109; Lu 2015:40-42).

1.2. The Accounts of the Crisis and Their Limits

In the 1980s there had been some studies showing the inadaptation of prison-enterprise combination (it was called *laogai* enterprise then) when the country was moving from the planned economy into the market economy. The first article on this topic was possibly Yang’s in 1983, which advocated that according to the experience learned from the past practice, it hinged on the cadre’s positivity and a series of feasible measures and well-organized staff members if labor camps wanted to fulfill their responsibilities, and hence a contract responsibility system under which team of cadres served as a contractor to be responsible for profits and losses as well as rehabilitation and security would benefit the reform function within *laogai* camps for enhancing the cadre members’ responsibility and resolving the conflicts between reform and production (Yang 1983:49). Lou, in 1985, observed the flaws of the *laogai* enterprise such as low level of inmates’ skills, poor quality of prison staff, and the complicated personnel matters, so the article emphasized to heighten the quality of prison cadre and usher in the institution of contract responsibility and new technology. Besides, the author also suggested to establish a kind of *laogai* company which had the single authority to lead the production plan and its sale (Lou 1985:61). Despite the immaturity of thesis of the articles, they gave government officials as well as scholars some ideas about the role of *laogai* enterprise under the market economy and later brought about the dispute on combination or separation of prison and enterprise.

When heading into the 1990s, the dispute over the mode of prison enterprise surfaced a copious topic. Most researchers pointed to in summary the inherent weakness of prison-enterprise combination under the market economy and attempted to provide feasible reform plans for the struggling prison-enterprise combination. Ministry of Justice issued a research paper in 1991 concluding that prison-enterprise combination’s important attribute of self-support was impotent to withstand market economy and the steep rise in prison population owing to the “Strike Hard” policy

⁸ 关于监狱企业实施政策性关闭破产有关问题的通知。

⁹ 司法部关于贯彻落实《研究监狱佈局调整和监狱体制改革试点有关问题的会议纪要》的意见。

¹⁰ The highest legislative branch of People’s Republic of China.

started in 1983 had made the financial burden even heavier; provisional support from the central and local government was merely able to slow the deterioration but could not stop it. The paper suggested to reuse the centralized management which used to be exerted in the 1950s and 60s and to reconstruct the structure of *laogai* economy via increasing prisoners' skill level (Li & Feng 1991:209-215). Another paper added into discussion the low competence of prison personnel (Jia 1991:553-555). Liu suggested to separate the financial structure of *laogai* administration and *laogai* production; the former to be treated as a government unit and the latter to be treated as a state-owned enterprise, so they enjoy different financial policy, including tax, subvention, and loan (Liu 1991:503-506). Besides, it was further pointed out other factors that caused the *laogai* enterprise in great depression, ranging from inconvenient transportation, poor techniques, sluggish system to lack of modern management (Shen 2000:110-112). Following the same discussion thread, Ding might be the first one who advocated the idea to separate prison and enterprise as early as in the mid-1990s (Ding 1996:61), and opened up a new discussion on the feasibility of this policy in the subsequent decade (see Zhang 2001; Wang & Wang 2004; Chen 2004; Liu 2004 & 2005).

From these articles and the aforementioned series of government policies for prison system innovation since 2003 can we learn two critical implications about the prison policy in China. The first is that under the communist administration prison is thought of as a kind of profit-seeking institution, despite in the Article 3 of Prison Law, which was firstly enacted in 1994, it is stated that the primary goals of prison are to punish and to reform the criminals, and education and labor are the means by which prisoners will be transformed into law-abiding citizens. The second implication is that the crisis faced by the prison system in the 1990s through 21st century is problems about the poor management of its budget, structure, personnel, and operation in the market economy.

If we summarize these implications, we will be able to unearth an interesting thesis of the Chinese prison system: there is no single, consistent and durable prison system which can stand still through the great transformation of politico-economic environment. This is an inevitable outcome of the prison studies in China due the special nature of the prison system. Since its early years when *laogai* was still in development, the CCP had put forward a definition of *laogai* in the First National Conference of Laogai Works in 1952, "*laogai* production, in terms of politics, is an important policy for reforming criminals into new persons; while in terms of economy, is a special enterprise of state ownership." This definition has manifested the politico-economic dimension of imprisonment in China. Consequently, the binary ideology of prison-enterprise, either combination or separation, implies that prison and enterprise are twins in the Chinese context and a third point of view is therefore never possible. This dichotomy will imperceptibly lead researchers to think in a single economic perspective when we are addressing issues about prison reform and prevent us from a comprehensive analysis.

2. Prison System in Communist China

2.1. Its Outline

There are two chief types of incarceration in Communist China: *laodong gaizao* (*laogai* for short)¹¹ and *laodong jiaoyang* (*laojiao* for short)¹². The Chinese term *laogai* means "reform through labor," which on

¹¹ 劳动改造或劳改。

¹² 劳动教养或劳教。

the one hand is a criminal punishment imposed on offenders through formal judicial process, and *laojiao* means “reeducation through labor,” which on the other hand was an administrative detention rendered by the police for petty offenses and deviant behaviors such as beggars or prostitutes without trial (Fu 2009:54). Both of *laogai* and *laojiao* feature forced labor of inmates during their custody thus constitute the collective penal labor camps which are believed to fulfill two crucial purposes of incarceration: production and thought reform.

Laogai has been implemented since the early days of the communist regime, as early as during the late 1920s and 1930s when the Chinese Communist Party (CCP)¹³ was just established (Williams & Wu 2004:35-36). The idea of *laogai* was generally borrowed from the institution of Soviet gulag with some modifications to the Chinese society. Both gulag and *laogai* feature large-scale and intensive labor work behind bars, but *laogai* has additional motives for thought reform and production (Mosher 1991:49). Based on a decision of Central Committee of CCP¹⁴ in 1951, “Resolution on the Question about Organizing All Criminals to Reform through Labor,”¹⁵ which followed an earlier instruction of Mao Zedong, who was the first chairman of the CCP, and the subsequent legislation of “Regulations on Reform through Labor of the People’s Republic of China (PRC)”¹⁶ in 1954 (Regulations on *Laogai* hereafter), *laogai* was thus officially recognized and treated as the formal prison system. Forty years later, the Prison Law of PRC¹⁷ was promulgated in 1994 to gradually replace the outworn Regulations on *Laogai*, which ceased to be effective in 2001.

According to Regulations on *Laogai*, there were four subunits of the *laogai* archipelago (Mosher 1991:50):

- Detention Center: for criminals who are sentenced to less than two years in *laogai* and the accused whose case are still pending (Article 8 to Article 12).
- Prison: for criminals who are unable to work outside or receive either suspension of death penalty or life sentence. These criminals shall be forced to work in prison-affiliated factory or workshop (Article 13 to Article 16).
- Labor Reform Battalion: for criminals who are able to work outside (Article 17 to Article 20).
- Juvenile Corrective Facilities: for criminals whose ages are more than thirteen and less than eighteen (Article 21 to Article 24).

The term of *laogai* has been replaced with prison since the enactment of the Prison Law in 1994, and detention center also has its own regulation since 1990, so now prison in China accommodates

¹³ It is also called Communist Party of China, CPC.

¹⁴ The highest authority of CCP, now composed of 205 members elected by the National Party Congress of CCP every five years.

¹⁵ 关于组织全国犯人劳动改造问题的决议。

¹⁶ 中华人民共和国劳动改造条例。

¹⁷ 中华人民共和国监狱法。

prisoners who are able to labor (the scope of labor reform battalion) and unable to labor (prison in its old definition), as well as juveniles (the name of juvenile corrective facility is retained).¹⁸

According to an official report “General Situation of Development of Chinese Prisoners’ Reeducation and Reformation”¹⁹ by Ministry of Justice, Bureau of Prison Administration, as of 2014 there are currently 680 prisons and 1.7 million prisoners across China, and the imprisonment rate is 125 per 100,000. But based on an unofficial assessment in 2012, there are 1,007 prison labor camps in China, and approximately 3-5 million people incarcerated in these camps at present (Laogai Research Foundation 2012), so the accurate imprisonment rate in China will be actually twice or even thrice as high as the official number.

Even after the completion of one’s sentence, it didn’t mean a prisoner was definitely allowed to release back to the society for there was a policy of *liuchang jiuye* (*jiuye* for short),²⁰ namely, forced job placement. The policy of forced job placement required, according to the “Interim Measures for Release of Laogai Prisoners after Finishing Prison Sentence and Their Settle Down and Forced Job Placement”²¹ (Interim Measures for Forced Job Placement hereafter), after completing their sentences, prisoners who were voluntary to stay, homeless or unemployed, and who served their labor reform in desolate areas and would like to settle down right there, would be placed in the same *laogai* unit or relocated to another *laogai* unit and work (Mosher 1991:50; Pejan 2000:22). Since the initial principle of “keeping many and freeing few,”²² which was announced in the Second National Conference of Laogai Works²³ in 1953 and ordered every *laogai* unit to retain at least 70 percent of prisoners after the completion of their sentences, the *jiuye* policy has changed several times, was waning through the 1980s, and was succeeded by a similar program of *anzhi*²⁴ (settle down) and *bangjiao*²⁵ (reeducation assistance) in 1992.

Table 1 Evolution of *Laogai* Mechanism in Communist China

Year	Description
Before 1951	Reform through labor was regionally exercised in some cities but not yet received official recognition.
1951	The Central Committee of CCP decided to expanded the use of reform through labor into a statewide program.
1954	Regulations on <i>Laogai</i> was published.
1966-1976	Temporarily shut down due to the Cultural Revolution.
1994	Prison Law of PRC was promulgated and then replaced the Regulations on <i>Laogai</i>

¹⁸ Here we can see the nuance between the general meaning of prison and its special meaning in *laogai* regulation. For the sake of convenience of discussion, when referring to prison, it denotes its general meaning throughout this dissertation except in this paragraph.

¹⁹ 中国监狱罪犯教育改造发展概况。

²⁰ 留场（厂）就业。

²¹ 劳动改造罪犯刑满释放及安置就业暂行办法。

²² 多留少放。

²³ 第二次全国劳改工作会议。

²⁴ 安置。

²⁵ 帮教。

Unlike *laogai*, *laojiao* was thought of as one sort of custody center which was a supplement to the formal prison. In 1955 the idea of *laojiao* was firstly mentioned in a public announcement of the Central Committee of CCP, “Directive on the Thorough Elimination of Hidden Counterrevolutionaries,”²⁶ which was designed to deal with the counterrevolutionaries (Fu 2005b:813). Subsequently in 1957 through enacting the “State Council’s Decision on the Question about Reeducation through Labor,”²⁷ which was initiated by the Anti-Rightist Movement (Whyte 1973:255) and enlarged the scope of *laojiao* to manage the aberrant population, including the following four categories (Whyte 1973:255-256):

- Those who do not engage in proper employment, those who behave like hooligans, and those who, although they steal, swindle, or engage in other such acts, are not pursued for criminal responsibility, who violate security administration and whom repeated education fails to change;
- Those counterrevolutionaries and antisocialist reactionaries who, because their crimes are minor, are not pursued for criminal responsibility, who receive the sanction of expulsion from an organ, organization, enterprise, school, or other such unit and who are without a way of earning their livelihood;
- Those persons who have the capacity to labor but who for a long period refuse to labor or who destroy discipline and interfere with public order, and who receive the sanction of expulsion from an organ, organization, enterprises, school, or other such unit and who have no way of earning a livelihood;
- Those who do not obey work assignments or arrangements for getting them employment or for transferring them to other employment, or those who do not accept the admonition to engage in labor and production, who ceaselessly and unreasonably make trouble and interfere with public affairs and whom repeated education fails to change.

According to the “Amendments to Reeducation through Labor by State Council,”²⁸ which was published in 1979, *laojiao* inmates would be sentenced by *gongan* (public security, who works in China as police) to stay in custody for the maximum of three years with additional one-year extension if necessary.

In the idea of the CCP, *laogai* targets at people who are completely intolerable to the community as a whole due to their criminal conducts so those people need to be thoroughly “reformed” through labor. On the other hand, *laojiao* was designed to cope with the population whose behaviors are somewhat aberrant so they merely need to be “reeducated” through labor. Therefore, in terms of their original design, the difference between *laogai* and *laojiao* only exists in the extent to which inmates need to corrected rather than in their substance. While the government tried to refute the accusation of arbitrary detention and build the legitimacy of *laojiao* on the idea of penal welfarism for reeducation inmates received wages and were only partially divested of freedom, *laojiao* in practice was used as prison and had little difference from *laogai* (Fu 2005b:813).

²⁶ 关于彻底肃清暗藏的反革命分子的指示。

²⁷ 国务院关于劳动教养问题的决定。

²⁸ 国务院关于劳动教养的补充规定。

Some domestic reports estimated that the *laojiao* population reached its peak in the 1960s to around half million and in 2012 there were about 60,000 people incarcerated inside *laojiao* facilities (Zhou 2012). As of the start of 2013, according to Human Rights Watch, there were still roughly 160,000 people staying in *laojiao* camps (Moore 2014). Nonetheless if we take the probable dark figure into consideration, the actual number here might be double or even higher.

Suffering from widespread criticism of the police’s discretionary authority and of its contravention of human rights, *laojiao* was officially abolished by the Standing Committee of the National People’s Congress in December 2013 with the “Decision regarding the Abolition of the Laws and Regulations of Laojiao,”²⁹ and all *laojiao* inmates would be released immediately since then.

Table 2 History of the *Laojiao* System

Year	Description
1955	Reeducation through labor was mentioned in an official document for the first time.
1957	Reeducation through labor was formally established and its operation was affiliated to the system of Reform through Labor.
1966-1976	Temporarily shut down due to the Cultural Revolution.
1979	Amendments to reeducation through labor was released. It established the “ <i>laojiao</i> commission,” which was in charge of the <i>laojiao</i> administration. Since then <i>laojiao</i> was independent from <i>laogai</i> and had its own bureaucracy, staff, functions and goals.
1982	Interim Measures for Reeducation through Labor and its execution details were published.
2013	Reeducation through labor was abolished.

2.2. Research Scope of the Dissertation

Throughout the history of the communist carceral system since 1949 when the CCP held the reins of China, punishment and profit-seeking have been the two main purposes of incarceration. The initial guiding purpose of prison from the 1950s through the mid-1960s provoked by the political leaders was “two combinations,”³⁰ i.e. the combination of punishment and thought reform and the combination of labor and political education. Later since the mid-1960s the idea of “reform first and production second”³¹ was strongly advocated. Now that the innovation works starting in 2003 emphasizes the dual function of prison enterprise, profit-seeking regained its dominant position in carceral practice since then.

All those purposes were brought about by the definition of *laogai*, which was officially positioned as a “special state-owned enterprise” in the First National Conference of Laogai Works³² in 1952. Hence “forced labor as punishment” became the core idea of incarceration in communist China and, in this sense, the idea led to the unique system of incarceration in communist China, which was composed of *laogai* for convict laborers, *laojiao* for aberrant laborers, and *jiuyue* for released prisoners.

²⁹ 全国人大常委会关于废止劳动教养法律规定的决定。

³⁰ 两个结合。

³¹ 改造第一，生产第二。

³² 第一次全国劳改工作会议。

Accordingly, for understanding the essence of the Chinese imprisonment strategies utilized by the CCP in the communist age, as exerted by prior researches (Mosher 1991; Pejan 2000), the dissertation will set off from the perspective of forced labor as punishment, by which *laogai*, *laojiao*, and *jinye* will be placed under single system of communist penalty while they have different legal sources, and be mainly focused on its dual function of punishment and profit-seeking. Therefore, the dissertation will emphasize on the labor reform battalion, and won't discuss detention centers, prisons (in its old definition), and juvenile corrective facilities. To be clear, the dissertation is not a study of prisoners' experience during their incarceration or the realities faced by the prison managers or staff members; rather the dissertation is designed to explore the place of the penal labor system in the CCP's governance plans from 1949 to the present.

3. Chinese Prison in the Western Understandings

Since the contemporary Chinese prison system features thought reform and large-scale and intensive labor work, this pattern of imprisonment has incurred some criticism from western scholars, mostly of its violation of human rights on accounts of the means of brainwashing and management and the poor working conditions. Fruge (1998:510-510), for example, argued that *laogai* has infringed several international human rights such as equal rights, right to life, liberty, and security of person, prohibition of slavery and torture, due process rights, freedom of speech, religion, and assembly, freedom of movement, and so forth. Pareles' study also supports Fruge's findings on the inappropriateness of the Chinese prison system (2006:34-36). Wu, who used to be a *laogai* prisoner, has published several books and articles (1992, 1995, 1996, 1997b, 2014) to accuse the CCP of its inhumane treatments for inmates, particularly about its use of forced and hard labor in the penal camps to advance the state's economic output and about its malice to destroy the inmates mentally and ideologically.

Besides, some literature traced the labor camp style of prison and its measures to correct prisoners into the early ages when the CCP was just established. Dikötter, for example, described the situation of prisoners in a Beijing jail in the 1950s (1997) and elucidated the emergence of labor camps in Shandong Province in the 1940s (2003). Fyfield's work (1982) portrays the prisoners' lives and experiences during their time inside the prison and comes up with the philosophical implications of CCP's efforts for prisoners' reformation and reeducation. Smith's work (2012), tracing the root of *laojiao* to as early as 1949, argues that the early ideas of reeducation through labor were too ideal to be wholly applicable and *laojiao*, taking effects in 1957, was thus a compromise as well as contradiction between idealism and reality. Smith's study (2013) accounts for the transition of the CCP's definition of underclass population, including beggars, prostitutes, and petty criminals, from "the unreformed" in 1949 to "enemies" to the socialist society in 1957. Kiely's work (2014) traces to the last years of Qing Dynasty and demonstrates the continuities of the idea of thought reform in penal practice from Qing Dynasty, the Republican era, the period of wartime, to the communist age.

In addition to the normative inquiries in terms of human rights and the historical pursuit of the CCP's penal strategies and measures, some western scholars process the topic from a social scientific perspective. With respect to the economic function of Chinese prison, Tanner (1994:56-63) has refuted the official reports of *laogai*'s economic contribution to the state and pointed out the economic vulnerability of labor reform system. Seymour and Anderson published the book "New Ghosts, Old Ghosts: Prisons and Labor Reform Camps in China" in 1998, which is the first book in English systematically analyzing the economic function of Chinese *laogai* camps (Seymour & Anderson 1998)

by connecting the politico-economic context with the discussion of imprisonment in a broader point of view. In addition to refuting some stereotypes of modern Chinese prison, such as suppression of political dissidents, widely usage of *jiuye* on released inmates, or the analogy between Chinese *laogai* and Soviet gulag, these authors also gave us some insightful observations about the *laogai* camps in northwest China in the 1990s. They argued that the challenges from market economy since the 1980s has worsened the penal economy and forced the *laogai* camps to reduce their population for keeping itself efficient; furthermore, due to the self-support policy for *laogai* finance, the international sanctions against *laogai* products didn't protect the welfare of prisoners and conversely made their situation worse. Besides, Seymour further investigated the downward trend in prison output in two book chapters published in the first decade of the 21st century (Seymour 2005 & 2006).

Around the same time, Fu (2005a), using a *laojiao* center as an example, embedded the penal practices into a broader political and politico-economic context and gave us a more concrete understanding of the penal economy in Chinese prison system. He successfully observed the embeddedness of China's penal practice in a broader political and economic policies and inspiringly argued that macroeconomic changes not only affect the livelihood of the ordinary citizens but also the living condition of penal organizations, and that the combination of penal labor and contract responsibility system was not beneficial to but rather detrimental to prison security and inmates' rehabilitation.

Even though the CCP administration strengthened that the goal of labor reform camps was reform first and production second, Seymour and Anderson's study shows that the systematic expectation of reform has long disappeared because of the pressure of economic needs in the post-reform era. Harry Wu, on the contrary, argued that punishment was the true purpose of *laogai* and reform through labor was a doublespeak to disguise the revanchist purpose. Dutton and Xu (2005), using traditional Chinese philosophy, explains that the idea of thought reform indeed worked in the earlier decades, but as the social changes eroded the traditional socialism, particularly after the economic reform began in the 1978, the ideology of reform was replaced by more draconian legalist notions of retaliation.

Furthermore, Dutton capitalized on the ideas of disciplinary power and governmentality from Foucault to analyze the Chinese labor reform mechanism. In his article (1992a) Dutton argued that the penal labor system in China also shares the disciplinary nature with certain nineteenth-century Western utilitarian penal motifs for remolding prisoners into obedient subjects and rendering them as useful timber. Besides, Dutton in his book (1992b) attempted to answer the question that if the labor reform system was completely transplanted from the Soviet counterpart or it also in part originated from the traditional Chinese culture. Dutton at first traced the origin of household registration system of patriarchy in imperial China to the seventh century and found that household registration systems were a strategy of social control; then after reviewing the types of prison in imperial China he noted the similarities between the household registration system and prison from the perspective of reciprocity. Later he focused on the contemporary penal labor system and argued that it is not just derived from the Soviet models but also the heritage of the continuum with household registration on one end and prison on the other. Lastly in the book he referred to the labor reform system as a factory and pointed out the difference between the Chinese factory and Western one: *laogai* camps produced not only a certain subject, but also the entire proletarian class.

Recently Mühlhahn in his book (2009) explored the history of criminal justice in China from three major dimensions: legal discourse, society and social institutions, and human experience from roughly

1900 to 1978. Apart from chapter two which reviews the criminal justice reform in the final years of Qing Dynasty and the early decades of the Republican age until the burst of World War II and chapter three which continues the inspection of changes in the criminal justice system from the late 1930s to the late 1940s, chapter four of the book extends the scope to the criminal justice system in the communist era from 1949 to 1979 when the economic reform took place. In chapter four Mühlhahn argued that criminal justice system, particularly the penal labor camps, was used as an influential tool for the transfusion of specific norms and values and thus to achieve the goal of social transformation into a socialist society. Besides, the legal discourse used in the system of criminal justice in the pre-reform age was to consolidate the binary divide between friend and enemy, the latter usually referred to landlords, counterrevolutionaries, rightists, and other ill elements to the socialist order; in fact, however, the friend-enemy binary was too vague and thus easily to be manipulated by political force. Consequently, in the view of Mühlhahn, criminal justice in China in the period between 1949 and 1979 was riddled with ambiguity; it was not used as a means of crime control, but as a forceful weapon to suppress any persons who expressed dissent or dissatisfaction.

4. The Present Analysis

4.1. Research Project

In the previous sections we have learned the ideology of the official accounts for the crisis and have also seen the contribution of prior studies to the Chinese prison and their limits. This dissertation intends to break the ideology in the official discourse, particularly the prison-enterprise binary, and then build a multi-faceted analysis of the Chinese prison system through its developments and operation since 1949. There are two chief goals of this dissertation: firstly, it goes to elaborate the changes and the unchanged of the prison system from a politico-economic perspective and give readers a clear and multidimensional understanding of the mysterious carceral apparatus, and subsequently to probe into the possible routes through which the changes and the unchanged could be expounded in a consistent manner. By choosing to conduct a research on the transformation of carceral strategies which occurred in communist China from 1949 to the present, the dissertation expects to clarify the politico-economic prerequisites that these strategies resided in and thus provides readers a more complete picture of the prison system with its embeddedness in the socialist society.

Accordingly, the present analysis aims to address two correlated questions: how has the entanglement of prison and enterprise been developed and what made the prison system move in this trajectory. The first question starts off from historical inquiries about the establishment, the changes, and the core force of the prison-enterprise entanglement in a structural perspective. Furthermore, this dissertation targets to portray the prison's façade within a politico-economic context in order to observe its changes echoing with the broad social structure. The second question points to achieve the second goal by pinpointing the way through which we are able to find out a rounded and consistent explanation for the prison system's changes and the unchanged over its turbulent history.

For achieving the goals and addressing the questions of the dissertation, I am going to employ a single-case study in building the analytic framework. Case study is an ideal methodology when a descriptive, explanatory or exploratory research is needed (Yin 2003:1-3) and provides readers an in-depth understanding of the case. These features fit best the goals of this dissertation and thus case study is the most pertinent methodology for the present research. Theory plays an important role in case study. On the one hand, theory can help to build a research agenda. It is capable of assisting

developing research questions, selecting cases, refining research design, or defining the relevant data to be collected. On the other hand, theory can be also built or tested through the research process (Yin 2012:9). But theory here by no means indicates a grand theory in social science; instead to have a well-refined theoretic blueprint for research is the central goal (Yin 2003:28-29).

Furthermore, case study also features the strength of collecting data from multiple sources of evidence and converging them in a triangulating fashion to conduct advanced analysis (Yin 2012:10-11). This attribute empowers investigators to deal with a broader range of historical, attitudinal, or behavioral questions, and triangulation is the rationale for such inclusive and pluralistic research strategy. Triangulation can be applied on data sources (data triangulation), different evaluators (investigator triangulation), perspectives on the same data set (theory triangulation), and methods (methodological triangulation) (Yin 2003:97-99).

Prior studies have successfully built a rigid foundation of knowledge of the Chinese imprisonment, based on which now can we move further to probe into the interplay between the carceral system and other social causes as well as the development of its legal structure and then to conduct a comprehensive and multi-faceted analysis of this system. For processing such a study, we need to exert an interdisciplinary approach of law, punishment, and society. The study of law and society has a deep root and, as Trubek has pointed out (1984:586-587) has focused itself on what the law does in society rather than what the law is. The study of punishment and society is rather an emerging field that “simultaneously involves studies of the past and present, quantitative analyses of penal trends, and ethnographic exploration of penal experiences, work grounded in core sociological theory and work stimulated primarily by studies of literature, philosophy and law” (Simon & Sparks 2012:2).

Both approaches have generated affluent studies based on the western experience while paid little attention to the non-Western context. As Garland pointed out (2013:482), only begin to think in a comparative way, significant gaps entrenched in the explanation of Western researches become vivid. Many social forces recognized as causes of American penal change may not operate in a similar way in other countries. Existing western studies have limited ability to explain the Chinese case for its entirely different social settings, including the Chinese culture, mixed economic framework, and the authoritarian polity. Hence, by focusing on communist China and connecting the Chinese case with studies based on the Western experiences, this dissertation helps readers to unravel the single-dimensional understanding of penal change driven by social causes in the Western context and redirect our research agenda towards a more regional and historical manner.

Consequently, the dissertation, by employing the scholarship from the Western experience and adjusting the social setting from the West to the East, attempts to unearth what prison has done in the communist Chinese society since its establishment through the present crisis of prison-enterprise combination, examine the dynamics between imprisonment, law, and society in communist China, and eventually account for the changes and the unchanged within the carceral system along the same trajectory.

4.2. Structure and Agency Debate

Existing studies on prison in terms of social structure, mostly produced in the West, can be traced back to Beccaria in the eighteenth century, who used the theory of social contract to argue that the power to punish comes from citizens who voluntarily abandoned part of their freedom in exchange

for a minimalist state to protect their life and property. So the rationale of punishment shall be resided in the popular will rather than state elites' arbitrary decisions and penal sanction shall be levied by courts and in proportion to crime (Beccaria 1764).

Durkheim pushed the concept of punishment further in a collective point of view. He argued that the true function of penal sanctions is to reaffirm collective values through certain rituals which transmit messages of punishment to law-abiding citizens rather than criminals and therefore reinforce the group solidarity. In other words, punishment's chief functions are not penal but social. As societies become more developed and the division of labor become more complex, he argued, punishment changes its form and extent in response to the character of social solidarity change over time (Durkheim 1969, 1982 & 2014).

In the 1930s, Rusche and Kirchheimer, following Marx's trajectory, laid down the social foundations of punishment in terms of economy and social class. They mainly used the idea of labor commodification in the capitalist society and the principle of less eligibility to account for the fluctuation of prison population and the dynamics of market will decide the "fair price" of labor as of any other product, and argued that the imposition of work on prisoners would deal with the social problems created by beggars and the decline of capitalist profits caused by rising wages simultaneously (Rusche & Kirscheimer 2003; Rusche 1978). Subsequent studies focused on certain Western, capitalist, and democratic regimes, particularly the United Kingdom and the United States (see Garland 1985; De Giorgi 2006; Lacey 2008) and the development of "neoliberal penalty" in post-industrial countries has become a trendy issue in this field (Reiner 2007; Wacquant 2009; Harcourt 2010 & 2011).

Noting the limits of Rusche and Kirchheimer's approach for its economic determinism, Foucault, as well as Melossi and Pavarini, treated political economy as a starting point of their analysis and focused their research on the technical dimension of penal ideas and toolkits in the 1970s. They foregrounded the reconfiguration of punishment, for example from scaffold to penitentiary, in order to demonstrate punishment is one kind of political technology of body and thus explained why disciplinary prison emerged as the almost universal solution to criminals by the end of the 19th century throughout the western societies (Foucault 1995; Melossi & Pavarini 1981).

The above explanations for penal changes happened in certain country or cross-border are powerful yet insufficient in elucidating how these large-scale, social-structural phenomena are translated into specific penal policies. So we need to turn our focus onto the apparatus that connects the macro-level to micro-level and it is the penal field, a context that formulates decisions made by agents (Page 2012:152). Regarding the role of agency within penal institutions, Page's study (2011) on the California Correctional Peace Officers Association (CCPOA), which represents prison officers and other correctional staff in California, he employs the idea of penal field, created on the basis of Pierre Bourdieu's field theory, to understand the effects of the CCPOA on penal policies and priorities. The concept of penal field in his study is defined as a social space in which agents make efforts to amass the penal capital, the legitimate authority to determine policies of punishment and their priorities, and to exert it. Through the prism of penal field, Page intends to know the dynamics between interest groups and changes as well as stability in the penal field. He concludes that from the 1940s to present, the composition of the imprisonment and penal fields have been changed by the CCPOA, which also has reshaped people's conceptions about crime and punishment.

Social scientists usually emphasize on the social causes of imprisonment, and treating prison as a legal institution and researching on its relevant legal concerns will be considered as lawyers' job. This rigid division is now facing challenges as Garland has pointed out (2013:493-494),

Cultural currents, economic changes, political movements, and criminological developments—any and all of these shape penal practice only to the extent that they are translated into law and backed by administrative force. Penal practice is always a deployment of state power, and social forces that seek to affect penalty succeed in doing so only to the extent that they engage the state, its institutions, and its actors. Social currents may ebb and flow, but they have no penal consequence unless and until they enlist state actors and influence state action.

This statement reminds us that for researching changing patterns of penalty, in addition to the social causes, we also need to focus on their “proximate causes,” which exist in state and legal processes instead of social processes (Garland 2013:484). Social scientists are used to taking prison for granted and use some indicators, such as size of prison, imprisonment rate, the length of sentence, and its punitiveness or ritual meanings, to describe or represent what prison is either in part or entirely while being less attentive to its legal institution in a holistic and detailed manner, which has the most influential power on inmates and the deployment of penal authority and is deeply sensitive not to social currents but to the actions of legal decision makers.

Garland's words are not to criticize the inaptness of the choice of research topic. He argues to distinguish between the exercise of penal power (penal state) and the mechanism through which that power is exercised (penalty or penal field) and suggests to add the study on penal state into current scholarship of penalty for building a comprehensive and explanatory analytic framework. Penal state in Garland's concept refers to the penal leadership and its authority that direct and control the use of the penal apparatus and its personnel, and should be separated from penalty, which instead refers to the penal field, consisting of its laws, sanctions, institutions, and practices and its discourse, symbols, rituals and performances (2013:476 & 495). Just like the usage of the idea of penal field, his advice hits the bull's eye of the recurring debate on structure and agency in the field of sociology.

Moreover, actors in Garland's argument indicate not only prison personnel, but also political leaders who build and control the penal field through legal process. The dual focuses on political leaders in a state level as well as prison cadres in a field level will help to advance our understandings of the dynamics between prison and society. For studying the conception of penal state, we can follow these dimensions: state autonomy, internal autonomy of penal state, control and modes of penal power, and power resources and capacities (2013:496-502). He also argued that in order to understand the variation of penal patterns in different countries, we need a theoretical basis for comparative and historical research which may be brought about by establishing a conceptual model of penal state (Garland 2013:502).

4.3. Historical Institutionalism

In the point of view of institutionalist scholarship institution can be defined as formal rules and organizations and their informal counterparts that direct participants' conduct (Thelen & Steinmo 1992:2); by and large, institutions, either formal or informal, will shape people who “participates in a given decision and, simultaneously, their strategic behavior” (Steinmo 2008:124). Prison system is

undoubtedly a sort of institution under this definition so adopting an institutional approach for this dissertation will be a feasible and pertinent choice. Next question is, what kind of institutionalism should we use?

The origins of researches on institutions can be traced back to Plato's Republic and Aristotle's Politics, and it was majorly concerned with state-level problems, such as constitutional design and political leaders' behavior, for building better governments (Steinmo 2008:118-119). The main concerns of traditional institutional studies were to develop a "normative" theory of constitution design and establish a taxonomy of different countries' constitution, regime, or government. New institutionalism, however, has launched a new trajectory for institutional research. It is "new" because since the revival of institutional approach in the 1980s its studies are chiefly concerned with real-world outcomes in a "dynamic" framework rather than "static" comparison as the "old" institutionalism did (Krasner 1984:223-226). Consequently, a new institutional approach thoroughly matches the goals of this dissertation.

There are three schools of thought about new institutionalism: rational choice institutionalism, sociological institutionalism, and historical institutionalism (Hall & Taylor 1996:936), and the last one is the optimal solution to the concerns mentioned earlier for two crucial advantages: its idiosyncrasy of eclecticism between voluntarism and determinism and its versatile tools for the analysis of institutional formation and evolution (Thelen & Steinmo 1992:1-22).

As to the first advantage, the eclectic attribute of historical institutionalism can help with the contention between structure and agency. Rational choice institutionalism emphasizes a calculus approach. It assumes individuals are rational and act with given preferences. They will seek to maximize their attainment of goals through strategic calculation and institutions are nothing but one factor which affects their calculation. Sociological institutionalism, on the contrary, adopts a cultural approach. Individual's acts are bounded by their cultural background and not necessarily strategically oriented, and institutions are also one element of the cultural settings. It focuses on the extent to which people follow the established or familiar routes to achieve their goals (Hall & Taylor 1996:939-940). Thus, these two new schools of institutionalism respectively stay at different ends of the institutionalism spectrum: one follows the logic of instrumentality and represents voluntarism, and the other follows the logic of appropriateness and takes on a determinist perspective (March & Olsen 1989:160-162).

Aside from the division of voluntarism and determinism, historical institutionalism stands in between. It thinks of human beings as both self-interested rational actors and norm-abiding rules followers, but it doesn't completely pursue either of them and yet conflates them into a historical trajectory. History matters here for three reasons: first, political events happen within a historical context, which has a direct influence on the events; second, actors can learn from experience and adjust their next steps; third, expectations are formed by the past (Steinmo 2008:126-128). In consequence, the dichotomy of agency (voluntarism) and structure (determinism) is unnecessary under the view of historical institutionalism because there no variables which are independent of one another. To find out the connections between ideational innovation and institutional restrictions through a historical inquiry is the main focal point we have to uncover.

Besides, historical institutionalism is associated with a perspective on historical development of institutions so its tools for investigating institutional formation and evolution over time, such as path dependence and punctuated equilibrium, are analytically informative and have a strong explanatory

leverage to account for the connection among a set of contingent events in a temporal order. This feature can thus be counted as the second advantage to this dissertation.

Path dependence treats the development of an institution as a process of numerous path selections with the concept of self-reinforcing sequences borrowed from economics (Pierson 2000:252-257). That is, prior selections will to a certain extent restrain next selection and thereby possible directions for institutional development are thus also limited. It is because, on the one hand, when political actors operate within an institution longer, the marginal returns for them will increase, and these increasing returns will thus reinforce its continued adoption, and on the other hand, as an institution exists longer, it becomes harder to trans-form the current pattern because the sunk costs are also getting higher (Mahoney 2000:508). Once an institution is adopted, its operation will form a loop between higher returns and costs which keeps giving the institution itself positive feedbacks and therefore reinforce its existence. Consequently, possible alternatives for institutional changes will be “locked in” a particular way (Pierson 2000:264) and even if someone tries to make certain institutional reform, institutional layering will be an unavoidable compromise (Thelen 2003:225-228).

Unlike path dependence which is focused on the institutional self-reinforcement, punctuated equilibrium is associated with the transition from one institution to another. Krasner (1984:240-244) made a distinction between periods of institutional creation and of institutional stasis and argued in sum that institutions are characterized in the periods of stasis yet are sporadically punctuated by crises that bring about institutional change, after which institutional stasis reemerges. The whole process therefore runs in a punctuated equilibrium and the abrupt crises are dubbed “critical junctures.” To put it clearly, in periods of stasis institutions are an independent variable which explains political outcomes, but they become a dependent variable subject to political combat when they collapse due to critical junctures (Thelen & Steinmo 1992:15).

There are two articles concerned with the imprisonment in the United States from a perspective of institutionalist scholarship. Schoenfeld’s study (2010) on how prison conditions litigation in the 1970s unintendedly contributed to the rise of mass incarceration in the United States can give the dissertation some insights as well. She drew on the historical institutionalist scholarship to manifest how policy makers, through making decisions about court compliance, created feedback effects which inadvertently aggravated the coercive power of the state. Instead of focusing on the initial adoption of modern prison, Rubin’s study (2015), capitalizing on the neo-institutional theory, accounts for the subsequent diffusion of prison across the United States since its birth in the Jacksonian Era in the northern coastal cities. He argues that we need to distinguish between the impulses that commence penal innovations and those that promote the following spread. Both the articles illustrate how to dig into the institutional changes in prison settings over time.

4.4. Analytic Framework

The analytic framework of the dissertation, in accordance with the two research questions mentioned in the prior section, will be built on two basic ideas that utilized in the carceral practice in communist China; one is that the system of reform/reeducation through labor is treated as a special state-owned enterprise, and the other is that forced labor is considered as a type of punishment. The former idea has positioned the carceral mechanism in a macroeconomic context and thus adds a strong spice of economy into the simple recipe of imprisonment. The latter idea, following the former idea, is designed to render the prison system as a special state-owned enterprise workable.

By adopting the point of view from the CCP's carceral strategies, this dissertation, by and large, aims to probe into the correlation between prison and society in the Chinese politico-economic settings through the economic changes during the communist age. This is a famous and opulent approach to conduct similar studies in the Western societal context. The trend, however, attracted little attention in the scholarship of Chinese punishment research; only Seymour and Anderson and Fu's works can be categorized into this approach. Both Seymour and Anderson and Fu's works give readers intriguing thoughts on the economic function of Chinese prison system, especially when it was facing transformation of the political or economic situation.

The inadequacy in their studies, however, is that they proffered abundant facts, but paid rather less attention to the institutional changes of the prison system in response to the macroeconomic challenges, including prison's institutional development in its legal structure and the interaction between prison and politico-economic circumstances. Therefore, they ignored that the changing forms of the penal institution will also lead to the diversity of solutions to the hardship in different periods of time. Unfortunately, there is no other studies that can serve as a supplement to Seymour and Anderson as well as Fu's works. Studies on punishment and society in China are hence still sparse and incomplete.

Following what Sutton has indicated (2004:185), "we need a broader theoretical canvas to conduct advanced crime and punishment research," the dissertation firstly needs to develop a comprehensive analytic framework so as to describe during the communist era what prison has done and account for what made it do so. As stated in the prior sections, for studying the crisis in China's prison enterprise, it starts off to place the prison system into the social structure by deliberating the politico-economic background then. We are also reminded to add the conception of penal state, i.e. the authorities who govern the penal machinery, into the scope of penalty (penal field) research so as to probe into how state leaders influence the prison institution through any pattern of political power. The prior two stages thus have build an analytic framework of prison in a certain period of time, and the new institutionalist scholarship will further add the concern of time into the analysis. It facilitates to account for how policy makers, by making decisions, create policy feedback effects on subsequent institutional changes.

Drawing on the scholarship of punishment and society studies from the Western experience mentioned above, the dissertation seeks to build up an analytic process to account for the dynamics between social structure, penal apparatus, political authority, and time. Chapter two and chapter three will kick off by elaborating the politico-economic backdrop and then explain the organization of prison, including its personnel, financial structure, and related law and regulations during the periods of pre-reform and post-reform. Later in chapter four the focus will be turned onto the political leaders at that time and their prison policies for unearthing who and on what reasons they set up a certain pattern of penal state or made changes to the existent prison institution, particularly the extent to which history matters when they made up their mind to follow earlier settings or change the status quo.

Consequently, for answering the research questions with this analytic framework, I will situate my study on the foundation established by the works of Seymour, Anderson and Fu, and then explore the corresponding institutional revolutions exerted by policy makers, including distribution of penal power, modes of power to punish, and power resources and capacities, to the changes of politico-economic context over time. Besides, I also focus on the revolutions inside the penal infrastructure,

including the modernization, scientification, and legalization of prison and diversification of post-release arrangements of ex-inmates, such as *jiuye* (forced job placement) for both *laogai* and *laojiao* ex-inmates from 1953 to the 1980s, as well as *anzhi* for *laogai* ex-inmates and *bangjiao* for *laojiao* ex-inmates since the 1980s.

In sum, this dissertation will conduct a case study of the CCP's carceral strategies in the communist era through a historical-institutional approach with various data sources focusing on the structure as well as the agency by which this dissertation will be able to producing a multi-faceted analysis framework and readers will have in-depth understanding of the prison system in China. The merits of the present analytic framework are that it helps readers to acquire a deeper understanding of formation and development of Chinese penal state in the post-1949 age, but it is also needed to be acknowledged that the lack of living experience from prisoners, prison wardens or cadres will make it rather difficult to assess the effects of these carceral strategies.

4.5. Data Collection

Due to the restricted access to prison information by government's policy and unreliability of the released materials³³ (Seymour & Anderson 1998: xiii-xv), this dissertation is going to gauge various types of data in order to enhance the validity of empirical analysis in this dissertation. The major data sources that will be analyzed include items as below and will be collected through a variety of databases such as Chinalawinfo,³⁴ Duxiu,³⁵ CNKI,³⁶ Archives of the Communist Party of China,³⁷ Wanfang Data,³⁸ ProQuest Historical Newspapers: Chinese Newspapers Collection,³⁹ China Statistical Yearbooks Database,⁴⁰ Database of Chinese Political Campaigns,⁴¹ Foreign Office Files for China,⁴² and Laogai Foundation Digitized Archives.⁴³ In addition to the speeches and the anthologies of CCP leaders, or survey data like the annual and special reports by Congressional-Executive Commission on China, Amnesty International, Human Rights Watch, and Bureau of Democracy, Human Rights, and Labor (US Department of State) and hearings by US Congress Committees, or other types of data like newspapers, memoirs of previous labor camp inmates, the two major resources are:

³³ Anyone who plans to release statistical numbers, per the prescription of State Council in April 1985, needs to get approval of government authorities in advance; if public servants are asked by foreign correspondents or guests about the criminal practice, they are taught to capitalize on the opportunity either to propagandize the effects of criminal policies, keep numbers related to *laogai*, *laojiao*, and capital punishment confidential, or not to reply to the question directly (Politburo of Ministry of Public Security of PRC 1987: 24-25).

³⁴ 北大法宝 (<http://www.pkulaw.cn>).

³⁵ 读秀 (<http://www.duxiu.com>).

³⁶ 中国知网 (<http://big5.oversea.cnki.net/kns55/oversea.aspx>).

³⁷ 人民数据 (<http://58.68.145.22/directLogin.do>).

³⁸ 万方数据 (<http://www.wanfangdata.com.cn>).

³⁹ <http://search.proquest.com/hnpchinesecollection/advanced?accountid=14496>.

⁴⁰ 中国统计年鉴 (<http://tongji.oversea.cnki.net/oversea/engnavi/navidefault.aspx>).

⁴¹ 中国当代政治运动史数据库 (<http://ccrd.usc.cuhk.edu.hk/Default.aspx>).

⁴² http://www.archivesdirect.amdigital.co.uk/FO_China.

⁴³ http://laogai.org/digitized_archives.

- National-level official documents such as government gazettes and CCP reports and decisions. I have collected some important archival data of laws and government decisions with respect to the system of penal labor reform. They are “Compilation of Laws and Regulations of Justice Administration of PRC,⁴⁴ 1949-1985,” “Compilation of Laws and Regulations of Justice Administration of PRC of 1986,” “Compilation of Laws and Regulations of Justice Administration of PRC of 1987,” “Compilation of Laws and Regulations of Justice Administration of PRC of 1989” and “Compilation of Historical Documents of Justice Administration of PRC,⁴⁵ 1950-1985.” All of the compilations are not publicly accessible and internal circulated only, so we can reasonably believe that their contents are highly reliable.
- Fine-grained province-level local gazettes.⁴⁶ China has a very long history to compile local historical events into volumes of gazettes as early as possible in Qin Dynasty (221 to 206 BC). I have collected the local gazettes of 13 provinces on the history of penal labor camps, including Sichuan, Anhui, Ningxia, Shandong, Guangdong, Jiangsu, Jiangxi, Fujian, Heilongjiang, Guizhou, Liaoning, Yunnan and Qinghai. These local gazettes at the provincial level can help the dissertation to substantiate and consolidate the description and accounts of the prison system.

5. Central Argument and Chapter Layout

This dissertation aims to address two research questions: how was the entanglement of prison and enterprise developed and what made the prison system move along this trajectory? For constructing my answers, the dissertation will employ an approach of historical institutionalism to cover the discussions of both penal state and penalty in communist China in a chronological order. My arguments for the first research question will be that the prison-labor nexus is the core force of the concept of prison economy in communist China. In other words, its penal policy in China is also part of the labor policy. Therefore, any style of combination or separation of prison and enterprise, such as people’s commune, workshop, factory, or even a company, is simply one form of “prison-labor complex” modulated under different societal circumstances.

For observing the penal changes of Chinese prison system from an institutional perspective and find out probable answer to the second research question, the dissertation will situate its focus on how the penal changes happened under what conditions. The historical events such as Cultural Revolution from 1966 to 1976, the Reform and Opening Up policy in 1978, Tiananmen Square Incident in 1989, and the collapse of communist front in Soviet Union and Eastern Europe from 1989 to 1991, have specified three distinct periods over the communist China history: 1949-1978, 1979-1991, 1992-present, and during the three periods the CCP administration applied divergent legitimation plans for holding the reins of the state. The economic structure and the legitimation plan of each period established the environment for institutional changes of the prison system. Besides, the permutations in penal state actors and their movements, here it usually means the chairmans of the CCP and their penal policies, would lead the transformation of the carceral apparatus.

⁴⁴ 中华人民共和国司法行政规章汇编。

⁴⁵ 中华人民共和国司法行政历史文件汇编。

⁴⁶ 地方志。

Chapter One: Introduction

My argument for the second research question is that a certain pivotal event in each period was the critical junctures for the diversion and development of prison system. During the period of 1949-1978, the critical juncture was the publication of the Resolution on the Question about Organizing All Criminals to Reform through Labor in 1951; during the period of 1979-1991, the critical juncture was the Eighth National Conference of Laogai Works in 1981; during the period of 1992-present, the critical juncture was the publication of the white paper of Current Situation of Prisoner Reform in China in 1992. All of the critical events feature divergent ideas of governance and reoriented the trajectory of prison development into the periods of rule by authority, rule by economy, and rule by law. These institutional changes were performed as part of the CCP's legitimization plans.

Accordingly, chapter two is in charge of the period of pre-reform era from 1949 to 1978, and chapter three is reserved for the post-reform era since 1979 to present. Each of the two chapters will delineate a complete picture composed of the social structure, legal framework of prison system, and details of the penal field, and operation of the penal state. The two chapters will thus be started by describing the politico-economic background, build the legal architecture of prison system in that period with numerous laws and government regulations, and investigate the internal design of the penal field and penal state. This portion of dissertation will develop my first set of arguments that the prison-labor nexus is the core force of the concept of prison-enterprise, either in combination or in separation, that the prison-labor nexus serves as a drive as well as a restriction so the institutional evolution of prison is limited in a particular way and has built different forms of prison-labor complex over time.

Moreover, within the context set up by chapter two and chapter three, chapter four will take advantage of the historical institutionalist scholarship to specify the critical event that changed the status quo so as to analyze, with the ideas of increasing returns, sunk costs, and the lock-in phenomenon, who made the decision to renovate the prison system on what reason and if there was any tinge regarding possible sequences of institutional self-reinforcement. Chapter four of this dissertation will develop my second argument that the publication of the Resolution on the Question about Organizing All Criminals to Reform through Labor in 1951, the Eighth National Conference of Laogai Works in 1981; and the publication of the white paper of Current Situation of Prisoner Reform in China in 1992 were the three critical junctures that motivated and boosted the evolution of communist prison in China, and that these institutional changes were performed as part of the CCP regime's legitimization plans by situating the critical events on an axis of the CCP's sovereign crises. Chapter five will summarize the findings in the previous chapters and propose a conclusion.

Chapter Two Penal Labor Camps and Social Control in Pre-Reform China

1. Introduction

In this chapter will it focus readers on the connection between the general social structure and the system of penal labor camps in China in the pre-reform era, which in general denotes the period of time from 1949 to 1978; but due to the thorough collapse in almost every aspects of Chinese society during the Cultural Revolution from 1966 through 1976 and that the CCP administration cleaned up the mess and attempted to revive the country out of debris in 1977 and 1978, most of this chapter will be emphasized on the years before the Cultural Revolution.

This chapter is going to demonstrate that the system of penal labor camps and post-release management were designed to make dependence of prisoners on the socialist society in the pre-reform era through the measures of party-state installment, *dangan* (political dossiers) of prisoners, prisoners' registration and classification, and mass production of qualified workers in set specifications, which would be beneficial to the post-release control over the ex-prisoners. Those measures have their counterparts in the general social structure. Therefore, the system of penal labor camps in the pre-reform era, just like other social institutions, was established and operated in a way to place the entire society under the communist control in both ideology and reality and maintain the social stability.

At first the chapter will outline the structure and development of Chinese economy in the pre-reform age and subsequently it is going to depict the four most important means of social control utilized by the CCP administration: party-state installment, *bukou* (household registration system) and *danwei* (work unit), as well as the *dangan* system and its operation through the three means. By explaining the functions of the four social control methods, we can see the entire picture of Chinese society in the pre-reform period. Then it moves on to the society in the shadow: imprisonment. It will further show how the means of social control were reflected in the prison design and how the penal system of labor reform was thus integrated into the plenary mechanism of social stability.

The portrayal and elucidation of the organization and functions of penal labor camps mainly come from the Regulations on *Laogai* of 1954 and "Details for the Works of Labor Reform Battalion"⁴⁷ of 1962 (Details for Labor Reform Teams hereafter), which was a collection and summary after decades of experience in *laogai* works and based on which the Ministry of Public Security started a pilot program on *laogai* teams organization, operation, and responsibilities. Regarding the post-release treatments, this chapter refers to the Interim Measures for Forced Job Placement of 1954. In addition to the three rules, the chapter will also supplement the content with various kinds of laws, government regulations, and department measures for better description and accounts.

2. Installing A Centrally Controlled Economy

2.1. Economic Recovery, 1949-1952

⁴⁷ 劳改工作管教队工作细则（试行草案）。

The CCP mapped out its future economic plans and established the basic financial structure of central government when they foresaw the forthcoming victory in the civil war and its eventual goal was to set up a centrally planned economy monopolized by the state sector. In the first years around the commencement of PRC, the primary goal for the CCP was to restore its economy to normal working order. It firstly established the People's Bank of China on December 1st, 1948 and adopted a mono-bank model whereby banks were part of an administrative hierarchy (Chen et al. 2005:230). Besides, the seventh Central Committee of CCP convened its second Plenary Session in Hebei during March 5th through 13th, 1949, in which its chairman Mao, as a representative of the Central Committee, reported that China had to move from an agricultural state into an industrial one and finally become a socialist country. On September 29th, 1949, CCP published the "Common Program of the Chinese People's Political Consultative Conference,"⁴⁸ which served as a provisional constitution, right after its triumph in the civil war against the Kuomintang (KMT)⁴⁹ administration. The Program arranged guiding principles for future economic blueprint that can be summarized into three points (Xiao & Sui 2011:43-44):

- New socialist economic system will consist of five components: state-owned economy, cooperative economy, the individual economy of peasants and handicraftsmen, private capitalist economy and state capitalist economy (Article 26).
- The basic principles for the economic construction of PRC are that state-owned economy is the nature of socialist economy and thus has the priority over development. Under the leadership of state-owned economy, other forms of economy work as supplements to the system and receive aids from government to foster the development of co-operative economy and the operation of all private economic enterprises beneficial to the national welfare and to the people's livelihood, and to encourage private capital to develop in the direction of state-capitalism (Article 28-31).
- Given the recession of Chinese economy and the frail industrial basis, development shall start off by constructing heavy industry, including mining, the iron and steel industry, power industry, machine-making industry, electrical industry and the main chemical industries, etc.; foreign trade shall be controlled and domestic trade shall be established under a unified economic state plan; all enterprises relating to the economic life of the country and exercising a dominant influence over the people's livelihood shall be under the unified operation of the state (Article 28, 35 & 37).

For achieving the goals, apart from restoring the communication and transportation facilities, CCP administration had to apply some stiff revolutions, including land reform, to build up a state-owned economy, maintenance of price stability and unification of state finance, adjustments in the industry structure, and the Three-anti and Five-Anti campaigns.⁵⁰

⁴⁸ 中国人民政治协商会议共同纲领。

⁴⁹ KMT established the country "Republic of China (ROC)" on the mainland in 1912 and was the ruling party during the period of time. After losing the civil war against CCP in 1949 and being forced to retreat to Taiwan, PRC succeeded ROC and thus holds the sovereignty over the mainland since then.

⁵⁰ 三反五反运动。

According to the Article 27 of the provisional constitution, “agrarian reform is the necessary condition for the development of the nation’s productive power and for its industrialization.” The core value of this article is “Land to the Tiller,” which was initially advocated by Sun Yat-Sen in the 1920s and was later inherited by both CCP and KMT. The CCP version was to establish peasant organizations, eliminate local bandits and despots, reduce rent and interest, and distribute land to peasants⁵¹ and the ultimate goal was to “transform the feudal and semi-feudal land ownership system into a system of peasant land ownership” (Article 3).

The Land Reform Law of the People’s Republic of China⁵² was published in June 1950, by which CCP administration exterminated the previous system of land ownership in rural areas and distributed land to individual farm households. Moreover, the State Council issued the “Regulations on the Reforms of Suburban Land”⁵³ in November 1950 to confiscate landowners’ land and expropriate the land owned by urban industrial and commercial entrepreneurs in suburban areas, and then the confiscated and expropriated land, now owned by the state, would be allocated to peasants for agricultural use and peasants had to pay an agricultural in return (Lin & Ho 2005:417).

Nonetheless, the coexistence of private and public ownership of land worked simply as a transition stage for CCP administration to acquire popular support from peasants after the civil war and as a route from private economy to socialist collective economy. Due to its unfitness for the government’s utmost goal to exclude private ownership, the provisional system of land property didn’t last long. Through a series of agricultural cooperative movements in the 1950s, the private ownership went to its end and a system of collective ownership showed up instead (Lin & Ho 2005:417).

After the foundation of communist China, it built up a state-owned economy by virtue of three ways: confiscation of bureaucratic capital of KMT administration, purge of prerogatives of imperialist countries, and assets handed over from Soviet Union to CCP administration (Xiao & Sui 2011:46-48). Besides, the management and production system of these acquired assets were also transformed so as to the ideology of socialist economy. On the management side, a state representative would be sent to enterprise to supervise and manage it, to exert thought reform through internal accusations and public denouncement, and set up an assembly composed of staff workers which had the power to make important decisions. On the production side, the production-responsibility system was introduced to change the old and defective culture of bureaucratic capitalist; new institutions of accounting and wage calculation were implemented in order to increase output; numerous competitions of production were also adopted for refining production tools, methods, and organizations as well as enhancing output (Xiao & Sui 2011:48-51).

When new China was just born, CCP administration was confronted with four times of price inflation, for which the main reasons can be contributed to the exceptional expenditure and minimal income during the wartime. The first three times of price inflation happened in April, July, and November 1949, when CCP needed to raise money and food for further campaigns with KMT. The amount of RMB⁵⁴ circulation was fifteen times higher than one year before so the price increase was

⁵¹ For the history of Taiwan’s land reform through the policy of Land to the Tiller, see Amsden (1979:352-363).

⁵² 中华人民共和国土地改革法。

⁵³ 城市郊区土地改革条例。

⁵⁴ Renminbi (RMB) is the legal tender of PRC.

inevitable. CCP administration thus assembled food and other daily commodities as well as raw materials and other administrative measures to combat with opportunists. The fourth inflation of price happened in February 1950, a few days before the lunar new year, when KMT still struggled in a last-ditch effort. Nonetheless, CCP had controlled most areas of China at that time and experience learned from previous price inflation events helped CCP to deal with it more easily (Xiao & Sui 2011:51-54).

Following the end of civil war CCP administration began to take control of the state finance step by step, including tax, production plan for state-owned enterprise, sources of raw materials, products marketing, products for export, usage of foreign exchange earnings, allotment of domestic goods, maintenance of price stability, management of railway, shipping and postal and cable service, etc. (Chen 1950). The central government published “Resolution regarding the Unification of State Financial and Economic Works”⁵⁵ in March 1950, the core values of which can be summarized into four guidelines: “retrenchment of expenditure, increase of income, minimization of deficits, and unified management.” Subsequent financial policies were also implemented so as to have a unified system of revenue, commerce, and cash flow and the state struck a balance of revenue and expenditure eventually in 1951 (Xiao & Sui 2011:55).

Moreover, CCP administration also began to infiltrate into the existent private enterprises then and to intervene in the operation of private capital as the civil war came to an end and made it dependent on the state assistance. According to Article 29 and 30 of the Common Program of the Chinese People’s Political Consultative Conference (i.e. the provisional constitution), the government shall encourage and assist private enterprises and, through such means as processing for state-owned enterprises and exploiting state-owned resources in the form of concessions, to help private capital to move towards state-capitalism. Particularly, there were three relations have to be adjusted: public-private relation, which means to confirm the leadership of state capital and arrange the assignments of tasks; labor-capital relation, which means to confirm the leadership of working class in private enterprises instead of capitalist class; and production-marketing relation, which means to replace laissez faire policy in private enterprises with state plans (Xiao & Sui 2011:55-59).

As CCP administration step by step reformed the economic system from market economy under KMT administration to a state-controlled economy, the conflict between the traditional Chinese market economy and the authoritarian regime unavoidably resulted in some rent-seeking behaviors among both bureaucratic officials and capitalists (Zhang 2005:46). These rent-seeking behaviors have brought about inefficiency and dysfunction of the state-owned economy, in particular CCP administration was making efforts to counteract some of the adverse effects of the Korean war on the national economy and thus needed to increase production and follow a stringent policy (Chen & Chen 1953:4). Consequently, Central Committee of CCP started the Three-Anti campaign in November 1951 to get rid of three evils within the government units: corruption, waste, and bureaucracy, and, aiming at capitalists, subsequently launched the Five-Anti campaign in January 1952 to exclude five evils: bribery, theft of state property, tax evasion, to skimp on the job and stint on materials, and stealing state economic information.

Three-Anti and Five-Anti campaigns are typical Communist method of controlling the masses through mobilizing them. They required the masses to report, disclose, criticize, and denounce the evils in public hearings. State uses mass movements to keep in touch with the masses and mobilizes

⁵⁵ 关于统一国家财政经济工作的决定。

them in support of its program, and this “mass line” approach is what CCP has been always proud of (Chen & Chen 1953:3-4). Through the two campaigns the factions inside CCP, particularly in relation to production and earnings, were finally incorporated into the central government and hence advanced the development of state capitalism (Zhang 2005:55; Xiao & Sui 2011:63).

2.2. Transition from Capitalism to Socialism, 1953-1957

After the course of settling down in the previous three years, particularly the termination of Korean War and the conclusion of land reform, preparation for socialist transformation was roughly completed (Zhang 2015:443) and CCP administration was looking for a more certain guideline for further development of nation economy. Mao Zedong (1952) pointed out that after the overthrow of the landlord class and the bureaucrat-capitalist class, “the contradiction between the working class and the national bourgeoisie has become the principal contradiction in China.” For alleviating the contradiction, CCP proposed a general line for the transitional period during which the country would move from capitalism to socialism. As Mao indicated (1953a),

The time between the founding of the People’s Republic of China and the basic completion of socialist transformation is a period of transition. The Party’s general line or general task for the transition period is basically to accomplish the country’s industrialization and the socialist transformation of agriculture, handicrafts and capitalist industry and commerce over a fairly long period of time.

From what Mao has said we can foreground that the guiding principle in the following years was “industrialization and socialist transformation of agriculture, handicrafts and capitalist industry and commerce.”⁵⁶ This principle was also written in an official propaganda⁵⁷ in December 1953 to promote the idea and educate the masses that now it was a transition period for becoming a great socialist country and it was necessary to mobilize all forces to struggle for this magnificent goal, and the Constitution of 1954 legalized the principle in its preamble as well. How long would this transformation take? Mao explained in another speech (1953b), “We must study hard and work hard so as basically to accomplish socialist industrialization and socialist transformation in fifteen years or a little longer. By then our country will have become strong, yet we should still be modest and should always be ready to learn.” He estimated that it would probably take fifteen years to finish the grand social engineering.

The need for industrialization had been a critical issue since late Qing Dynasty and Chinese industrial foundations in the early 1950s were still weak and underdeveloped. Besides, in Mao’s idea (1953c), the only way to transform capitalism into socialism is “to be accomplished through state capitalism.” State capitalism, Mao explained (1953d), “is linked with the state-owned socialist economy in various forms and supervised by the workers” and “exists not chiefly to make profits for the capitalists but to meet the needs of the people and the state;” so “this state-capitalist economy of a new type takes on a socialist character to a very great extent and benefits the workers and the state.” Therefore, it is no doubt that the general line emphasized on industrialization and socialist transformation for future development.

⁵⁶ 一化三改。

⁵⁷ 为动员一切力量把我国建设成为一个伟大的社会主义国家而斗争——关于党在过渡时期总路线的学习和宣传提纲。

For industrialization, CCP administration gave priority to heavy industry, in particular defense industries, and launched its first five-year plan in 1953. From the experience of Britain and Japan, it is advisable that developing countries, such as Taiwan and South Korea in the 1960s and 1970s, follow the path to build light industry first, usually textiles, in contriving their industrial plans. China, however, chose the other way round for defense account more than economic one. The experience from civil war against KMT and Korean War against the U.S. troops urged CCP to establish a heavy industrial base for substantiating the weaponry in the face of potential wars (Bramall 2009:87-88). This ideology was also reflected in the official propaganda, “the foundations of heavy industry in China have been badly weak for a long time so that our economy lost its independence, imperial countries invaded in China for our lack of defense force; we Chinese people are fed up with their bullying.”

The first five-year plan was successful, especially in terms of heavy industry. GDP (gross domestic product) reached around RMB 16 billion in 1957, 70.9% higher than in 1952, the share of agricultural product of which was 24.8% and the share of industrial product was 43.8%. Heavy industrial production increased 60% to RMB 31.7 billion in 1957 and its share of industrial production also rose from 35.5% in 1952 to 45.5% in 1957 (Xiao & Sui 2011:96). From the composition of the output of domestic production, the trend moving away from agriculture to heavy industry was distinct (Bramall 2009:89).

For socialist transformation of agriculture, handicrafts and capitalist industry and commerce, CCP administration applied collectivization (cooperation) policy to the first two enterprises and joint state-private ownership strategy to capitalist industry and commerce. It took four and half years from the second half of 1952 to 1956 to transform the system of private ownership of raw materials into socialist public ownership (collective ownership and state ownership) and the first stage of socialization was achieved.

CCP administration had decided to collectivize agriculture and handicraft since 1949. In his speech in the second plenary session of the Central Committee of CCP, Mao (1949a) had expressed that “scattered, individual agriculture and handicrafts, which make up 90 percent of the total value of output of the national economy, can and must be led prudently, step by step and yet actively to develop towards modernization and collectivization.” Soon after the land (agrarian) reform, CCP launched the collectivization of agriculture through cooperative movement. The first step was to organize mutual aid groups⁵⁸ by neighboring farmers. Mutual aid groups were at first formed voluntarily in 1949 because of the seasonal labor shortage and later in 1952 the government also started to encourage other farmers to form mutual aid groups and even to form elementary cooperatives to overcome shortages of capital and land and to carry out economies of scale. Labor, land, and capital were hence collectivized under the pooling system (Wen 1993:5). Under the mandate of “oppose rash advance,”⁵⁹ the pace of agriculture cooperative movement was deliberately slowed between 1952 and 1955 and the upper echelon of CCP unanimously agreed that the current pace was fast enough (Bramall 2009:96).

During the period before 1955 households still retained their ownership of land and capital and the collective output was allotted in proportion to the share of household’s land, capital and labor. If someone was unsatisfied with the distribution, it was allowed to drop out of mutual aid teams or

⁵⁸ 互助组。

⁵⁹ 反冒进。

elementary cooperatives (Wen 1993:5), and indeed some cooperatives were even dismissed when their formation was deemed premature (Bramall 2009:96). But since 1956 CCP administration determined to accelerate the formation of advanced agricultural movement. The central government disseminated two crucial regulations related to the agricultural cooperative movement: “Model Regulations for Agricultural Producers’ Cooperatives”⁶⁰ in March 1956 and “Model Regulations for Advanced Agricultural Producers’ Cooperative”⁶¹ in June 1956. The former deprived farmers of their rights to use their land yet allowed them to keep ownership, and the later striped off farmers of private ownership of land and other means of production such as livestock and tools, which were transferred to the cooperatives (Lin & Ho 2005:417). Henceforth collective ownership of land and means of production completely replaced private ownership and the collectivization of agriculture was done. By the end of 1957 97% of all farmers had joined the advanced cooperatives, either voluntarily or by compulsion (Xiao & Sui 2011:85).

As for the collectivization of handicraft, CCP, following a similar approach as the socialist transformation of agriculture, achieved its goal through persuasion, demonstration, and assistance. The term handicraft denoted a traditional and technically outdated means of production in CCP’s idea (Eyferth 2003:55) and its existence signified the backwardness of economy which needs to be excluded by socialist transformation (Schran 1965:153). In communist system handicraft could be classified into three sorts in terms of skill and tool requirements: subsistence handicraft activities, whose skill and tool requirements are for family subsistence only, individual handicraft, whose skill and tool requirements are sufficient to warrant occupational specialization at a part-time level, and handicraft workshop, whose skill and tool requirements fulfill individual specialization and there is usually some social division of the process of handicraft production (Schran 1965:152-153).

These three sorts of handicrafts need different measures of socialist transformation (Schran 1965:153-154). Handicraft workshops were capitalist establishment in CCP’s view and those handicraft capitalists needed to be socialization through expropriation so that they would become individual handicrafts and live on their own wages. Individual craftsmen were not capitalists yet, but like agriculture, they were required to rely on their own strength. So in socialist ideal the suitable form for individual craftsmen was collective ownership which would be capable of helping them accumulate tools and capital (Eyferth 2003:55). Subsistence handicraft activities, nonetheless, had to be excluded out and the labor should be exercised on other activities at an occupational specialization level.

Through the gradual process of collectivization from 1953 and acceleration since mid-1955, beginning with joint production teams, advancing to handicraft marketing cooperatives, and eventually to handicraft production cooperatives, more than 90% of handicraft population had joined handicraft production cooperatives (Xiao & Sui 2011:86-87).

With regard to the socialist transformation of capitalist industry and commerce, Mao in a talk (1953c) had fleshed out the general plan. Based on the experience of previous three years in the economic recovery period, Mao, in his conviction “state capitalism is the only road for the transformation of capitalist industry and commerce and for the gradual completion of the transition to socialism,” advocated with certainty that state capitalism was relatively sound policy and method to accomplish the socialist transformation of private industry and commerce. There were three types of

⁶⁰ 农业生产合作社示范章程。

⁶¹ 高级农业生产合作社示范章程。

state capitalism to be adopted to tackle private industry: joint state-private management, processing only for state with raw materials provided by state, and processing mostly for state with raw materials provided by state.

The socialist transformation of capitalist industry and commerce went through three phases (Xiao & Sui 2011:90-92). From 1953 to the first half of 1954, CCP administration adopted the two measures of processing only and mostly for state with raw materials provided by state, through which private enterprises was becoming to rely on the state for maintenance of their livelihood. Since the second half of 1954, CCP administration launched the joint state-private management by sending state representative in to private enterprises to manage and supervise their operation, but capitalists still retained their ownership of enterprises. Since the second half of 1955, capitalists' ownership was transferred to the state and therefore was deployed and allotted according to the state's strategy. By the end of 1956, 99% of private industry, 82% of merchants, and 86 % of private catering business, and 100% of shipping and motor transportation had been transformed. The socialist transformation of capitalist industry and commerce was almost done since then.

2.3. The Stampede of Chinese Dream, 1958-1965

In his speech at Moscow Celebration Meeting in November 1957, Mao (1957a) stated that China was still a small country in terms of economy while a strong one in terms of politics and population, but, Mao insisted. history taught us that it is men and institutions rather than substance decide the outcome and the weak always defeat the strong, just like people without guns can beat those who are fully armed. Following Nikita Khrushchev, the former premier of Soviet Union, who expressed the ambition of Soviet Union to surpass the United States in economic performance in fifteen years, Mao also advocated his similar aspiration that China could overtake or catch up with the United Kingdom economically in fifteen years (Shen & Xia 2011:861) and the United States in twenty or thirty years (Li & Yang 2005:841).

For achieving his goal, Mao kept refuting the idea of “oppose rash advance.” He (1957b) stressed that,

No one, I think, objects to doing things better and more economically; it is just doing things with greater and faster results that people don't like and some comrades label “rash.” As a matter of fact, “better” and “more economical” are meant to restrict “greater” and “faster.” “Better” means better in quality, “more economical” means spending less money, “greater” means doing more things, and “faster” also means doing more things. This slogan is self-restricting, since it calls for better and more economical results, that is, for better quality and lower cost, which precludes greater and faster results that are unrealistic...Our demand for greater, faster, better and more economical results is realistic, in conformity with the actual conditions and not subjectivist.

He clearly expressed his abhorrence of the idea of oppose rash advance in the Nanning Conference (1958): “please do not mention this term opposition to ‘rash advances,’ all right? This is a political problem. Any opposition would lead to disappointment, and 600 million disappointed people would be an overwhelming problem.” Therefore, regardless of the voice of opposing rash advance, the principle of greater, faster, better and more economical in production became Mao's tenet of the

following plans for Chinese economy and in May 1958 the Congress adopted the idea of going all out, aiming high and achieving greater, faster, better and more economical results as the “general line” for future economic developments. The ultimate purpose was to transform China into a great socialist country with modern industry, modern agriculture, and modern scientific culture (Xiao & Sui 2011:114-117).⁶²

For complying with the general line, CCP administration started two phenomenal strategies, one was the movement of “Great Leap Forward”⁶³ and the other was the establishment of people’s communes.⁶⁴ The general line, Great Leap Forward, and the people’s commune movement were put together and dubbed “three red banners” during the period. Great Leap Forward in 1958 required that the industrial output of all provinces, cities, and autonomous regions had to surpass their agricultural output within five to ten years. As to the agriculture, Great Leap Forward demanded a reformation of agricultural toolkits, which ordered full or at minimum half-mechanization of agricultural tools so as to improve the the agricultural production within five to seven years (Xiao & Sui 2011:119-120). CCP administration kept increasing the amount of investment in statewide construction since 1958. Besides, Great Leap Forward also transferred the most part of labor from the production of consumer goods to the production of iron, steel, and other heavy industrial goods. The trends meant a massive diversion of resources and labor away from consumption and implied a possible famine because China at that time was still a poor country (Bramall 2009:125).

The establishment of the people’s communes, in Mao’s view, featured that it was time to transfer from the transition period to a complete communist country (Ahn 1975:631). After the Chengdu Conference in March 1958, the surge to combine small agricultural cooperatives into a big one swept across the rural areas of the country. The promulgation of “Resolution regarding the Establishment of People’s Commune in the Rural Areas”⁶⁵ by the Central Committee of CCP also boosted the speed of incorporation. Henan Province, for example, combined the original 38,286 agricultural cooperatives into around 2,700 big cooperatives. By the end of 1958, 99.1% of peasant households have been incorporated into the people’s commune. Those big cooperatives had various names in their initial stage, such as collective farm, collaborative farm, or communist farm, and Mao determined its name as the people’s commune (Xiao & Sui 2011:124-125).

One of the features of people’s commune is its duty to advance further developments in the rural areas through the economies of scale and greater accumulation. People’s commune was in general structured with a three-level system of ownership: commune, production team, and production brigade. If it was a smaller one, there could be a two-level system, say, commune and production team. Production team was the basis of people’s commune. According to “Working Regulations for Rural People’s Communes,”⁶⁶ which was adopted in 1962, the ownership of land, labor, animals, basic farming toolkits, and other means of production was vested mostly in the production team (O’Leary & Watson 1982:593). Besides, it was also responsible for arranging the farming plans and tasks, distributing benefits, managing the farming implements, and breeding livestock. As a model organization for economic developments, the commune illustrated the believes that, due to the scarcity

⁶² 总路线：鼓足干劲、力争上游，多快好省地建设社会主义。

⁶³ 大跃进。

⁶⁴ 人民公社。

⁶⁵ 在农村建立人民公社问题的决议。

⁶⁶ 农村人民公社工作条例。

of resources then, peasants were allowed to rely on nothing but themselves in a collective way, and that development needed to be done by all the members with their full participation (O’Leary & Watson 1982:594). The guiding principle for every member of the commune was “distribution according to one’s job performance.”⁶⁷ Nonetheless, since the commune provided the canteen service and nearly seventy percent of food was supplied free of charge, the link between distribution and work was weakened substantially (Bramall 2009:125).

People’s commune was not only an economic organization but also an administrative one. It replaced the original township⁶⁸ and became the basic administrative district in the rural areas. The sectors of polity, society, and economy were all integrated into a single structure of people’s commune so the commune became a multi-functional organization, including the tasks of production and marketing, caretaking and education, and the military. The strategy for establishing such an all-encompassing institution was to achieve simultaneous developments in different aspects (Ahn 1975:632). The attributes of its economic role, like labor-intensive production and self-reliance, reflected its political strategy to maximize the involvement of the masses and thus the mass mobilization would function as a strong weapon for the socialist revolution and development (Ahn 1975:633).

Because of the great political pressure from the central and local governments, a trend of exaggeration spread through the country (Xiao & Sui 2011:131). Enterprises had no choice but to compete with each other by stacking up the numbers of their targets in spite of their incapacity and shortage of resources to meet those unreachable goals. Chaos started to show up due to the incoordination and were aggravated by the split between China and the Soviet Union in 1960. Technical assistance as well as some key inputs from the Soviet Union were hence terminated. The industrial output dropped deeply in the subsequent two years, even the regions of heavy industry suffered from serious slides as well (Perkins 2015:46). Besides, the struggle also existed in the rural areas. The original features of people’s commune inevitably fell short of the expected performance. In theory, the low efficiency of collective economy was unable to sustain a high production; in practice, the administration pushed the policy of communization too fast, too hard, and too rude so that the natural life circle of peasants was severely interrupted (Ahn 1975:633-634). Consequently, the output in the rural areas also underwent harsh falls since the creation of people’s commune (Xiao & Sui 2011:128).

Unfortunately, those failures in policy design and implementation were ensued by a historical famine during the three years from 1959 to 1961. The mandate of Great Leap Forward from the central administration and the infeasible rendered the local governments to spend most of their resources on heavy industry output and the rural areas thus suffered a serious shortage of manpower. The agricultural yield was about 40 billion kilograms less in 1961 than in 1957 (Xiao & Sui 2011:147-148). The total amount of deaths resulted during the period of famine was estimated between 15 and 38 million (Li & Yang 2005:841; Bramall 2009:126) and one recent study argued that the genuine number is close to 45 million (Dikötter 2010:4-5). The famine and the loss of human lives are no doubt one of the worst disaster in human world history (Li & Yang 2005:841; Bramall 2009:126). Even though the official account put forward an explanation that the serious famine during the period from 1959 to 1961 mainly resulted from the bad weather and referred to that period as “three years of

⁶⁷ 按劳分配。

⁶⁸ 乡。

natural calamities,” several studies have showed that the weather was only one of the causes but not the major factor. Instead, a series of failures in government policies substantially contributed to the tragedy, which was in fact a human disaster rather than a natural calamity (Li & Yang 2005:842).

In the face of the chaos and famine spreading over the country, Central Committee of CCP held a plenary session in January 1961, during which it adopted a new party line of “readjusting, consolidating, filling out, and raising standards.” Under the new economic slogan, the CCP administration enacted more comprehensive adjustments. It decreased the amount of investment in industry and unleashed labor power back to farming. Besides, the collectivization in the people’s commune was somewhat loosened. Households were allowed to retain ownership of a bit of land for farming (about 5 % of arable land) and engage in small-scale handicraft production as their sidelines (Ahn 1975:635). Private markets were restored to some extent. The communal canteen service was also cancelled. Through a long period of recovery, crop output eventually returned back to the pre-Great Leap Forward level in 1965 and the iron and steel industry maintained its relatively stable production as well (Xiao & Sui 2011:148-149; Bramall 2009:135). The hard-earned economic fruition, however, was dragged into an abyss due to the upcoming decade of Cultural Revolution from 1966 to 1976.

3. The General Structure of Social Control

The system of party-state cadre, the institution of work units (*danwei*) in the urban areas, and people’s commune in the rural regions had divided and controlled the economic and social formation of China by the end of the 1950s, and the three social schemes constituted their own family types: cadre family, worker family and farmer family. Cadre families usually had more opportunities than worker or farmer families of migration and social mobility. On the contrary, worker and farmer families barely had the same capacities; most of them had never left their work units or communes before the reform era beginning in 1978. The phenomenon of stagnation of migration was brought about by the household registration system (*hukou*). Therefore, *hukou*, *danwei* in the urban areas and people’s commune in the rural areas, and the party-state mechanism embedded inside every enterprise constructed the general structure of social control in communist China in the pre-reform era.

3.1. Household Registration System

The CCP administration redesigned the traditional household institution into the *hukou* system in the mid-1950s, by which people were separated according to where they resided into two groups of “rural households” and non-rural namely “urban households.” The *hukou* system requires every citizen to be officially and constantly registered with the *hukou* authority since their birth, as the legal basis for personal identification. By exploring the origin of the ideas of *hukou*, research shows that the Chinese *hukou* institution has two chief rationales (Solinger 1999:33-36). The first came from the tenets of Marxism-Leninism, which treats the urban-rural inequality in their developments and the population mobility as the consequence of capitalism and demands to minimize the migration of people and eliminate the labor market for setting up a centrally planned economy. The other came from the Soviet experience that the shortage of food and goods in the urban areas owing to the overpopulation there.

In the early 1950s free migration between rural and urban areas was still allowed; the influx of farmers into cities, however, had caused serious burdens and the central government started to control the “blind flows” of rural labor since then (Chan & Zhang 1999:820). According to the “Directive on

the Establishment of Regular Household Registration System”⁶⁹ by the State Council in June 1955, farmers in the cities were sent back to their hometowns in the rural regions. Later in August the State Council also issued “Interim Measures for Rationed Supply of Grain in Cities and Towns,”⁷⁰ via which the urban *hukou* population was entitled to state-subsidized yet rationed supply of grain (Chan & Zhang 1999:822). In November of the same year the State Council promulgated the “Rules of the Standards of the Distinction between Urban and Rural Areas.”⁷¹ Eventually in 1958 the “Household Registration Ordinance of the People’s Republic of China”⁷² was passed, and the urban-rural separation and the distinction between non-farmers and farmers were thus legalized. One’s long-term residence, temporary residence, birth, death, moving-out, moving-in, and address alternation are all necessary to be registered.

The *hukou* system was designed to prevent peasants from entering the urban areas. In corporation with the policies of unified purchase of grain and other daily materials, which mandated that all agricultural production was only allowed to be purchased by the state, the *hukou* system helped the state to form the urban-rural binary and to confine farmers in the rural areas. Consequently, the state was able to employ and exploit the agricultural surplus to support the development of heavy industries in non-rural areas.

The *hukou* system has some interesting features. Firstly, it gave *danwei* in the urban areas and people’s commune in the rural areas the monopoly power to control and manage the affiliated labor; labor force belonged solely to *danwei* or people’s commune and was not allowed to be freely exchanged or transacted. Secondly, the public security agencies, i.e. the police in China, are in charge of the management of *hukou* system, including household registration, issuing identification certificates, or checking household members.

Besides, the *hukou* system set a rigid distinction between agricultural households and non-agricultural households. Farmers were not entitled to the same benefits as urban *hukou* residents, such as wages, coupons for buying rice, meat, food oil or flour at low state-set prices, or medical cares; they were excluded from the ration system of food and needed to be self-supporting (Oi 1989:30; Liu 2004:136). The household registration system thus became a carrier of benefits. Residents with urban *hukou* can enjoy more preferential treatments in social security, education, medical care, or public service than those with rural *hukou*.

Lastly, the *hukou* status was inherited from one’s mother and it was never an easy task to change the “birth-subscribed” household registration (Chan & Zhang 1999:822). There were in general three ways to alter the *hukou* status (Wu & Treiman 2004:365-367). The first was through education; students would be granted urban *hukou* upon their admission to higher education. The second way was to join CCP or the People’s Liberation Army. CCP cadre in general was put under urban *hukou*; soldiers would be able to obtain an urban job as well as *hukou* when they were discharged. Furthermore, in a family composed of an urban father and a rural mother, child was allowed to take over father’s job as well as *hukou* when he retired.

⁶⁹ 关于建立经常户口登记制度的指示。

⁷⁰ 市镇粮食定量供应暂行办法。

⁷¹ 国务院关于城划分标准的规定。

⁷² 中华人民共和国户口登记条例

3.2. Work Unit

The process of economic transformation in the early years of communist China altered not only the national system of economy but also the working class. Just as peasant households were absorbed into the people's commune, urban workers were brought into a thorough reliance on the enterprise and thus lost their independence. The CCP administration transfigured the urban industrial production from private-owned enterprises into state ownership or under one type or another of the state's control within a short span of eight years from 1949 through 1957. Small private workshops were gradually combined into cooperatives or state-owned enterprises during the period as well. A huge number of handicraftsmen were also mustered into cooperatives through a series of collective policies. The manufacture system in China was transformed from one economy of small workshops and individual handicraftsmen into another consisting of large-scale industrial enterprises, particularly heavy industry, owned by the state, who thereby acquired the control over the recruitment and lay-off of workers countrywide.

During the pre-reform era, almost every urban resident was required to assume his or her position in a workplace, such as a factory, store, school, or government office, which was called a work unit, namely *danwei*. Since CCP administration transformed the private enterprises into state or collective ownership during the first five-year plan, state or state-related enterprises employed vast majority of urban labor force and most work units were administered by the state more or less, and therefore each *danwei* was regarded as an extension of the government organization (Wu 2002:1073).

The *danwei* institution has some special attributes. First, benefits and privileges of *danwei* were solely or majorly came from the state and then were redistributed to employees. Second, all work units were put under the bureaucratic arrays of government; the relations between the state and *danwei*, as well as between *danwei* and employees, were administrative rather than contractual. Third, government officials assessed *danwei* not only on its economic achievements but also on its performance of other government responsibilities such as planned birth, environment protection, or crime control. In sum, *danwei* was the basic unit of social life in the urban areas and served as a pivotal mechanism of social control and operation (Wu 2002:1073-1074).

Through the domination and allocation of resources, *danwei* and the corresponding government policies have built a special social space for urban residents. One's styles of living, working, thinking, or interpersonal relationship were deeply hinged upon one's *danwei*. From the positive aspect, one can enjoy all benefits and privileges provided by *danwei* once entering into a work unit; *danwei* in this sense can understood as a small-scale welfare state, while if leaving the work unit, from the negative aspect, it means one will lose everything that can satisfy the basic life requirements. In other words, urban residents cannot live without an affiliation to a work unit.

The structural position in the government organization, including its rank in the hierarchy and type of ownership, decided the resources that a work unit was able to acquire. If a work unit had a higher rank, such as in the central administration instead of the provincial or local ones, it also had stronger power in bargaining with the government supervisors. Besides, the state preferred to grant more goods and services to state-owned work units than the collective ones. The state-owned enterprises were mainly the heavy industries while the collective enterprises were mostly light or service industries; the former were thought of as the base of the socialist regime and were thus ranked

higher than the latter (Wu 2002:1074). The distinctions between hierarchical rankings and between state-owned *danwei* and the collective ones formed the inequality among urban residents.

Another way that the communist state controls the society through *danwei* as well as people's commune is the system of *dangan*. Since CCP capitalizes on the masses mobilization and political struggle as strategies of social dominance, it established an institution based on one's political origin. There were mainly two groups of political origins: five black categories and five red categories.⁷³ The five black categories include landlords, rich farmers, counterrevolutionaries, bad-influencers (usually criminals), and rightists; the five red categories contain poor and low-middle peasants, workers, revolutionary soldiers, revolutionary cadres, and dependents of revolutionary martyrs. *Danwei* keeps every employee's political dossiers which keep track of one's political origin, attitude, and relevant political information from schooling to death.

The *dangan* mechanism is a type of techno-scientific administration, through which the governing of the people is converted into the governing of things (Sigley 2009:548-550), and a manner of semiotic control, through which *dangan* works in a visible form belonging to the bureaucratic system while keeps a mysterious and unpredictable nature that governs and regulates one's existence in a coded way (Yang 2011:510-512). The political dossiers are in custody of human affairs section of *danwei* and employees have no access to their own dossiers. One's political dossier have substantial influence on the chances of *hukou* change or *danwei* entrance and subsequent promotion, party membership, or passport application (Lau 2001:609; Yang 2011:510).

3.3. The Party-State Mechanism

The CCP administration strengthens its influence on the operation of the society by establishing party extensions within every enterprise. Research shows that, in a factory, for example, the CCP builds the party-state connection via setting up two organizations which forge the political relationships as well as interests right from the bottom of a factory (Walder 1988:88-95).

The first organization is the communist party itself, which is composed of all party members in that factory with three levels: rank-and-file party members, party committee, and the secretary of the party committee, and the secretary is the highest political official in the enterprise. This organization is parallel yet unaffiliated to the administrative structure of the factory; only party members can attend the committee meetings and the information within the meetings are not allowed to be revealed to nonmembers. According to the Constitution of CCP of 1956,⁷⁴ a party primary organization shall be formed in every enterprise, administrative region, government organ, and military unit if there are three or more full-time party members. Primary party organizations include primary party committee (more than 100 full-time party members), committee of general party branch (more than 50 full-time party members), and committee of party branch (more than 3 full-time party members). Committee secretary is the leader of a party committee.

Another organizational control is the installment of security department, which is an extension of the Chinese public security agency and under the lead of factory party committee. The Ministry of Public Security has the authority of investigating criminal offenses and potential political resistance

⁷³ 黑五类与红五类。

⁷⁴ 中国共产党章程 1956 年版。

and revolts. It was also empowered to exert certain administrative sanctions without trials, including sending workers to labor reform camps.

CCP utilizes some methods to keep and check workers' loyalty to the party (Walder 1988:90-92). First, every worker is required to take part in regular group meetings of political study and group study leaders have to compose study notes and give oral reports to the party branch. Besides, workers are also encouraged to report or snitch on others about their political dispositions and thought problems. Another method is the system of *dangan* as mentioned above. These dossiers are under control of party cadres of the personnel department and will be circulated to next *danwei* if there is a job change. By wedding the coded personal details with the bureaucratic system, the CCP administration employs the visible and formless power of *dangan* to control the welfare, social ranking, social and political identities, as well as the mobility of population in rural and urban areas (Yang 2011:510).

The state cadres form a special group of political capital. Party membership in general will not help to obtain better wages or benefits, but it demonstrates one's political loyalty and therefore advances the trust from the party. Party members have more chances than nonmembers to be admitted to rich *danwei*, as well as be promoted from rank-and file members to state cadres, or from lower-ranked cadres to higher ones (Li & Walder 2001). Once being state cadres, particularly in the pre-reform era, they held the arbitrary power in their *danwei* to allocate tasks and goods and materials. Thus state cadres represent the arms of CCP that intervene into the management and operation of enterprises.

3.4. Summary

For maintaining a communist as well as an authoritarian regime, the CCP administration has exerted its influence on the formation of society from three chief aspects: economic, demographic, and political. The efforts done by the CCP administration in these three dimensions not only have critical functions in their respective scope, but also were mutually supplemental. With regard to the economic dimension, the CCP administration built up a centrally controlled economy through collectivization and nationalization of almost every enterprise in China and established *danwei* in the urban areas and people's commune in the rural regions, to which everyone needed to belong otherwise would lose every benefit from the state and have to find another way to support one's life. For consolidating the rural-urban distinction, the CCP administration redesigned the traditional household institution into the *hukou* system under the management of public security agencies, which gave birth to the separation between rural households and non-rural, i.e. urban, households. Under the restriction of *hukou*, one has to own a *hukou* if wanting to find a job in a *danwei* in that district. For extending the influence and control of the party into every interstices of the society, the CCP administration set up the internal party-state mechanism with every enterprise in both explicit and implicit ways. Explicitly, every enterprise needs to have a party committee consisting of party members in that *danwei*; implicitly, party cadre in the personnel office of a work unit holds every employee's *dangan*, which contains entries about one's political information and is kept confidential to the employee her/himself.

After completing the social control mechanism in the three respects, the Chinese society was separated two distinct yet mutually supplemental groups in the pre-reform era: one group was the urban-state (party)-*danwei*-employee connection and the other group was the rural-state (party)-people's commune-peasant connection. The two threads dominated the social structure of China in the pre-reform era and few people could get rid of the top-down governance from the party-state. In

the pre-reform Chinese society, people were mainly categorized into three classes: state (party) cadres, workers in the urban *danwei*, and peasants in the rural people’s commune; workers in the state-owned enterprises had better economic status than those in collective enterprises. The divisions between those three classes were very rigid. Research shows there were three kinds of domination-exploitation relation in Mao’s era (Lin 2007:101-110) as illustrated in the following table:

Table 3 The Domination-Exploitation Relation and Class Structure in Mao’s China

Types of Capital	Rural Residents (Restricted Labor Force)	Non-Rural Residents	
		<i>Danwei</i> in Collective Enterprises (lack of organizational assets)	<i>Danwei</i> in State-Owned Enterprises (having organizational assets)
People w/ Skills or Authority	Cadres	Cadres	Cadres
People w/o Skills and Authority	Peasants	Marginal Workers	Workers

Source: Lin 2007:110.

In his seminal book on the political culture in the factories in Mao’s era, “Communist Neo-Traditionalism: Work and Authority in Chinese Industry” (1988), Walder, studying mainly on *danwei* and party-state in the factory, opined that the political domination in the communist society hinged upon three types of “organized dependence:” social and economic dependence on the enterprise, political dependence on the management of CCP, and personal dependence on the superiors in the workshops. *Hukou* system, on the other hand, manifests the features of registration, division, and demographic control, namely, an institutional typology of human beings (Wang 2005). Consequently, the measures of social control in China during the pre-reform era can be summed up as two categories: human typology and organized dependence.

4. Penal Labor Camps

4.1. Organization

4.1.1. Position of Penal Labor Camps

The Central Committee of CCP promulgated in 1951 the “Resolution on the Question about Organizing All Criminals to Reform through Labor,” which, apart from giving the prototype of labor reform camps, also disclosed the purposes of setting up the penal labor camps. It said that “now we have more than one million of anti-revolutionaries and criminals in detention across the country. They represent a huge amount of labor force. For reforming those inmates, solving the problems of prison capacity, and disallowing prisoners live as parasites, we have to embark on a plenary project right away, based on the principle of the combination of penalty and reform and on the needs for developing the country, to organize them into reform through labor. Every inmate who is suitable for labor shall join the the project.”

We can notice that, on the practical side, during the early years of communist age had the CCP administration aggregated a vast amount of counterrevolutionaries and criminals and thus confronted the problems of prison capacity and budget shortage; at the same time, this new-born country was in

serious need of labor force for economic development. On the ideological side, as quoted from Karl Marx, “physical labor is the best disinfectant for preventing social viruses” (Mühlhahn 2009:150), those inmates were treated as viruses to the society and physical labor would be the most efficacious cure for them. Besides, in such a socialist state, ordinary citizens have to support their lives by hard working, let alone those social viruses; it is complete nonsense to allow those social parasites to count on ordinary citizens’ supply. Consequently, for making the state, the society, and the inmates themselves better, forced labor would therefore be the best means to punish as well as reform them.

In the next year when the First National Conference of Laogai Works was convened, the system of labor reform camps was defined as a “special state-owned enterprise.” This definition can help us better understand the details of the organization of labor reform camps and how the system was operated in the pre-reform age. Now that the system of penal labor camps is an enterprise of state ownership with some special adjustments, we can reasonably expect it shares some features of the regular enterprises, particularly the state-owned ones, and at the same time we also need to point out the discrepancies between the labor reform enterprise and regular ones. It is no doubt that according to the Article 10 of the Details for Labor Reform Teams, *laogai* teams were suggested to set up their internal structure with reference to the work units of state-owned enterprises.

In addition, during the Second National Conference of Laogai Works in 1953, public security agencies took over the administration of labor reform camps from the Ministry of Justice. In sum, the system of penal labor camps in communist China was situated at an intersection between criminal sanction, economic production, and political control at that time; just as Mao used to point out, vast majority of criminals were reformable and reeducable with good policies and methods, and communist prison in his view was not the traditional one that came out of the class conflicts and contradictions, but was rather a school, a factory or a farm. In the ensuing sections the details of the prison system in the pre-reform age will be gradually disclosed.

With respect to *laojiao* camps, as explained in chapter one, it was designed to target at the population who were not criminals while were politically aberrant and would bring about problems of unemployment if leaving them alone. *Laojiao* system was established to force the population to labor so as to reeducate them. These people were thought of as “bad elements”⁷⁵ in the society. According to the State Council’s “Decision on the Question about Reeducation through Labor” in 1957, which gave an official position to the reeducation through labor after it had been in operation in some areas for a period of time, *laojiao* was not only a type of mandatory education but also a means that compulsorily placed the aberrant population on certain *laojiao* units and forced them to labor with wages. Consequently, *laojiao* could be seen as a special state-owned enterprise while in a smaller scale than *laogai*.

The name of *laogai* camps was formalized in 1951 to manifest the different nature from the prior styles of prison, but for preserving the credits of *laogai* products, Ministry of Public Security published a notification in 1954 announcing that since then there would be two names for *laogai* camps: the original name with the word of *laogai* would for internal use only; the name for external use was required to omit the word “*laogai*” and use “state-owned” instead and put the local government’s title

⁷⁵ 坏分子。

inside to show the difference from other places.⁷⁶ Later in 1958 the Ministry of Public Security also applied the same policy of naming on *laojiao* enterprises⁷⁷.

4.1.2. The Party-State in the Penal Labor Camps

When communist China was just established in 1949, the Ministry of Justice was in charge of the management of prisoners at that time, but in November 1950 the CCP administration decided to transfer the authority to the Ministry of Public Security, and the Ministry of Justice would provide assistance and guidance if needed (Directive on Transferring the Authority of Prison, Detention Center, and Labor Reform Battalion to the Ministry of Public Security).⁷⁸ This transfer was brought about by an earlier directive of the central government which foregrounded that the first and foremost goal of justice works was to suppress rebellions and protect the masses so it would be better to consign the responsibility as well as power of labor camps management to the public security agencies (Directive on Strengthening People's Justice Works);⁷⁹ Article 6 of the Regulations on *Laogai* also confirmed the leadership of public security agencies in labor reform works.

Political work is the essential part of the CCP tenets. As early as in 1932 when CCP was still a parochial party, it established the General Political Department within its army because Mao in an earlier meeting criticized the “pure military viewpoint” and required the military to be politicized by arguing that “the Party shall always control the gun” (Shambaugh 1991:531). In 1952 the Fifth National Conference of Public Security⁸⁰ set the tone that every organ of public security had to install an agency or personnel in charge of the political propaganda and control. Since labor reform camps were also under the management of public security agencies, in November 1954 the Ministry of Public Security required every *laogai* camps to establish a unit responsible for political works (Regulations on the Questions of Political Works in Laodong Gaizao Units)⁸¹.

The basic missions of political works in labor reform camps were to ensure the party was the sole and absolute leader in ideological education and politics and every policy from the party would be correctly enforced during the reform process. The units of political works in *laogai* camps were under the guidance of, just as every work unit in the urban areas has it, the secretary of the party committee in corporation with the political work leaders in the public security agencies. According to the Details for Labor Reform Teams, every *laogai* team would be equipped with a political office and political work officials in charge of ideological education and thought reform tasks.

The political design within the labor reform camps is still applicable at present. The Bureau of Prison Administration in Guangdong, for example, has the Department of Political Works, in which there is a party office, an office in charge of ideological education and organizational work, and other offices.

⁷⁶ 公安部关于为统一规定各劳改生产单位和监狱、看守所、少年犯管教所的名称的通知。

⁷⁷ 公安部关于劳动教养场（厂）矿对内对外名称及图章样式问题的批复。

⁷⁸ 司法部、公安部关于监狱、看守所、劳动改造队移转归公安部门领导的指示。

⁷⁹ 政务院关于加强人民司法工作的指示。

⁸⁰ 第五次全国公安会议。

⁸¹ 公安部关于劳动改造工作部门政治工作的若干问题的规定。

4.1.3. Financial Structure

Following the “Resolution regarding the Unification of State Financial and Economic Works” in 1950, China had a fiscal system of unified state control over income and expenditure,⁸² which means local governments had to turn over virtually all tax receipts and profits from state-owned enterprises in their regions to the central government and then the central government would distribute the revenues to meet their expenditure needs (Oksenberg & Tong 1991:3-4), and the labor reform camps also adopted the same financial structure with some adjustments. During the Fourth National Conference of Public Security⁸³ in 1951, Mao ordered that the labor reform camps had to advance from partly self-sufficient to completely self-sufficient within two years.

Following the central government’s policy to build a system of self-supporting penal labor camps, Ministry of Public Security ordered that the use of the income from labor reform production had to follow the policy of “setting off receipts against expenditures,”⁸⁴ which required the revenues from labor reform production would in the first place be used to pay for life expenses of prisoners, wages of *laogai* staff members, maintenance fees of *laogai* camps, and budget for *laogai* expansion; after paying those fees, the balance then would be turned into the national treasury (Response to the Central Administration for Industry and Commerce on the Nature of Laogai Enterprise and the Questions about the Use of Its Finance and Benefits).⁸⁵ Due to its enterprise nature, the income resulted from selling *laogai* products or doing other kinds of business had to pay sales tax (Regulations on the Tax Payment of Laogai Production Units).⁸⁶

Starting from 1956, the State Council decided to exert a means of business administration on labor reform camps and ordered that funds for the operation of penal labor camps were mainly to be incorporated in the central budget and had to follow the central government’s financial management plans instead of local governments’ and that public security agencies were in charge of the administration of budgets (Directive on the Problem of the Financial Management of Laogai).⁸⁷ Therefore the policy of setting off receipts against expenditures was discarded, and investments in the infrastructure of penal labor camps must be paid by and under the supervision of the People’s Construction Bank of China (Notification on the Incorporation of Income and Expenditure of Laogai Enterprise into Budget Management).⁸⁸

For correctly calculating the cost of *laogai* production, every *laogai* enterprise was allowed to withdraw “assumed wages”⁸⁹ of *laogai* inmates from the budget by referring to the wage rate in the similar state-owned industry and use it on inmates’ daily expenditure and as subsidies for skilled inmates (Regulations on the Problem of Financial Management of Laogai Enterprise);⁹⁰ Ministry of

⁸² 统收统支。

⁸³ 第四次全国公安会议。

⁸⁴ 以收抵支。

⁸⁵ 公安部关于劳改企业性质和资金及利润拨支收解问题给中央工商行政管理局的复函。

⁸⁶ 财政部、公安部关于劳改生产单位纳税的规定。

⁸⁷ 国务院关于劳改财务管理问题的指示。

⁸⁸ 公安部、财政部、中国人民银行总行关于劳改企业财务收支纳入预算管理的通知。

⁸⁹ 假定工资。

⁹⁰ 财政部、公安部关于劳改企业财务管理问题的几项具体规定。

Public Security also gave some directions on how to calculate assumed wage and its usage (Response on the Problem of the Measures for Calculating Assumed Wage of Inmates and Its Usage; Response on Some Problems of Laogai Finance).⁹¹ Different from *laogai* inmates who didn't receive any wages for their labor and the "assumed wage" was used to assess the budget, *laojiao* workers would receive wages for their tasks. The minimum wage for *laojiao* inmates in 1956 was RMB 20 per month (Response on the Question of Laojiao Inmates' Wage).⁹² Later the government gave more detailed instructions on the evaluation of *laojiao* inmates wages in 1958. The rate of salary for *laojiao* inmates' shall be determined according to the principle of "more pay for more work done; less pay for less work done"⁹³ and could also refer to the rate for workers in the local state-owned enterprises or the rate for local peasants, but *laojiao* inmates' wage shall not be higher than local workers or peasants (Response on the Question of Wage for Laojiao Inmates).⁹⁴

In summary, labor reform camps, on account of the nature of state-owned enterprise, were required to be self-sufficient, and only in some exceptional situations the state would provide funds to the camps, such as infrastructure construction. Initially, each *laogai* enterprise had the authority to manage its income by the policy of setting off receipts against expenditures, which means the camp was allowed to use the income to pay its expenses first and the rest of income would be handed to the central government. But because of the frequent happenings of misuse and cheating, the central government determined to exert strict accounting measures on *laogai* enterprises; the policy of setting off receipts against expenditures was discarded and instead all the income had to be turned into the central government first and the government would distribute needed funds to the camps based on the annual budget plan. The usage of funds would also be under the supervision of the central government.

4.1.4. Management and Production

According to the Article 32 of the Regulations on *Laogai*, the central government, every province and county government had to establish a "*Laogai* Production and Management Committee,"⁹⁵ which was in charge of leading the *laogai* production and supervising if the process or labor reform followed the production plan. Local governments exerted two levels' administration of *laogai* units; the first level was province and the second level was county. In the central and every provincial and county government there was a Bureau of *Laogai*, which was affiliated to Ministry of Public Security or Department of Public Security and had a *Laogai* Production and Management Committee as its subsidiary. County level officials complied with provincial level officials, and provincial level officials followed the instructions from the central government competent officials.

The committee was composed of people from the financial and economic committee and department, the public security agency, and the department of justice. The direction for the development of *laogai* production was to push heavily on agricultural production, particularly grain

⁹¹ 公安部十一局关于犯人假定工资计算和开支办法问题的批复；公安部十一局关于劳改财务方面几个问题的批复。

⁹² 公安部、财政部关于劳动教养人员工资问题的批复。

⁹³ 多劳多得，少劳少得。

⁹⁴ 司法部、内务部关于被劳动教养人员工资问题的批复。

⁹⁵ 劳动生产改造管理委员会。

production, and to develop auxiliary mining, hydraulic engineering and road construction. Accordingly, we can draw a table for the management of a *laogai* mechanism in the pre-reform era, particularly in the early-1960s, as below:

Table 4 Management of Reform through Labor Mechanism in the Pre-Reform Era

Upper Level Authority	Central Government or Local Government			
Middle Level Authority	Ministry of Public Security or Department of Public Security			
<i>Laogai</i> Authority	Bureau of <i>Laogai</i>			
Structure of <i>Laogai</i> Organization	Public Security Agency			<i>Laogai</i> Production and Management Committee
	Reform through Labor Mechanism			
	Detention Center	Prison	Juvenile Corrective Facilities	Labor Reform Battalion (a.k.a. penal reform camp, <i>laogai</i> production camp, labor reform camp or <i>laogai</i> camp)
				Leaders of <i>laogai</i> team
			Team Captain	Political Work Official
	Duties			
			Production and administration	Political ideological education and reform

As explained in chapter one, detention center was for criminals who were sentenced to less than two years in *laogai* and the accused whose case are still pending; prison (in traditional Communist China's definition) was for criminals who were unable to work outside or received either suspension of death penalty or life sentence; juvenile corrective facilities were for criminals whose ages were more than thirteen and less than eighteen. Labor reform battalion, also known as penal labor camp, *laogai* production camp, labor reform camp, *laogai* camp, etc., was for criminals who are able to work outside and was the mainstay of the *laogai* mechanism. Labor reform battalion was under co-guidance of local government's public security agency and *laogai* production and management committee, and usually consisted of two or three teams. Each team had its captain in charge of team's production and administration and political work official in charge of team's political ideological education and reform of inmates.

In order to provide places for *laogai* teams to work in, namely *laogai* units, local governments, especially the levels of province, district, and county, started to construct such places in 1951 and later removed some poor-performed ones and reorganized disperse and small units into a bigger one. Even though labor production is the means and human reform is the goal, since the production i.e. the income of a *laogai* camp, would directly determine the budget for the camp's operation, particularly the prison staff's wages, the means usually overrode the goal and caused a huge number of deaths of prisoners, especially during the time of Great Leap Forward. For solving the problem, the CCP administration in the Fifth and Sixth National Conference of *Laogai* Works in 1960 and 1964⁹⁶ kept

⁹⁶ 第五与第六次全国劳改工作会议。

emphasizing on the policy of “reform first and production second” in cooperation with some financial strategies to correct the wrong direction of *laogai* works.

As for *laojiao* camps, following the joint notification in 1957 by the Interior Ministry, Ministry of Public Security, and Ministry of Finance on how to enforce State Council’s decision of *laojiao*,⁹⁷ provinces, cities and autonomous districts which didn’t have *laojiao* units yet could appropriate part of their *laogai* units to serve as *laojiao* units for *laojiao* production. The managing authority of *laojiao* camps was shared by the interior department and public security agency. The financial structure of *laojiao* camps thus also abided by the same policy as *laogai* camps.

4.2. A Typology of Inmates

4.2.1. Prisoner Card and Dossier

When the *laogai* system was just commenced in 1951, there was no uniform rules regarding how to document prisoners’ identity information, but labor reform teams had their own way to register prisoners’ name, birth date, gender, and other important information. The means *laogai* teams used to catalog personal information of prisoners could be dubbed “prisoner identification card,” which was later formalized by the Regulations on *Laogai* in 1954. Article 41 of the regulation required every labor reform camp to prepare a register and record prisoners’ name, sex, age, race, birthplace, address, class status, occupation, literacy, specialty, crime, sentence, health, family, and the court that issued the final decision. Some camps also had their own special types of card, such as prisoner skill cards. These cards were kept by *laogai* units and not allowed to be circulated to other units.

In addition to prisoner cards, the Article 29 of Regulations on *Laogai* also wanted labor reform camps to build every prisoner’s *dangan* for inspecting the performance of prisoners in labor reform. A prisoner dossier usually includes two kinds of files. The first file (*zhengdang*)⁹⁸ collected documents from other organs, such as court judgment, ruling, law enforcement notification, and registration form of a closed case; the second file (*fudang*)⁹⁹ collected materials produced during prisoner’s term in the labor reform camp and duplicates of important documents, including performance appraisal, record of rewards and sanctions, accusation and confession report, court decision copies, and prisoner’s personal information.

For “cleaning up” the procedural flaws of *laogai* inmates in the earlier years, Ministry of Public Security and Ministry of Justice issued a joint directive in 1954 and a supplementary directive in 1955, which instructed labor reform teams at first to list *laogai* inmates whose criminal proceedings were not complete or materials were lost and then supplement required documents, such as indictment or court decisions, to their dossiers; if the sentence was not in proportion to one’s offense or one was found innocent, courts had to reissue a correct judgment; if prosecutorial offices were not able to afford the

⁹⁷ 民政部、公安部、财务部关于执行“国务院关于劳动教养问题的决定”的联合通知。

⁹⁸ 正档。

⁹⁹ 副档。

caseload, public security could take on their duties instead (Directive on Continuing to Clean Up Criminals; Supplementary Directive on Continuing to Clean Up Criminals).¹⁰⁰

For unifying the form of release that was given to prisoners when they finished their sentences, Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, and Ministry of Justice, published a joint notification about a unified form of prisoner release in 1956. The stub of a form of prisoner release must be collected in the prisoner's dossier (Joint Notification on the Unified Form of Prisoner Release).¹⁰¹ The ex-prisoners must hand in their forms of release to a police post if in urban areas or a people's committee if in rural areas to restore their household registration so that they would be allowed to receive their ration of food (Notification on Some Questions about Using the Form of Prisoner Release).¹⁰²

With respect to the question that if a prisoner's dossier could be circulated to other units when they were transferred to another *laogai* unit or released, there was no related regulations or directives on such issues in the early years when *laogai* camps were just established, so it caused a mess of the management of prisoner dossiers. For calibrating the circulation of prisoner dossiers, Ministry of Public Security promulgated a notification in 1958 about circulating a unified form of appraisal of prisoner release instead of the entire dossier (Notification on the Form of Appraisal of Prisoner Release),¹⁰³ and later in 1964 Ministry of Public Security revised the previous form and published new forms of appraisal for *laogai* and *laojiao* inmates (Notification on the Circulation of Dossiers When Laogai and Laojiao Inmates and Jiuye Members Were Released or Cleaned Up).¹⁰⁴

Accordingly, when a *laogai* inmate was released on completion of sentence or on parole, or had to serve sentence outside *laogai* camps, when a *laojiao* inmate was released on completion of sentence or had to serve sentence outside *laojiao* camps, or when a *jiuye* team member was cleaned up,¹⁰⁵ his/her dossier would be kept by the *laogai*, *laojiao* or *jiuye* unit, and a form of appraisal of release, a duplicate of court judgment (for *laogai* inmates) or police decision (for *laojiao* inmates), together with his/her original political dossier would be sent to local police posts for documenting the restoration of one's *hukou*. If inmates were just transferred from one *laogai* or *laojiao* unit to another, their dossiers would be otherwise circulated as well between the units.

4.2.2. Classification

When the system of labor reform camps was just set up in 1951, for gaining the popular support, the CCP administration decided to apply different treatments to female counterrevolutionaries, juvenile

¹⁰⁰ 公安部、司法部关于继续清理案犯的指示；司法部、公安部关于继续清理案犯的补充指示。

¹⁰¹ 最高人民法院、最高人民检察院、公安部、司法部关于统一《释放证明书》的联合通知。

¹⁰² 公安部关于使用犯人《释放证明书》中几个问题的通知。

¹⁰³ 公安部关于《犯人出监鉴定表》的通知。

¹⁰⁴ 公安部关于期满释放和清理的劳改犯、劳教分子、留场就业人员档案转递问题的通知。

¹⁰⁵ “Clean up” here does not mean to correct the procedural flaws of inmates as explained earlier; it denotes to release *jiuye* members who were thought of as unnecessary to stay in *jiuye* teams (the details of *jiuye* program in the pre-reform era will be discussed later in the subsequent section).

and elderly criminals. For female counterrevolutionaries, capital sentence shall be in limited use; life sentence and death penalty with reprieve were possible alternatives. Death sentence was not applicable to pregnant ones unless the masses strongly demanded the execution, and even if death penalty was indispensable, the execution must be carried one to two years after the childbirth. For juvenile criminals the death sentence was never an applicable option because they were still corrigible and reformable. As for elderly offenders whose age was sixty years or more and whose sentence was five years or less, parole was applicable if the masses agreed for fear of their deaths inside the prison (Directive on Tackling Female Counterrevolutionaries, Juvenile and Elderly Criminals).¹⁰⁶

In the next year the government further applied more lenient measures on female criminals, offenders with chronic diseases, and disabled criminals. Female convicts with five or less years' sentence could be released on parole if they had served one half or more of the sentence and had good performance and the masses agreed on their release. Offenders with chronic diseases who received fixed sentence could be released on medical parole for fear of dying inside prison. Disabled counterrevolutionaries whose sentences were less than five years were allowed to be released on bail if they were not able to engage in counterrevolutionary activities and the masses agreed on their release (Supplementary Directive on Tacking Female, Sick and Disabled Criminals).¹⁰⁷

Four years later the government gave a new directive towards the elderly (usually more than fifty-five years old), weak, sick, and disabled inmates (Joint Directive on Dealing with Elderly, Weak, Sick, and Disabled Inmates).¹⁰⁸ The inmates of these types were not able to labor because of their poor body condition; their health was even getting worse when they were serving their sentences and the probability of their death inside the prison was thus heightened. Those facts would bring about harmful influence on the politics. For tackling the problems caused by them, Ministry of Public Security decided to clean up the inmates of these types so as to embody the humanitarian values of revolution, win over more popular support, and alleviate the state's financial burden. Consequently, for inmates who suffered severe illness with medical proof, they could be released on medical parole; for inmates of other three types whose sentences were less than five years, the government tried to keep a small portion of them and clean up the rest by serving the sentence outside the prison or release on parole; for inmates of these three types with sentences of more than five years, if they were well-reformed so unharmed to the society, they could be released on parole. The inmates of life sentence or death penalty with reprieve and the inmates who became disabled during prison labor process were not eligible for those policies.

Foreign criminals could be divided into three groups with different treatments. For serious international espionage criminals, counterrevolutionaries, and war criminals, they had to be detained in the prison (in traditional Communist China's definition) and were not allowed to work; criminals who came from imperialist countries were allowed to labor inside the walls; criminals who came from Soviet Union or other communist countries or were stateless could labor outside the walls (Response on If Foreign Criminals Can Engage in Labor Production).¹⁰⁹

¹⁰⁶ 公安部关于处理反革命罪犯中女犯、少年犯及老年犯的指示。

¹⁰⁷ 公安部关于处理女犯及病残犯的补充指示。

¹⁰⁸ 最高人民检察院、最高人民法院、司法部、公安部关于处理老弱病残犯人的联合指示。

¹⁰⁹ 公安部关于外籍案犯是否参加劳动生产的批复。

There were mainly five groups of people being thought of harmful to the new established communist state in the pre-reform era: landlords, rich farmers, counterrevolutionaries, bad-influencers (usually criminals), and rightists,¹¹⁰ which were “five black categories” as mentioned in the prior section. These groups of people were labelled as harmful elements to the society and thus were put on “hats;” they needed to remove their hats¹¹¹ so as to change their ill components. The procedure of hat removal usually composed of public assessment, police agency’s review, and the approval of county people’s committee. With relation to the counterrevolutionaries in *laogai* camps, Ministry of Public Security treated reform through labor as a means to remove their hats so announced that the counterrevolutionaries who completed their sentences didn’t need to undergo the ordinary procedure of hats removal (Response on the Question that If the Counterrevolutionaries Needed to Undergo the Procedure of Hats Removal After Release on the Completion of Their Sentences and Restoration of Their Political Rights).¹¹² For the groups of landlords and rich farmers who had finished their sentences and then worked in the *jiuye* teams, through the process of discussion of all workers in the *jiuye* unit, review of the unit cadres, and the approval of county people’s committee, they would be able to change their components from ill to socialist good such as workers or peasants according to their current occupations (Response on the Procedure for Landlords and Rich Farmers Who Have Completed Their Sentences in the Laogai Units and Now Work in the Jiuye Units to Change Their Components).¹¹³ As for the rightists, who usually were detained in *laojiao* camps, they needed to be cleaned up (release) after serving three years of labor reeducation unless special circumstances existed, or they could be cleaned up earlier if performing really well. Nevertheless, release didn’t mean the removal of their “hats,” in other words, they still had some ill components, and thus those released rightists’ settlement was managed by the government, either under the supervision of local party committee or to stay in the *laojiao* camps (Notification on the Problem of the Management of Laojiao Rightists after Their Completion of Labor Reeducation).¹¹⁴

In addition to being inapplicable to death sentence, juvenile criminals were also required to be incarcerated away from the adult ones for, in the government’s ideas, they were highly reformable than the adult offenders. Consequently, the CCP administration required all provinces and cities to build independent juvenile corrective facilities and to adopt a different reform policy with emphasis on education (Joint Notification on Building Juvenile Corrective Facilities).¹¹⁵ If a juvenile criminal reached the age of eighteen years old and the rest sentence was less than one year detention, (s)he could stay in the facility to finish it; if the rest sentence was more than one year, (s)he could be transferred to a labor reform team to engage in *laogai* production (Notification on Circulating the “Summary of the Minutes of the Conference of Corrective Tasks for Juvenile Criminals”).¹¹⁶ In 1960 the government gave up the division between juvenile criminals and juvenile *laojiao* inmates and

¹¹⁰ 地、富、反、坏与右派分子。

¹¹¹ 摘帽。

¹¹² 公安部关于反革命犯刑满释放并恢复政治权利后是否需要办理摘掉反革命帽子问题的批复。

¹¹³ 公安部关于对劳改单位刑满释放留场（厂）就业人员中的地主、富农分子改变成份处理手续的批复。

¹¹⁴ 统战部、公安部关于劳教右派期满处理问题的通知。I will discuss the details of post-release management of *laojiao* inmates in the latter section.

¹¹⁵ 公安部、教育部关于建立少年犯管教所的联合通知。

¹¹⁶ 公安部十一局关于印发《少年犯管教工作汇报会纪要》的通知。

decided to place all juvenile inmates in the juvenile corrective facilities with indeterminate period of time for reeducation (Joint Notification on the Restricted Use of Arrest and Sentence on Ordinary Juvenile and Child Offenders; Notification on the Adjustment of Statewide Extant Juvenile Corrective Facilities).¹¹⁷ Later in 1965 the government gave more details about the treatments for juvenile offenders, such as the facility accommodated juveniles whose age ranging from thirteen to eighteen, the duration of reeducation was from half year to three years, etc. (Opinion on Strengthening the Work of Juvenile Corrective Facilities).¹¹⁸

Accordingly, we can summarize and infer that there were four main criteria used by CCP administration for the classification of penal labor population in the pre-reform era: their capability of labor, corrigibility and political elements, as well as the government's reputation. Elderly, weak, sick, and disabled offenders had higher possibility to be released because they were less capable of doing labor work than ordinary inmates; if they died inside the prison or communicated their illness to other penal labor team members, government's reputation, the rest inmates' health, the efficiency of production, and the expenditure of prison were all engulfed. The same considerations were also applicable to female offenders, particularly the pregnant ones; they were seen as less productive labor and needed higher budget, and killing female offenders or coercing them to labor in the same level as male offenders were intolerable in the traditional patriarchal ideology and thus it would be harmful to the government's reputation. Juvenile offenders were viewed as more corrigible than adults for their immaturity and also because of their corrigibility they were easily led astray if they were detained with adult criminals. The five black categories and their ill components manifested the measures the CCP administration capitalized on to govern the politically aberrant population. Forced labor was applied as a kind of political technology to reform the population of detrimental nature into useful timber (Dutton 1992a).

4.3. Mass Production of Workers in Unified Specifications

As early as in 1952 the CCP administration had noticed the importance of environmental health in *laogai* units. Initially the problem of public health in the labor reform camps was treated as an attack from the imperialist countries by using biological weapon (Joint Notification on Paying Attention to the Health of Prisoners and Keeping in Touch with Other Organs).¹¹⁹ In the next year the central government noticed that the public health of prison could benefit the process of labor reform; instead of considering prisoners as expendables and having the idea that it didn't matter to lose some of them, the central government required all *laogai* camps to strive for more reformed human-beings (Joint Notification on Strengthening the Tasks of Prisoners' Health).¹²⁰

With regard to the standards of daily goods support for prisoners, the CCP administration also exerted the policy of "less eligibility" since 1953. The central government instructed then local governments to maintain the living standard of prisoners lower than the local population's (Response

¹¹⁷ 最高人民法院、最高人民检察院、公安部关于对少年儿童一般犯不予逮捕判刑的联合通知；公安部关于调整全国现有少年犯管教所的通知。

¹¹⁸ 公安部、教育部关于加强少年管教所工作的意见。

¹¹⁹ 公安部、司法部、卫生部关于注意犯人卫生并取得密切联系的联合指示。

¹²⁰ 司法部、公安部、卫生部关于加强犯人卫生工作的联合通知。

to the Relevant Questions about Duties).¹²¹ Two years later the central government promulgated the regulations for the expenditure on prisoners' daily goods support, which, apart from the gist of less eligibility, purported to set up guidelines for the allocation of prisoners' food, clothes, medical care, and other miscellaneous expenses in different areas (Regulation of the Standards for Prisoners' Daily Expenditure).¹²² As the policy of rationed supply of grain was adopted in August 1955,¹²³ *laogai* camps, most of them were located in the rural areas, suffered from the shortage of food during that period, so the central government issued an order to alleviate the predicament, such as *laogai* farms were required to plant more yams and potatoes, which could be served as food for *laogai* prisoners (Directive on the Problem of Food Supply for Laogai Prisoners),¹²⁴ and there were a series of orders which repeatedly reasserted the policies of less eligibility and preventing prisoners from hunger and chill in the following years, but as the famine was getting worse, particularly after the beginning of Great Leap Forward movement in 1958, those policies or orders exerted little influence on the *laogai* practice, and the food and other daily goods supply for prisoners were thus inevitably declining and the unusual deaths of prisoners kept showing up during that period of time until 1962 when the tremendous famine eased up slowly.

As the Article 30 of Regulations on *Laogai* has pointed out that the *laogai* production shall serve the state's economic development and shall be thus channeled into the planned economy, and Article 33 directed the *laogai* production to engage itself in agricultural and industrial development. For achieving the goal, the equipment and facilities of labor reform camps and the skills of penal labor will play an important role in the *laogai* production. With regard to the agriculture, labor reform farms took on the duties of grain production for the state; the central government noticed the importance of irrigation works to the economy and hence proposed a project that demanded the departments of agriculture, public security, and water resources to cooperate with each other to complete the necessary irrigation construction (Joint Directive on the Irrigation Construction on State-Owned Tillage and Laogai Farms of More Than Ten Thousand Acres).¹²⁵ As for the *laogai* production in the industrial field, it was focused on mining, ceramics, and other infrastructure construction and also supported the development and operation of *laogai* farms. Due to the lagging in the skills and management in the *laogai* industry, however, its production still fell behind expectation. For solving the problem, the CCP administration ordered the related departments of local governments to assist the *laogai* factories in their areas, including in materials supply, production management, forming a system of sale, and training cadres of special skills (Joint Directive on Strengthening the Production of Laogai Industry).¹²⁶ For saving costs and investing the most time and energy of prisoners in production, it was prohibited to form professional troupes in *laogai* units; only *laogai* units of more the three thousand people were allowed to have spare-time troupes with limited budget (Notification on Prohibiting the Formation of Professional Troupes in Laogai Units).¹²⁷

¹²¹ 公安部关于有关业务的几个问题的答覆。

¹²² 关于犯人生活费用开支标准的规定。

¹²³ *Supra* note 70.

¹²⁴ 公安部、粮食部关于劳改犯人粮食供应问题的指示。

¹²⁵ 农业部、公安部、水利部关于机耕国营农场及万亩以上劳改农场水利建设的几项规定的联合指示。

¹²⁶ 地方工业部、三机部、公安部关于加强劳改工业生产领导的联合指示。

¹²⁷ 公安部关于禁止劳改单位组织专业剧团的通知。

Aside from the assistance from other governmental agencies, skillful prisoners also received special treatment. Ministry of Public Security published an order that the deployment of skillful prisoners, such as those who used to be engineer, technician, doctor, medical assistant, laboratory analyst, or pharmacist, or those who had a degree from colleges or high schools in industry, agriculture, water resources, finance, statistics, or business, shall be conducted under the instructions of Ministry of Public Security and local governments were not allowed to occupy the skilled prisoners without authorization (Notification on the Unified Deployment of Skillful Prisoners).¹²⁸ These prisoners of skills also had better living supports in their food (Response on the Measures Used by Laogai Units for Food Subsidies to Skillful Prisoners)¹²⁹ pocket money and rewards (Supplementary Notification on the Unified Deployment of Skillful Prisoners).¹³⁰

In addition to the reform in prisoners' labor skills, the reform in their thoughts was also a consequential portion of the course of labor reform, so the cultural and political education, including prisoners' literacy, obedience to prison cadres, and loyalty to CCP and the socialist society were the substantial parts of the labor reform. According to Article 23 of Details for Labor Reform Teams, the goals of educational reform were to make prisoners admit their guilt, espouse CCP and the socialist society, develop the ideas and habits of labor, and eventually become laborers with the quality of socialist morality after release. Illiterate prisoners were required to participate the courses of elementary education and if they fulfilled the requirements, primary education diploma or certificate in literacy could be conferred upon those prisoners (Response to the Question of Conferral of Certificate of Literacy and Primary Education Diploma from Laogai Spare-Time Schools).¹³¹ Usually prisoners who had a problem with reading and writing would be separated into two groups based on their levels of literacy, one was for the illiterate and the other was for almost illiterate ones. They would be required to take part in the language courses with textbooks edited by *laogai* officials in the government of every province. For political education, in the early years the means in common use were to read and discuss some classic communist books, attend lectures, criticize oneself and admit one's own fault, or secretly report other prisoners' incorrectness. Later a mass line was also adopted; public criticism by other prisoners or ordinary citizens was one of the commonly used methods.

In the Regulations on *Laogai* and Details for Labor Reform Teams, it was required to set up a system of rewards and penalties in labor reform camps. In summary, prisoners would receive rewards if they completely follow rules and orders, report other prisoners' faults, have substantial performance in their labor production, improve the production skills or technology, prevent possible incidents or disasters, or have other beneficial conducts to the country or citizens; on the other hand, they would be punished if they violate rules or orders, stir up troubles in the reform process, or hinder the production procedure. Since the cadres had the authority on deciding the rewards and penalties, prisoners would be expected to internalize the obedience to the cadres through the operation of system of rewards and penalties. Every prisoner's performance would be written down in a checking form and the performance would be periodically summed up by month, season, half a year, and every year, with focus on prisoners' ideological reform, obedience to rules and orders, labor production, and health management.

¹²⁸ 公安部关于统一调配技术犯人的通知。

¹²⁹ 公安部对劳改生产单位使用科学技术犯人伙食补助办法的批复。

¹³⁰ 公安部关于统一调配技术犯人的补充通知。

¹³¹ 教育部、公安部复劳改犯入业余学校学员的《识字证书》及《毕业证书》的颁发问题。

For the development of prisoners' loyalty to the CCP and the socialist society, in addition to the necessary political works by cadres, it was encouraged to foster and mobilize the activists¹³² within prisoners to assist the labor reform and support the leading of CCP. Those active prisoners would form a special group which was located between cadres and prisoners. Ministry of Public Security issued an order to formalize the group as "active prisoners' committee,"¹³³ which didn't have the legal authority to manage other prisoners while had the substantive power to some extent by providing suggestions to cadres or participating the management under the guidance of cadres (Opinion on the Relevant Questions of Organizing Active Prisoners' Committee).¹³⁴ This special group of prisoners functioned as a bridge between cadres and prisoners, i.e. the persons with and without power and gave prisoners the incentive to be qualified as activists who were well reformed and had demonstrated their political loyalty. Consequently, this institution also consolidated the socialist leadership of CCP and the obedience of prisoners to cadres.

5. Post-Release Management

As mentioned in the first chapter, CCP administration announced its principle of "keeping many and freeing few" during the Second National Conference of Laogai Works in 1953, which was the outset of *jiuye*, namely the forced job placement after prisoners' release, and in 1954 Interim Measures for Forced Job Placement was published. The purposes of the *jiuye* policy were to preserve the society from possible crimes threats and to improve the economy of the state. Three groups of prisoners would be required to join *jiuye* teams after completing their sentence: prisoners who were voluntary to stay, homeless or unemployed, and who served their labor reform in desolate areas and would like to settle down right there.

The compensation for *jiuye* team members at first had some ambiguities: some units only paid the members who restored their political rights, and some units did not even pay any wages. For dealing with the difference among *jiuye* teams, the central government required all teams to include *jiuye* team members' wages in their budget plans and make the payments (Joint Notification on the Inclusion of Wages for Jiuye Team Members and Laojiao Inmates into Budget Plans).¹³⁵ But there was still difference in the wages and benefits between those with and without political rights (Joint Notification on the Treatments and Budget When Jiuye Team Members, Prisoners Who Completed Their Sentences, or Ex-Laojiao Inmates Were Cleaned Up).¹³⁶ "Distribution according to one's job performance"¹³⁷ and "equal pay for equal work"¹³⁸ were guiding principles for *jiuye* team members (Notification on the Management of Wage Plan for Laogai and Laojiao Jiuye Team Members and of Wages for Laojiao Inmates and the Question About Adjusting Their Wages This Year).¹³⁹

¹³² 积极分子。

¹³³ 犯人积极分子委员会。

¹³⁴ 公安部十一局关于组织犯人积极分子委员会有关问题的意见。

¹³⁵ 劳动部、公安部关于刑满留场就业人员和劳动教养分子的工资纳入计划的联合通知。

¹³⁶ 财政部、劳动部、公安部关于服刑期满和解除劳动教养后的留厂就业人员、犯人、劳动教养分子被清理时的待遇及所需经费的联合通知。

¹³⁷ See *supra* note 67.

¹³⁸ 同工同酬。

¹³⁹ 劳动部、财政部、公安部、国家统计局关于刑满留厂就业人员、解除劳动教养留厂就业人员的劳动工资计划管理和劳动教养分子的工资管理以及这些人员今年调整工资问题的

Prisoners who were released on parole would not be eligible for forced job placement unless they voluntarily wanted to stay in the teams (Response on the Question of Parolees' Political Rights and Social Benefits).¹⁴⁰ The social benefits for parolees would be lower than *jiuye* workers if their political rights were still in suspension; social benefits would be the same as *jiuye* workers if parolees' political rights had been restored (Response on Some Questions About Parolees).¹⁴¹ For those prisoners who were released on regular or medical parole, they would receive a certification for the use of household registration in corresponding districts and the local public security agency would take on the duty of supervision over the parolees; if the parolees performed badly or recovered, they would be sent back to their original *laogai* camps (Notification on Strengthening the Supervision Over Prisoners Who Were on Medial Parole, Serving Sentence Outside Prison, or on Parole).¹⁴²

Policies similar to the ones in *laogai* camps were also applied in *jiuye* teams. For labor reform was treated as a method to eliminate their ill elements, counterrevolutionaries who completed their sentences and stayed in *jiuye* teams did not need to undergo the ordinary procedure of hats removal (Response on the Question about Removing the Hats of Counterrevolutionaries and Changing the Components of Landlords and Rich Farmers Who Have Completed Their Sentences in the Laogai Units and Now Work in the Jiuye Units);¹⁴³ as for the the *jiuye* team members who used to be landlords and rich farmers, they otherwise had to undergo the process of hats removal so as to change their ill components.¹⁴⁴ Skillful *jiuye* team members would receive better wages and benefits than other members; their salary rates were at the same level as skillful ones in the ordinary state-owned work units (Opinion on the Placement of Skillful Jiuye Team Members).¹⁴⁵

Although the necessary term of forced job placement was not specified in the Interim Measures, ex-prisoners in general would not stay in the *jiuye* teams for more than three years. Once being released from *jiuye* teams, according to the Interim Measures, there were three ways to place those ex-prisoners: the first was to place them in the ordinary work units if they had special skills which were needed by the work units; the second was to place them in *laogai* teams and assessed their wages on their skills or other conditions; the third way was to place them on the farmland which was separated from *laogai* farms, organize them into collective production and help building up new villages there. Besides, prisoners who used to work in the government, once being released, in principle they would not be allowed to return their old work units in the government; while if their criminality was minor, they performed well during labor reform and had special skills needed by the government, they could be recruited in the government again (Response on the Questions About If Prisoners Who Used to Work

通知。There was a similar program of forced job placement for ex-*laojiao* inmates and it will be discussed later.

¹⁴⁰ 公安部关于对罪犯假释后的政治、物质待遇问题的批复。

¹⁴¹ 公安部对有关假释犯的几个问题的批复。

¹⁴² 公安部关于加强对监外就医、监外执行和假释的犯人监督的通知。

¹⁴³ 公安部关于对留场就业人员中摘掉反革命帽子和改变地、富成份问题的批复。

¹⁴⁴ See *supra* note 113.

¹⁴⁵ 公安部十一局关于刑满留场技术人员的安置意见。

in the Government Were Allowed to Return to the Original Work Unit and Who Had the Power to Approve Their Return).¹⁴⁶

With respect to the question if the ex-prisoners who were released before the Interim Measures took effect shall be coercively placed back in the *jiuye* teams, Ministry of Public Security decided that due to the limited budget and capacity for *laogai* camps to accommodate all the ex-prisoners, only those who satisfied the requirements of forced job placement and possessed the potential to cause social instability would be sent back to *jiuye* teams. These re-admitted *jiuye* team members would receive their compensation at the same rate of other *jiuye* team members (Response on the Question That If the Ex-Prisoners Who Were Released Before the Second National Conference of Laogai Works Shall be Sent Back to Jiuye Teams).¹⁴⁷ *Jiuye* workers were not allowed to have labor insurance, the central government explained, on account of that *laogai* enterprises were different from the ordinary state-owned enterprises and *jiuye* workers were also not the same as ordinary workers, especially from a political view by taking what they had done to the society into consideration (Response on the Inapplicability of Regulations of Labor Insurance to Jiuye Workers).¹⁴⁸

The policy for *jiuye* program was somewhat altered ten years later. During the Sixth National Conference of Laogai Works in 1964, the principle of “keeping four and freeing four”¹⁴⁹ was passed. It required to retain four types of prisoners: those who were poorly reformed, lived along the border or the coast, would be dangerous to the society if released, and had special circumstances, and to free four types of prisoners: those who were well reformed, lived in the rural areas, declined to stay or were needed by their families, and were old, weak, sick and disabled so that lost their counter-revolutionary capacity and caused little risk to the society. The transition in policy was due to the alteration in the formation of prison population over the past years. During the late 1940s and the entire 1950s, most of prisoners were counterrevolutionaries so it was correct to adopt the policy of keeping many and freeing few, but in the early 1960s 80% of the prison population were people of working class and consequently it was inappropriate to apply the same policy. In addition, CCP administration also classified the *jiuye* team members into four groups based on their political status from low to high: (1) who were landlords, rich people, counterrevolutionaries and bad-influencers (including those members whose hats had been removed), (2) who were not landlords, rich people, counterrevolutionaries or bad-influencers, (3) who were qualified to be reserve workers, and (4) who were qualified to be regular workers. According to their performance, *jiuye* team members could be promoted to higher or be demoted to lower groups.

With regard to the handling of *laojiao* inmates who completed their term of reeducation through labor, since *laojiao* itself was treated as another type of forced job placement for training the deviants into socially good citizens, there was no a unified policy for the management of ex-prisoners who were relieved from *laojiao* units and various measures were applied depending on the circumstances. Soldiers

¹⁴⁶ 最高人民法院、公安部、内务部、劳动部《关于刑满释放、解除劳教后能否回原单位就业及其批准权限问题》的批复。

¹⁴⁷ 公安部关于在第二次全国劳改工作会议决议下达前刑满释放的分子可否收留安置就业问题的批复。

¹⁴⁸ 全国总工会劳动保险部、公安部十一局关于在刑满就业人员中不实行劳动保险条例的批复。

¹⁴⁹ 四留四不留。

who were relieved from *laojiao* units, for example, could return to their original troops if their military status were still kept; if not, these veterans would be rejected from the original troops and acquire a job with local government's referral or stay in *laogai* teams (Notification on Settling Down Ex-Laojiao Inmates Who Used to Be Soldiers).¹⁵⁰ Rightists who were released from *laojiao* units were eligible to remove their hats unless they performed extremely bad during their *laojiao* period. If their work status were kept, they could return to the original work units; if not, they could choose to join people's commune or stay in their *laojiao* units. Skillful ones who chose to stay in *laojiao* units shall be compensated at the same rate as ordinary skilled workers. Those ex-*laojiao* inmates who were intellectuals, celebrities in the capitalist class, or ex-cadres of CCP shall be properly placed by local governments (Notification on Cleaning Up the Rightists in Laojiao Units).¹⁵¹ Thus for the skillful ex-*laojiao* inmates who voluntarily stayed in the original *laojiao* units or for the ex-*laojiao* inmates with special qualifications, there was also a similar type of *jiuye* program. The principles of "distribution according to one's job performance" and "equal pay for equal work" were also applicable to those *laojiao* and *jiuye* team members.¹⁵²

Those ex-prisoners who were discharged from *jiuye* teams or who were relieved from *laojiao* units would receive the wage for the month during which they left *jiuye* teams or *laojiao* units, allowance for their previous production works, and disability pension if they suffered permanent harm and lost working capacity during their reform production.¹⁵³ Since the policy change in 1964, however, the allocation of benefits was also shifted. *Jiuye* team members who belonged to group (3) and (4) were still eligible to receive these benefits while *jiuye* team members who belonged to group (1) and (2) would not receive allowance for their previous production works and would acquire limited disability pension (Interim Rules for the Treatments of *Jiuye* Team Members, Prisoners, Laojiao Inmates When They Were Cleaned Up and Necessary Budget).¹⁵⁴ Besides, once they returned to their own hometown, they had to reactivate their household registration with certification issued by *laogai* or *laojiao* units so as to claim their rationed food and cooking oil (Notification on the Question About the Supply of Food and Cooking Oil for Ex-Prisoners, Ex-Laojiao Inmates, and Discharged *Jiuye* Team Members).¹⁵⁵

During the decade of the Cultural Revolution, the program of forced job placement was completely shut down since 1968; most *jiuye* team members were cleaned up and sent back to their hometowns and the rest members received so low wages that it was only enough to keep the lowest life maintenance. The situation lasted a few years until 1972 when the program of *jiuye* was gradually restored and the policy of keeping four and freeing four played a pivot role during the course of *jiuye* restoration.

¹⁵⁰ 公安部十一局关于部队劳动教养分子解除劳教后安置处理的通知。

¹⁵¹ 公安部关于清理劳动教养的右派分子的通知。

¹⁵² See *supra* note 139.

¹⁵³ *Supra* note 136.

¹⁵⁴ 财政部、劳动部、公安部关于留场就业人员和犯人、劳动教养分子被清理时的待遇及所需经费的暂行规定。

¹⁵⁵ 糧食部、公安部關於被釋放的罪犯、解除勞教的分子和批准離場的就業人員在返鄉後糧、油供應問題的通知。

6. Concluding Remarks

After placing the development of the communist prison system into the social-economic structure in the early decades of PRC from 1949 to 1976, we are able to notice the close connection in between and understand how prison system's function of social control worked in communist in the pre-reform era. Prison in communist China during the pre-reform period was considered as another type of tool of social control in addition to the combination of *danwei*, *bukou*, and *dangan*: the latter was for general labor and the former was for unqualified labor. As summarized in the prior section, the formation of the *danwei-bukou-dangan* combination was a national plan constructed and implemented by CCP for exerting its influence into every citizen's daily life from the economic, demographic, and political aspects, so as to hold the reins of China and maintain its communist and authoritarian regime. The measures of social control through those institutions can be concluded into two ideas: human typology and organized dependence. Not surprisingly, when our vision is turned to onto the ignored population: prisoners, we can note that CCP administration adopted a similar strategy to the management of prisoners in their penal labor camps.

The birth of the system of penal labor camps has manifested, in addition to its punitive nature, the economic and political values of the prison system. During the early years when communist China was just established, labor force was in an extreme shortage and prison population, an unused vault of great amount of labor force, promptly filled up the gap of human resource. Thus the system of labor reform camps was called "special state-owned enterprise." Moreover, from a political point of view, social stability has been the major concern of CCP administration since its takeover of the territory and thus preventing any social disorder is the central precept of the government. Since labor reform camps were mostly located in desolate areas for prisoners to bring them under cultivation or to set up the basic infrastructure, this measure kept those socially unstable elements away from the masses and under the control of public security cadres. Consequently, penal labor camps in communist China were positioned as the amalgam of criminal sanction, economic production, and political control.

The organization of a *laogai* camp and its inmates control measures shared several critical features with work unit in state-owned enterprises and the system of household registration. Inside a camp it was equipped with a party-state mechanism which was set up for political works, self-sufficient financial structure under the supervision of government, and production units managed and administered by *laogai* team captains. In addition, ordinary citizens needed to register their personal information in the *bukou* system, and similarly, prisoner identification card catalogued every inmate's personal information as well; every labor reform unit, just like regular work units in the society, would build prisoner's political dossier. Furthermore, there was also a type of human typology that fitted the settings of penal labor camps; the four criteria used for prisoners' classification were their capability of labor, political elements, and corrigibility as well as the government's reputation, and the first two were the most important ones. Therefore, the kind of prisoners the government would like to keep inside *laogai* camps was those who were able to labor; on the contrary, the elderly, weak, sick and disabled prisoners would higher possibility than ordinary ones to be released for their low capacity of labor and productivity. As for juvenile ones, the government would have ill reputation if they were incarcerated with and receive the same corrective treatments as adult criminals, and their low productivity as well as high corrigibility made them incompatible with the *laogai* settings. Besides, for prisoners with hats of landlord, rich farmer, counterrevolutionary, bad-influencer, or rightist, they

would be differentiated from ordinary ones and receive special attention and treatments for their ill components to the socialist society.

The amalgam of criminal sanction, economic production, and political control in contemporary Chinese prison system in the pre-reform era has manifested some critical characteristics. In the first place is that, rather than rule of law or even rule by law, this early mode of communist prison was completely ruled of man. Even though there were three major rules for the administration of labor reform camps and post-release management: Regulations on *Laogai* of 1954, Interim Measures for Forced Job Placement of 1954, and Details for Labor Reform Teams of 1962, as well as single administrative order of *laojiao*: State Council's Decision on the Question about Reeducation through Labor of 1957, they simply gave either abstract guiding principles or stipulations on interior administration and thus numerous follow-up administrative prescriptions and explanations were distributed by competent government agencies. These rules and follow-up administrative orders failed to satisfy the requirements of substantive or procedural statutes in the criminal and penal fields of modern times; moreover, during the decades of pre-reform era, the whole political situation was filled with turbulences and very unsteady, and hence those rules and orders were never enforced seriously and consistently by the local officials. Besides, prison system was under the supervision of Ministry of Public Security instead of Ministry of Justice, by which it expressed the thought that for CCP prison was more a political control method than a legal one. Consequently, the incompleteness of prison laws and the arbitrariness of policy enforcement represented a period of rule of man (Zhang 2000: 541-542).

The second characteristic is that production replaced reform or punishment as the first and the foremost goal of prison works and under the mandate that prison must be self-sufficient, prisoners were nothing but exploitable labor force rather than criminals who were needed to be punished or deviants who were needed to be reeducated. Under the circumstance that reform works inherently relied on the production works, it was no doubt that the reform purpose had to yield to the economic demands and the directive "reform first and production second" served as a mere slogan in the labor reform spots despite the central government's strong appealing. The third trait is that the way of Chinese imprisonment can be summed up as to keep those socially bad elements away from the crowd and therefore prisons had to be established in the remote districts. The deployment of prisons and the *jiuye* program caused an inevitable result that labor reform camps and their adjacent areas formed a small society containing prison, enterprise (farm, factory, mine, etc.), and other social groups which provided daily supports such as electricity, water, medication, education, or post service. In this kind of prison-based society, the source for prison personnel was mainly from the original staff member's children and thereby it became a self-circling prison-labor complex (Zhang 2000: 542-545).

Consequently, we can summarize the reform/reeducation through labor mechanism in the pre-reform era. The CCP administration utilized the means of "forced labor as punishment" to deal with the huge amount of criminals and deviants and attempted to remold them into good labor so that they would be able to reenter the socialist society. The details of the reform strategies shared several similarities with the general structure of social control, including the installment of party-state, the prisoner cards and dossiers, and the typology of prisoners. The mixed nature of prison formed labor reform/reeducation camps into a prison-labor complex, which was designed to produce a class of good labor into and eliminate the bad materials out of the socialist society through the production line. In other words, *laogai* mechanism in the early decades had a dual function: it manufactured not only good products but also good labor force, and the rewards and penalty system and the checking of political thoughts were applied to enhance the quality of labor suitable for the socialist society.

Chapter Two: Penal Labor Camps and Social Control in Pre-Reform China

Dutton's observation (1992b) that *laogai* camps produced not only a certain subject but also the entire proletarian class consolidates the conclusion here.

Chapter Three

Prison Regulation and Market Development in Post-Reform China

1. Introduction

After knowing the social structure in the pre-reform era, the history of *laogai*, *laojiao* and *jiuye* institutions then, the connection between the general social control methods and penal control measures, and the inception of prison-labor nexus by applying the idea of forced labor as punishment in the special time and space right after the establishment of communist China in 1949 in chapter two, this chapter will focus readers on the changes made to the formation of prison system from the combination of prison and enterprise to the separation of them during the post-reform era when the penal labor camps were confronted with the tremendous shift of economic system. The post-reform era usually points to the period since China commenced the economic policy of reform and opening up in 1979 to present.

This chapter plans to move further to inspect the embeddedness of penal control in a broader economic structure in China in the post-reform era. Now that it has been known that in the pre-reform age the carceral system was operated in the style of people's commune and organized prisoners in a collective way to work on farms, mines and other infrastructure construction sites so as to improve the state's economy as well as the prisoners themselves, and therefore it had formed a type of prison-labor complex. In this chapter, we are going to observe how the prison-labor complex evolved along when in the face of crises during the period of reform and opening up and the period of socialist market economy.

At first the chapter will brief the detriments the Cultural Revolution had incurred to the society and then explains the measures made to restore the economic order in the second half of the 1970s. Subsequently the chapter will further lay out the crucial shifts made to restructure the entire economic system with special focus on the policy of reform and opening up and the pivotal transition to the socialist market economy. Within such a turbulent economic context, the chapter next is going to demonstrate the flexible nature of the prison-labor complex and the reflections and adaptations of its constituent parts to the external alternations, including prisoner dossiers, prisoners' living conditions, the changes in prison cadres, the production model and financial structure, the separation of *laogai* and *laojiao* in their organization, and evolution of the post-release management of prisoners.

2. Changing the Economic Track

2.1. Recovery from the Cultural Revolution, 1976-1978

During the decade of Cultural Revolution, it was also the period that the Western capitalist countries developed the newest technology and expanded their economic power. As to the East Asian countries, Japan, for example, suffered great loss from the stampede in World War II and in 1950 its GNP (Gross National Product) fell far behind the countries in the capitalist world such as the United States, United Kingdom, France, or Germany, and even behind Canada and India. Nevertheless, Japan's GNP passed India in 1954, Canada in 1960, United Kingdom and France in 1967, and tied with Germany in 1968. When coming into the 1970s, Japan had become one of the biggest economic entity

in the world and was only inferior to the United States and Soviet Union. Germany, another defeated country in the World War II, its GVIAO (Gross Value of Industrial and Agricultural Output) had increased by 2.1 times during the 1950s and by 1.2 times through the 1960s (Xiao & Sui 2011: 167-168).

In comparison with these countries, China was in an extreme chaos since the late 1950s when the tremendous famine started to sweep across entire China in 1959 and later in the mid-1960s the situation aggravated when the Cultural Revolution was kicked off and shrouded the country from 1966 through 1976. The ratio of profit to capital (the higher the better) of all industrial enterprises in China in 1976 was only one half of the ratio in 1965; one third of all enterprises then were in the red with a deficit of RMB 7.3 billion in total. The average wage didn't rise and even went down by 6% through the ten years and peasants acquired less than before from their collective farming. In 1955 4.7% of the world's GDP came from China while it went down to only 1% in 1978 (Xiao & Sui 2011: 169).

In addition, China also had a great loss in its science and technology enterprises. The original 106 departments of Chinese Academy of Science declined by half to only 53 in 1973, and there used to be more than 60,000 people in the research staff before the Cultural Revolution while only around 28,000 of them survived the catastrophe. The number of college graduates dropped by one million in total during the devastating decade, and the number of senior high school students also faced a steep fall from 962,000 in 1960 to 48,000 in 1970. Senior high schools were shut down and teachers were humiliated in public or being persecuted; vast majority of students from colleges and senior high schools joined the "Red Guards"¹⁵⁶ to engage in large-scale political destruction during 1966 through 1968 and later they were mobilized to participate in the "Up to the Mountains and Down to the Villages" movement.¹⁵⁷ Consequently, the Cultural Revolution incurred dreadful influence on every aspects of the society and encumbered both the development in science and technology and the quality of human capital as well (Xiao & Sui 2011: 170).

Soon after Mao's death in September 1976, the major Maoist leaders, Qing Jiang, Chunqiao Zhang, Hongwen Wang, and Wen yuan Yao, all of whom were the so-called Gang of Four,¹⁵⁸ were deprived of their power by a military coup in October 1976, and the Cultural Revolution was thus terminated. Guofeng Hua, the designated successor by Mao, took power after Mao's death and announced in August 1977 that the "first" cultural revolution was successful and over. Hua soon lost his power to Xiaoping Deng because he determined to follow Mao's legacy of Cultural Revolution; Deng returned in power and then directed China into a way opposite to Mao's (Wu 2013: 309). After the crash of the Gang of Four, the social turmoil was gradually calmed down and the economy was undergoing a slow recovery through 1978.

¹⁵⁶ 红卫兵。The Red Guards were organized by chairman Mao and the Minister of Defense Biao Lin to create a strong group of political support, by which they could purge the society and eliminate their opponents within CCP, the government, and the military troops (Heaslet 1972: 1032-1047).

¹⁵⁷ 上山下乡运动。This movement was brought about by chairman Mao to unleash the population pressure for urban employment the and dissolve the destructive power of the Red Guards, Mao embarked on the movement to send 12-17 millions of educated urban youths to remote areas and rural villages (Lin 2002: 303-306).

¹⁵⁸ 四人帮。

2.2. Reform and Opening Up, 1979-1991

2.2.1. The Outset of Economic Reform

The Third Plenary Session of the Eleventh Central Committee of CCP¹⁵⁹ was held in Beijing from December 18 through 22, 1978, during which Deng focused the duty of the CCP and the government on economics rather than politics; he gave priority to the development of agriculture for he considered it as the basis of the Chinese society, on which future developments and the improvement of people's life shall be established. More importantly, in this plenum the Party reached a consensus that for advancing the socialist infrastructure, a policy of reform and opening up must be adopted. Reform mainly referred to the transition from central planned economy to socialist market economy; opening up of economy referred to the expansion of foreign trade. China had to engage in economic cooperation with other countries, to learn their advanced technology and equipment, and to strengthen the scientific and educational works for the goal of modernization (Xiao & Sui 2011: 183-184).

Soon after the plenum, People's Daily, the mouth of the CCP, published an editorial on January 1, 1979 with the title "Concentrating Most Energy on Production and Development,"¹⁶⁰ stating that China must learn from the experience of other countries if it was useful for China's modernization; there was never a country which completed the mission of modernization on its own and the United States and Japan were appropriate examples here; China shall not close the door and refuse to absorb the advanced technology and modern management of production from the capitalist countries. Consequently, the traditional economics of Maoism needed to be quitted and a new strategy of reform and opening up was adopted (Xiao & Sui 2011: 184-185).

"Come Down to Earth"¹⁶¹ was the guiding principle of the Chinese government's major policies in the post-1978 era. As Deng's famous saying in the years before the Cultural Revolution "it does not matter whether a cat is white or black, as long as it catches mice, it is a good cat."¹⁶² It explains why since then economics instead of politics has been in command and has led the direction of China's movement in the ensuing decades. The CCP leaders realized that they had to give priority to economic construction and make a good job of it. China's approach thus followed Marxian ideas that the development of productive forces shall be given priority and changes in the superstructure level were secondary. In the "Central Committee of CCP's Resolution on Some Historical Questions of the Party since the Establishment of the Country"¹⁶³ in 1981, the CCP administration argued that China was in the primary stage of socialism for the first time; later in the report "A Full-Scale Initiation of New Situation of the Modernization of Socialist Construction"¹⁶⁴ by Central Committee of CCP in 1982 and in "Resolution on the Guiding Principles for the Construction of Socialist Spiritual Civilization"¹⁶⁵ in 1986, the CCP expounded that "our country was still in the primary stage of socialism so we not

¹⁵⁹ 十一届三中全会。

¹⁶⁰ 把主要精力都集中到生产建设上来。

¹⁶¹ 实事求是。

¹⁶² 不管白猫、黑猫，能抓到老鼠就是好猫。

¹⁶³ 中国共产党中央委员会关于建国以来党的若干历史问题的决议。

¹⁶⁴ 全面开创社会主义现代化建设的新局面。

¹⁶⁵ 中共中央关于社会主义精神文明建设指导方针的决议。

only have to apply the policy of ‘distribution according to one’s job performance’ and develop commodity economy and competition under socialism, but also have to, through a very long period of time, develop several economic elements under the prerequisite and the mainstay of public ownership and to encourage some people to get rich under the ultimate goal that all people become rich.” Later in 1987 the CCP issued a report “Advance along the Road of Socialism with Chinese Characteristics,”¹⁶⁶ in which the current situation was summarized into that China was already a socialist society and shall not deviate from it, and the Chinese socialism was in its primary stage and we had to set off from this point and shall not skip it.

2.2.2. Early Changes in the Rural Areas

The setout of economic reform showed up firstly in the rural areas. In his talks in 1980, Deng encouraged to widely adopt the program of “Household Contract Responsibility System,”¹⁶⁷ which had been already used on some farms during the years after the termination of Cultural Revolution. A few months later, the CCP legalized it by promulgating a decision “Notification on A Few Question about Moving Further to Strengthen and Perfect the Agricultural Production Responsibility System,”¹⁶⁸ which allowed production responsibility system to be used in rural areas and emphasized that this system could have different types upon the local circumstances and that no matter the “full responsibility to household”¹⁶⁹ or “fixing output quotas for each household”¹⁷⁰ were one mode of the system so they belonged to socialism rather than deviated from the socialist track. As a consequence, the contract responsibility system in farm production soon spread through the rural areas across the country: in 1980 it was only 1.1% of peoples’ communes applied such a system while as of 1983 the number has increased to 93% and the most used mode was full responsibility to household (*baogan daobu* or *dabaogan*) (Xiao & Sui 2011: 185-187). The system got officially approved on January 1, 1982 when the Central Committee published the “Minutes of National Meeting of Rural Tasks,”¹⁷¹ which recognized all types of contract/production responsibility used in the rural areas; the difference between each type manifested only the size or mode of a certain labor organization and had nothing about the advantages or defects in its production mode.

Now that the collective farming system had been completely replaced by the wide use of production responsibility system, in the meantime, people’s commune, the combination of economic organization and administrative district, was viewed as out of fashion and came to its end in a short

¹⁶⁶ 沿著有中国特色的社会主义道路前进。

¹⁶⁷ 家庭联产承包责任制。

¹⁶⁸ 关于进一步加强和完善农业生产责任制的几个问题。

¹⁶⁹ 包干到户，see *supra* note 5.

¹⁷⁰ 包产到户。Different from the traditional collective way in which all farmlands belonged to the people’s communes and every commune member had to work and share together, this system allows to distribute the farmland to each household based on its labor power or according to the proportion of its labor in the total population in certain rural area. The households then sign contracts with the production team and are bound by the contracts to produce stipulated agricultural output. There are provisions for bonuses for additional output and fines for failing to satisfy the fixed amount. The production team is responsible for accounting and distribution with respect to that portion of production done under contract (Johnson 1982: 437-438).

¹⁷¹ 全国农村工作会议纪要。

time. According to Article 95 of the Constitution of PRC of 1982, rural areas were required to establish their own local governments and adopted the split mode of government and commune instead of the traditional mode of combination. Then in 1983 Central Committee of CCP and State Council issued “Notification on Carrying out the Separation between Government and Commune and Establishing Township Government,”¹⁷² which abolished the system of people’s communes and set up township governments as the primary-level administrative organization; besides, this notification also gave birth to “Villager’s Committee” in every rural areas,¹⁷³ which is an autonomous organization consisting of villagers and works as an intermediate between villagers and local government and assists government with its administration and farm production.

The wide use of production responsibility system manifested the transition from the collective economics in people’s communes to household farming on the contracted farmlands; it not only changed the farming style, but also extended to the forestry, fishery, and livestock husbandry. Under the household-based system, the duties of production plans, farming activities, and cost accounting have been transferred from production teams of people’s communes to each household; similarly, the traditional way of collective use of land and production materials were also changed into distributed use and handed over to each household. This was an institutional change in the agricultural production, during which the productive force was successfully liberated and hence stimulated the gigantic growth in the agricultural production. The quantity of food production in 1984 was 400 billion kilograms, which was 100 billion kilograms more than the quantity in 1978, the total agricultural output increased by 68%, and the income of peasants also increased by 166%. After solving the food problem and the unleashing of labor force in the villages, it has laid the foundation for the future developments of Chinese economy (Xiao & Sui 2011: 188-191).

2.2.3. Early Changes in the Urban Areas

With regard to the economic reform in the urban districts, it initially showed up in a scattered and sporadic way until 1984 when the Central Committee of CCP approved “Resolution on the Reform of Economic System”¹⁷⁴ in the Third Plenary Session of the Twelfth Central Committee of CCP¹⁷⁵ in October. During the period from the termination of Cultural Revolution to the promulgation of the resolution, the CCP officials were attempting to figure out a way through which the Chinese economy could recover soon. The main idea they learned from other countries, particularly the socialist ones in Eastern Europe during the mid-twentieth century, was to apply the market socialism (Wu & Fan 2015: 56). It was expected that the economic performance of enterprises could be much improved by setting up a market as a mediator between the state and enterprises. The first step was to transform current state-owned enterprises into the subjects of market via easing up their restrictions and granting them the operational autonomy to some extent. Therefore, the central government selected a few state-owned industrial enterprises to implement the pilot reform program of expanding enterprises’ autonomy in their production, sale, finance, personnel management, and rewards and penalty for performance in the late 1970s and extended the program to other types of industries and departments, including commercial, building, communication, post and cable service, and military, in the early 1980s

¹⁷² 中共中央、国务院关于实行政社分开建立乡政府的通知。

¹⁷³ 村民委员会。

¹⁷⁴ 关于经济体制改革的决定。

¹⁷⁵ 第十二届三中全会。

(Xiao & Sui 2011: 191-192). The process was described as “crossing the river by feeling the stones”¹⁷⁶ because through a series of trial and error China could find the most appropriate method for economic modification eventually (Wu & Fan 2015: 57).

As the Cultural Revolution was over, the urban youths who had been sent to the mountains or villages during the revolution were allowed to return to their hometowns and it caused the severe problem of unemployment due to the flush of tens of millions urban youths into the cities. For going through the problem, in February 1979 the central government approved the unused labor force with legal urban *bukou* to be self-employed in repairing and service industry or handicraft while they were not allowed to hire someone else; in August 1980 the Central Committee of CCP published a notification “Moving Forward to Do Well at the Tasks of Employment in Cities and Towns,”¹⁷⁷ which required local governments to encourage self-employed workers to set up private enterprises and foster their development; in July 1981 the “Some Policy Provisions on the Urban Non-Agricultural Private Economy”¹⁷⁸ by State Council stated that self-employed households may, if necessary and approved by the competent officials, “seek the assistance of one or two helpers; technology-based businesses or businesses requiring special skills may take on two or three while no more than five apprentices.”

As the private economy grew up steadily, it finally received official recognition and protection from the Constitution of PRC and relevant laws. The Constitution of PRC of 1982 included private economy into its Article 11, which viewed private economy as a complement to the socialist public economy; the state would protect the lawful rights and interests of the private economy and would also guide, assist and supervise it by administrative control. Later in October 1984 the “Resolution on the Reform of Economic System” by Central Committee of CCP pointed out that the government had to provide assistance and legal protection to the development of private economy in cities and towns and also had to clear possible barriers alongside the way. Private economy was therefore enshrined in the Constitution and the resolution proffered policy and legal preservation for the development of it.

Besides, for the policy of opening up, the central government set up “special economic zones”¹⁷⁹ in certain coastal cities so as to create the connection with the global market. The central government firstly selected Guangdong and Fujian provinces to implement some special policies and flexible measures to lead in the foreign capital, in particular from overseas Chinese people, and pivotal technology from Taiwan, Hong Kong, Macau, and other countries. In 1980, the government formally established the first four special economic zones, and in 1984, fourteen port cities were also opened up. Since then a system of special economic zones along China’s coast, rivers, and borders was gradually created (Wu & Fan 2015: 58; Bramall 2009: 366-367). For promoting the foreign trade, the central government made some modifications to the system of exchange rate by adopting a new mechanism of double exchange rate for RMB. Since 1981, the original exchange rate of USD 1 for RMB 1.5 then was for non-trade use only while another exchange rate, USD 1 for RMB 2.8 then, was reserved for foreign trade. This policy was implemented for encouraging more export and less import (Xiao & Sui 2011: 200). Moreover, the central government also formed an independent and unified

¹⁷⁶ 摸着石头过河。

¹⁷⁷ 进一步做好城镇劳动就业工作。

¹⁷⁸ 关于城镇非农业个体经济若干政策性规定。

¹⁷⁹ 经济特区。

system of customs management in 1984 for regulating the foreign trade activities. Consequently, those adjustments were advantageous to the policy of opening up and helped China to be integrated in the world market.

By applying those flexible institutional arrangements mentioned above, the central government was giving space to the market-oriented non-state sectors for their survival and growth, whereby laying the foundation for future economic reform. By the mid-1980s, the non-state sectors accounted for one third of industrial output; they not only held a large share of industrial production but also of the national economy (Wu & Fan 2015: 58). After undergoing the period of trials and errors in the primary phase of economic reform, it was time to clarify and determine the objective of the next step.

2.2.4. Establishing a Planned Commodity Economy

For avoiding the “Error of Left Leaning” or “Left Errors”¹⁸⁰ that caused the calamity of Cultural Revolution, Deng, in a meeting with foreign visitors in 1979, stated it was incorrect that market economy only exists in the capitalist society; on the contrary, socialist society can also have a market economy. In the same year, a political report from the CCP also pointed out that we had to build a system that employed planned economy as its mainstay and put market system in an auxiliary position. The “Resolution on Some Historical Questions of the Party since the Establishment of the Country,” promulgated in 1981 by the Central Committee of CCP, indicated that on the basis of public ownership, China had to maintain the planned economy, develop a market system alongside that could adjust the holistic system in an auxiliary position, and encourage the socialist commodities production and exchange. During the Twelfth National Party Congress of CCP¹⁸¹ in September 1982, the party approved the principle “planned economy as the mainstay, market adjustment as a supplement,” which was described by Deng as “socialism with Chinese characteristics”¹⁸² in his opening speech in the same national party congress meeting. All the above had laid the foundation for future developments of market economy in China in the following decades (Xiao & Sui 2011: 204-205).

When it came to the Third Plenary Session of the Twelfth Central Committee of CCP in October in 1984, the party approved the “Resolution on the Reform of Economic System,” which symbolized the next stage of economic reform for the socialist country. The most important part of the resolution was that it refuted the traditional idea which viewed planned economy as the opposite of commodity economy. It defined socialist economy as a “planned commodity economy on the basis of public ownership.” The new idea about socialist economy differentiated the difference between mandatory plans,¹⁸³ guidance plans,¹⁸⁴ and market regulation,¹⁸⁵ and determined to implement a commodity economy moderated by plans and market. The resolution confirmed the commodity nature within the socialist economy and declined the concept that planned economy contains only mandatory plans. It therefore marked off a new stage of economic reform in China (Xiao & Sui 2011: 206; Wu & Fan 2015: 58).

¹⁸⁰ 左倾错误。

¹⁸¹ 中国共产党第十二次全国代表大会。

¹⁸² 有中国特色的社会主义。

¹⁸³ 指令性计划。

¹⁸⁴ 指导性计划。

¹⁸⁵ 市场调节。

Later in the Thirteenth National Party Congress of CCP¹⁸⁶ in October 1987, the new system of planned commodity economy was further defined as the inherent unification of plans and market; to be clear, the guiding principle of the new economic system shall be that “the state regulates the market, and the market guides the enterprises,” which means the state exerts the economic and other measures to regulate the relationship between supply and demand in the market, and through building a good set of installations in the market, the enterprises will be guided to make correct operating policies (Xiao & Sui 2011: 207).

After making clear the institutional objective to establish a planned commodity economy, the Resolution on the Reform of Economic System further proposed three emphases for the following economic reform: to revitalize the enterprises, to foster market, and to reinforce the macroeconomic control. The three emphases appropriately matched the three factors of the new economic system: the subject of market, market itself, and the state, and the focal point of reform was gradually transferred from rural villages to cities after the publication of Resolution in October 1984.

For revitalizing the enterprises, the CCP administration applied the policies of government-enterprise separation and the broadening of the autonomy of state-owned enterprises. In the first place the state imposed enterprises of income tax at fixed rate instead of collecting profits from them, but the rigidity of tax regulation depleted their willingness to compete.¹⁸⁷ Therefore, the state in 1984 transplanted the production responsibility system from rural villages to cities at some pilot spots, and state-owned enterprises were then allowed to sign contracts with other persons and legal entities based on their own decisions and thus they had to assume the responsibility for their own profits and losses. After a couple of years’ pilot program and learning from the experience, the State Council published “Some Provisions on Deeping the Reform in Enterprises and Augmenting Their Vitality”¹⁸⁸ in December 1986, which decided to promote the contract/responsibility system of variety so as to enhance enterprises’ autonomy. The promulgation of “Interim Regulations on the System of Contract, Management and Responsibility in Industrial Enterprises in Public Ownership”¹⁸⁹ in February 1988 expanded the use of the system to other kinds of enterprises and improved this system (Xiao & Sui 2011: 210-211).

Besides, while the contract/responsibility system was only applicable to the enterprises of large or middle size, small enterprises otherwise had to use the enterprise-leasing system, by which the state could maintain its ownership of the small enterprises while the enterprise executive, i.e. the lessee, had the authority to run the enterprise by paying rent to the state. Both the contract/responsibility and the enterprise-leasing system were designed to separate ownership from management of enterprise; enterprises in the former pattern had to pay certain percentage of their profits to the state and in the latter pattern enterprises had to pay the rent to the state pursuant to the provisions in the individual leasing contract. As of 1992, vast majority of all state-owned enterprises had applied the system of contract responsibility in different types, and the application of the system assisted those enterprises to greatly enhance their productivity (Xiao & Sui 2011: 210-211).

¹⁸⁶ 中国共产党第十三次全国代表大会。

¹⁸⁷ For details of the system of taxes then, see Easson & Li: 1987: 416-421.

¹⁸⁸ 关于深化企业改革增强企业活力的若干规定。

¹⁸⁹ 全民所有制工业企业承包经营责任制暂行条例。

With regard to fostering a market system inside the or planned economy, we can focus on the labor market (Xiao & Sui 2011: 223-224). In the first place the management of rural labor force was the main problem. The widespread of household production responsibility system brought about a large amount of surplus labor in the countryside so the surplus labor circulated between villages and engaged in the handicraft and other types of sideline as well as farming. Some of the surplus labor would move into towns and cities to earn higher wages there, but since these migrant workers¹⁹⁰ didn't have urban *hukou* and hence were not allowed to work in urban districts, they caused some problems about the demographic regulation and the public order. For dealing with the problem of migrant workers, at first the central government still insisted on the rigid rural-urban separation and issued "Notification on the Strict Control over That Rural Labor Forces Enter Urban Areas to Work and That Agricultural Population Changes into Nonagricultural Population"¹⁹¹ in 1981, but later the policy was changed. The central government loosed the rural-urban separation in *hukou* system in 1984 by the issuances of "Notification on the Village Works of 1984"¹⁹² and of "Notification on the Question regarding Peasants Migrate and Settle in Market Towns."¹⁹³ Then in 1986 the "Interim Provisions on the Recruitment of State-Owned Enterprises"¹⁹⁴ allowed state-owned enterprises to hire rural labor as their workers, and in 1991 the "Regulations on the Recruitment of Contract Workers from Rural Areas by Enterprises Owned by the Whole People"¹⁹⁵ even stipulated that migrant workers enjoyed the same level of wages and benefits as ordinary workers. Those measures advanced the flow and redeployment of rural labor force.

As for the labor market in cities and towns, Central Committee of CCP issued "Some Regulations on Widening Avenues, Invigorating the Economy, and Solving the Problem of Employment in Cities and Towns,"¹⁹⁶ which encouraged enterprises to recruit contract workers and part-time workers in addition to the original permanent workers; whereby it made the rigid labor deployment started to flow. In 1985 Ministry of Labor kicked off a pilot program of wages reform in the state-owned enterprises and in the next year the State Council issued "Notification on the Four Provisions for Labor System Reform"¹⁹⁷ to promote the use of contract labor and unemployment insurance. The promulgation of "Interim Provisions on the Application of Labor Contract in State-Owned Enterprises"¹⁹⁸ help to break the traditional institution of "iron rice bowl."¹⁹⁹ The release of "Law of PRC on Industrial Enterprises Owned by the Whole People"²⁰⁰ in 1988 and "Regulation on the Transformation of Operational Mechanism of the Industrial Enterprises Owned by the Whole People"²⁰¹ in 1992 defined the industrial enterprises owned by the whole people, one type of state-owned enterprises, as an independent legal entity and applied the labor contract system to all their

¹⁹⁰ 农民工。

¹⁹¹ 关于严格控制农村劳动力进城做工和农业人口转为非农业人口的通知。

¹⁹² 关于 1984 年农村工作的通知。

¹⁹³ 关于农民进入集镇落户问题的通知。

¹⁹⁴ 国营企业招用工人暂行规定。

¹⁹⁵ 全民所有制企业招用农民合同制工人的规定。

¹⁹⁶ 关于广开门路、搞活经济、解决城镇就业问题的若干规定。

¹⁹⁷ 关于改革劳动制度的四个规定的通知。

¹⁹⁸ 国营企业实行劳动合同制暂行规定。

¹⁹⁹ 铁饭碗。It means permanent employment with guaranteed income and benefits.

²⁰⁰ 中华人民共和国全民所有制工业企业法。

²⁰¹ 全民所有制工业企业转换经营机制条例。

employees, including the new recruited and the already employed. Ministry of Labor also released a “Notification on the Pilot Program of the Extended Use of Labor Contract System to All Employees”²⁰² in 1992, which enlarged the use of contract labor system to all employees, including the new recruited and the already employed, of vast majority of all state-owned enterprises. These reforms in state-owned enterprises and the development of private enterprises jointly promoted the flow of labor (Xiao & Sui 2011: 224).

With respect to the enforcement of macroeconomic control, we can pay our attention to the price reform. Chinese prices were determined by the state rather than market forces, and this fashion was not changed until the mid-1980s. The changes in price control reflected in three dimensions: farm commodities, production materials and tools, and industrial products. For grain and cotton, the old system of unified purchase was replaced by contract purchase earlier in 1985, and the purchase price depended on the provisions in each contract. Later in 1985 the use of contract purchase was extended to the purchase of livestock and vegetables. For production materials and tools, the State Council in 1984 published “Provisions on Moving Forward to Enlarge the Autonomy of State-Owned Industrial Enterprises,”²⁰³ which stipulated that the price of production materials and tools, after fulfilling national plans, the surplus of output could be put on the market and enterprises could determine the price within the range of 20% more or less of the price procured by the state;²⁰⁴ in the next year the 20% limitation was repealed. As for industrial products, the CCP administration applied the same strategy to their price; enterprises were allowed to determine and adjust their market price after fulfilling the requirements of national plans (Xiao & Sui 2011: 215-216). Since then, the dual-pricing system for numerous products was thus formed.

Milton Friedman used to tell Chinese leaders that “the present dual-pricing system for many products in China is an open invitation to corruption and waste” during his visit to China in September 1988 and suggested to reform the dual-pricing system and decontrol prices, but Chinese leaders then did not accept his advices. As the prior reforms were slowed down and currency were issued excessively in the late 1980s, two major problems were just showing up. The first was the inflationary pressures due to the sharp increase in the issuance of currency and it had caused a wave of panic buying across the country in 1988; the second were a lot of rent seeking activities and corruption for the coexistence of different economic systems, different prices for the same product, and other twin-track systems in economic activities, all of which institutionally allowed the misuse of administrative power to secure personal gain. The economic chaos caused China’s development sluggish and the Tiananmen Square Incident in 1989 made it even worse. For preventing any possible economic and political disturbances or even crises, Chinese leaders, led by Deng, decided to proceed with the next step in economic reforms, namely to build a socialist market economy (Wu & Fan 2015: 62).

2.3. Installment of A Socialist Market Economy, 1992-present

During his inspection tour of a number of cities in south China in January and February 1992, Deng made clear his ideas about the future reform strategies to local political leaders, cadres, and the public. He emphasized that reform was to liberate and foster the productivity of the society and reiterated

²⁰² 关于扩大试行全员劳动合同制的通知。

²⁰³ 关于进一步扩大国营工业企业自主权的规定。

²⁰⁴ For example, if the state procures a thing at 10 dollars, the range of the thing’s market price is from 8 to 12 dollars.

the compatibility of socialism with market. He insisted that planned economy was not equal to the socialism and the capitalist countries also have their plans; market and plans were only economic measures, not the nature of certain economic system; only through bold trials and errors can the economic reform finally succeed and then reach the goal of equal distribution of wealth (Wu & Fan 2015: 63; Xiao & Sui 2011: 244-245).

The Fourteenth National Party Congress of CCP²⁰⁵ was convened in October 1992 and officially announced its decision that the goals of China's next step of economic restructuring were to establish a socialist market economy²⁰⁶ and to have market forces serve as the basic measures of regulating the distribution of resources under the macro control by the state. The Chinese leaders' basic consensus was that history had showed once falling behind in economy, the state would be under control of others, so development was not only an economic problem but also a political one. For accelerating China's economic boom, the whole society had to undergo the process of thoughts liberation and to abandon the disputes over the socialism and the capitalism because they were of no use and even harmful to the economy. After over a dozen years' experiments and adjustments since the kickoff in 1979, the Chinese leaders believed that the socialist market economy had its unique characteristics in the structure of ownership, allocation of resources, and macro control and would speed up the engineering of economic reform. Subsequently, the Eighth Standing Committee of the National People's Congress made an amendment to Article 15 of the Constitution of PRC, replacing the traditional planned economy on socialist public ownership with the socialist market economy in 1993, and later in the same year, the Third Plenary Session of the Fourteenth Central Committee of CCP published "Resolution on a Number of Questions Concerning Establishing a Market Economy,"²⁰⁷ which gave a set of general principles for guiding the execution of Resolution in key fields, such as to improve the management mechanism of state-owned enterprises, to foster the market system, to reform the public finance and taxation, the banking, and the social security system (Xiao & Sui 2011: 246-247).

There were two noteworthy areas in the series of reform strategies: one was the changes in the ownership structure and the other was the changes in the labor market. The Fourteenth National Party Congress of CCP emphasized that with regard to the ownership structure, China was going to build a system based on public ownership; the individual and foreign trade economies and privately run enterprises would serve as supplements to the entire system. Therefore, multiple economic components were expected to cooperate with each other and form new types of operation and management. In 1997 the Fifteenth National Party Congress of CCP²⁰⁸ considered the non-public sectors as an important constituent of the socialist market economy and required to adjust the current ownership structure; state involvement would be confined to important industries and key areas that had strong influence on the lifelines of the national economy. Later in 1999 an amendment was made to the Article 16 of the Constitution of PRC, and the new version stipulated that "non-public economies, including the individual and private economies, are an important constituent of socialist market economy" and "the state protects the legitimate rights and interests of the individual and private economies; the state guides, supervise, and manage the individual and private economies." As the reform plans moved forward through the 1990s, private enterprises step by step occupied a much

²⁰⁵ 中国共产党第十四次全国代表大会。

²⁰⁶ 社会主义市场经济体制。

²⁰⁷ 关于建立社会主义市场经济体制若干问题的决定。

²⁰⁸ 中国共产党第十五次全国代表大会。

more important position in China's economy and in the meantime the share of the state-owned enterprises economy was falling. As of 2002, the number of privately run enterprises had surpassed the number of state-owned enterprises, and the development of township enterprises in rural areas²⁰⁹ and enterprises with foreign capitals also manifested the prosperity of private enterprises in the previous a couple of decades in China (Xiao & Sui 2011: 252-254).

The indicator used for gauging the maturity of a labor market is to see if labor can flow in between freely according to the demands of wages of different enterprises. There was no labor market under the planned economy in China until the economic reform strategies involved in since the late 1970s. The CCP administration allocated workers to work units rather than allowing them to choose their own workplace and household registration policies functioned as a barrier to keep rural people from flowing into cities. Work units recruited workers that were distributed by local labor bureaus regardless of their own needs and workers' wage were paid based on a going rate set by the government instead of their demands or the abilities of workers. Nevertheless, as the reform moved ahead, the construction of labor market was also in the progress.

Following the measures applied in the 1980s, the central government kept its main focus on loosening the restrictions on labor flow. In the cities and towns, using Resolution on a Number of Questions Concerning Establishing a Market Economy as the mainstay, the State Council began the restructuring of state-owned enterprises by demutualization and corporatization in some pilot cities and later across the country. During the reform, the identity of state-owned enterprise workers was altered; originally they were viewed as the "owner of the means of production," but since then some workers were transitioned to stockholder, some were transferred to ordinary workers, and some stepped down from their posts²¹⁰ from the work units. The redeployment of labor force in state-owned enterprises was hence roughly completed while the latter situation brought about drastic waves of unemployment. There were more 30 million workers stepping down from their posts during the 1990s. For resolving the problem, the central government laid down in 1998 a notification stipulating to help the off-post workers maintain their basic lives and get new jobs (Notification on Earnestly Completing the Tasks to Help Off-Post Workers from State-Owned Enterprises Maintain Their Basic Lives and Get New Jobs).²¹¹ Besides, before advancing into the reform era, enterprises were responsible for taking care of the retired workers and for workers' medical care, but this usage was abandoned due to the marketization of those enterprises; the state therefore took on the responsibility and built the institutions of retirement care, medical care, and unemployment insurances during the late 1990s.

As for the development of labor market in the rural areas since the 1990s, the most noteworthy policies were those about the removal of rural-urban separation. Without urban *hukou*, migrant

²⁰⁹ 乡镇企业。We will discuss the role township enterprises in rural areas have played in the practice of *laogai* camps in the subsequent section.

²¹⁰ 下岗。Xiaogang, to step down from a post or off-post, is a Chinese style of layoff. It means enterprises keep workers on their books as *xiaogang* workers, paying them modest benefits without work. Those workers are forced to leave their posts while stay in the work units. During the transition from planned economy to market economy, state-owned enterprises had to find a way to get rid of their redundant workers while at the same time they also had to support the basic lives of those off-post workers due to the poor system of social welfare. For details of *xiaogang*, see Lee 2000: 914-937.

²¹¹ 关于切实做好国有企业下岗职工基本生活保障和再就业工作的通知。

workers were not permitted stay in urban areas and all social benefits and employment policies were reserved only for urban *hukou* residents so migrant workers were severely discriminated in cities and towns. For alleviating the adverse situation, the central government published “A Few Opinions on Advancing the Sound Development of Small Towns”²¹² in 2000, which required every enterprise not to exert discriminative policies against migrant workers; in 2001 the State Council published “Opinion on the Advancement of Reforming the Hukou System in Townships,”²¹³ which allowed rural workers to migrate to townships while cities and towns were still not included. Nevertheless, the problem of discrimination in employment and social welfare against rural workers won’t be rooted out until the separation of rural and urban residents in the *hukou* system comes to an end.

3. Prison-Enterprise Combination in the Market

3.1. Prison Administration

3.1.1. General

The functions of labor reform camps were almost shut down when the Cultural Revolution was in progress. In 1966 the Ministry of Public Security announced that during the period of Cultural Revolution all *laogai* units were not allowed to release any *laogai* prisoners (Notification on the Suspension of Prisoner Release from Labor Reform Units during the Period of Cultural Revolution),²¹⁴ and in the next year the Minister of Public Security then, Fuzhi Xie, even proposed to smash the public security agencies, prosecutor offices, and courts,²¹⁵ and later in the year the authority of all public security agencies and their affiliates including *laogai* teams were taken over by the military (Resolution on the Application of Military Control over Public Security Agencies and Affiliates).²¹⁶ In 1968 the administration of all *laogai* and *laojiao* units were delegated to local governments, Supreme People’s Procuratorate was repealed and most of Supreme People’s Court and Ministry of Public Security staff members were dismissed, and part of the staff members were considered as socially bad influencers and thus sent to labor reform camps.

After the termination of the Cultural Revolution, the central government in 1980 formally began to retrieve the control over *laogai* units from local governments and a report from Ministry of Public Security to the State Council in 1981 showed that more than one half *laogai* and *laojiao* units were still in the local governments’ use (Report on the Progress of Retaking Laogai Units across the Country).²¹⁷ After regaining the control over labor reform camps across the country, the central government made a substantial institutional change to the *laogai* and *laojiao* system: the authority over the administration of *laogai* and *laojiao* system was returned from the Ministry of Public Security to Ministry of Justice in 1983 for pursuing separation of powers in the justice system and thus public security agencies were able to focus themselves on maintaining the social order (A Few Provisions on Carrying Through Central Committee’s Decision to Transfer the Administration of Laogai and Laojiao Works to

²¹² 关于促进小城镇健康发展的若干意见。

²¹³ 关于推进小城镇户籍管理制度改革的意见。

²¹⁴ 关于在文化大革命期间劳改单位暂停释放犯罪分子的通知。

²¹⁵ 砸烂公、检、法。

²¹⁶ 关于公安机关实行军管的决定。

²¹⁷ 国务院批转公安部《关于各地收回劳改单位的情况报告》的通知。

Ministry of Justice).²¹⁸ As the CCP administration ordered that during the transferring process, all matters concerned with *laogai* and *laojiao* units shall stay the same, including their staff, assets, papers and effects (Notification on Some Orders in the Aspect of Finance during the Transferring Process of Laogai and Laojiao Systems to Ministry of Justice).²¹⁹ Therefore, the change only existed in the leadership level and the basic organizational structure rather stayed the same.

Besides, the Eighth National Conference of Laogai Works²²⁰ was convened in December 1981, during which some problems had been specified, such as many *laogai* units had low productivity or even were facing a deficit and the quality of cadres was falling for the corruption cases, inefficiency and ageing. The conclusions were also reached in the conference: by following the guideline of “reform first and production second” and the spirit of the economic policy then, *laogai* camps must engage in the rectification of their business administration and carry out various kinds of contract responsibility system; they were also required to improve and strengthen the training of team leaders and cadres. After the conference, the Ministry of Public Security drew up three administrative regulations and circulated to all public security agencies and labor reform units: Details for the Administration of Prison and Labor Reform Battalion,²²¹ Three-Year Plan for the Works of Reeducation and Reform on Prisoners,²²² and Regulations for Management of the Health of Prisoner Life.²²³

A notification from the State Council revealed the old and shabby nature of the infrastructure of labor reform camps, particularly after the “strike-hard” campaign²²⁴ against high crime rate in 1983, which had contributed to the prison overcrowding (Notification on the Request for Strengthening the Construction of Prison Guarding Equipment and Justice Activities in Laogai and Laojiao Units)²²⁵. In 1989 the Ministry of Justice laid down some important instructions on the administration of *laogai* system, both the prison side and enterprise side were included (A Few Provisions on Strengthening the Tasks of Supervision and Reform).²²⁶ By following the instructions, labor reform camps needed to undergo the legalization, standardization, and scientification of their works, enhance the quality of prison cadres, and improve the contract/responsibility system of both reform tasks and production. Subsequently, the Ministry of Justice published two standards in 1990, one was for prisoners’ behavior²²⁷ and the other was for the prison environment.²²⁸

²¹⁸ 公安部、司法部印发《关于贯彻执行中央将劳改、劳教工作移交给司法行政部门管理的若干规定》的通知。

²¹⁹ 公安部、司法部、财政部关于劳改、劳教管理工作移交司法部门有关财务方面几点要求的通知。

²²⁰ 第八次全国劳改工作会议。

²²¹ 监狱、劳改队管教工作细则。

²²² 对罪犯教育改造工作的三年规划。

²²³ 犯人生活卫生管理办法。

²²⁴ 严打。

²²⁵ 司法部、国家计委关于加强劳改劳教单位狱政警戒设施及司法业务用房建设的请示。

²²⁶ 司法部关于加强监管改造工作的若干规定。

²²⁷ 罪犯改造行为规范。

²²⁸ 监管改造环境规范。

As for the *laojiao* system, since in the “Decision” in 1957,²²⁹ Ministry of Civil Affairs and Ministry of Public Security were appointed to be jointly in charge of administration and supervision of *laojiao* works, but the Decision didn’t establish or specify the competent authority and didn’t give a fixed period of time for *laojiao* inmates’ sentence. When it came to 1979, State Council released an Amendment regarding *laojiao*,²³⁰ according to which every city was required to set up a *laojiao* commission²³¹ in charge of deciding whether to put perpetrator in custody of *laojiao* and management of labor reeducation affairs, and the regular period of *laojiao* custody was from one to three years with additional one-year extension if necessary. Since then the administration of *laojiao* units was independent from the administration of *laogai* and the *laojiao* system had its own bureaucracy, staff, functions and goals.

A *laojiao* commission was supposed to be composed of the officials from departments of public security, justice, civil affairs, and labor personnel; its function of approval/disapproval of custody was exerted through the department of public security and its office would be established within the department of justice and be responsible for the functions of education, labor, and other operation (Notification on Questions about Laodong Jiaoyang and Cancellation of Urban Hukou of Laojiao Inmates).²³² Furthermore, the central government also systemized the administration of *laojiao* works by releasing “Interim Measures for Reeducation through Labor”²³³ and “Execution Details for the Administration of Reeducation through Labor”²³⁴ in 1982, which were drafted upon prior experience and the directive from the Standing Committee of the National People’s Congress.

3.1.2. Prisoner Dossiers and Typology

Right after the end of Cultural Revolution, Ministry of Public Security in May 1977 notified all labor reform camps about that, due to the chaos during the period of Cultural Revolution, numerous dossiers of *laogai* and *laojiao* inmates and *jiuye* workers had been lost and hence required all public security agencies, labor reform camps, and *jiuye* teams to faithfully follow the instructions about documents circulation which were issued in 1964 (Notification on Reiterating the Ministry of Public Security’s Provisions on Documents Circulation of the Three Kinds of People of 1964).²³⁵ Later in order to unify and standardize the forms used in the practice labor reeducation and reform, the Ministry of Public Security drafted two sets of document layouts, one released in 1981 was for the *laojiao* system and the other released in 1982 was for the *laogai* system. The set of document layouts for the *laojiao* system comprised fourteen sorts of forms and the guidelines for paper quality, binding, ink colors, etc. (Notification on the Distribution of Document Layouts for Laojiao Works),²³⁶ the set of document layouts for the *laogai* system otherwise contained twenty-nine types of forms and the

²²⁹ *Supra* note 27.

²³⁰ *Supra* note 28.

²³¹ 劳动教养管理委员会。

²³² 公安部、司法部关于劳动教养和注销劳教人员城市户口问题的通知。

²³³ 劳动教养试行办法。

²³⁴ 劳动教养管理工作执法细则。

²³⁵ 公安部关于重申一九六四年公安部对三类人员档案传递规定的通知。

²³⁶ 公安部关于印发《劳动教养文书格式》的通知。

instructions for paper quality, binding, and ink colors as well. (Document Layouts for the Enforcement of Laogai Works).²³⁷

Following the requirements of Details for the Administration of Prison and Labor Reform Battalion, Ministry of Public Security further in 1982 drafted and distributed a regulations of the management of prisoner cards (Notification on the Distribution of Regulation of Managing Cards of Laogai Inmates' Records [Pilot Program]).²³⁸ The new regulations on prisoner cards clearly specified the difference between prisoner card and prisoner's documents, who were in charge of the custody of prisoner cards and documents, their respective functions, and management of their catalogue, calculation and circulation. Learning from the experience of prisoner dossiers and cards management for several decades, the Ministry of Justice and State Archives Bureau laid out a set of regulations on this matter in 1994 (Interim Regulations on the Management of Laogai and Laojiao Inmates' Dossiers),²³⁹ which includes sections of general principles, registration and filing, retention period, management of dossiers, loan registration and statistics, dossiers preservation, obliteration and transfer of dossiers, and the management of prisoner's cards.

With regard to the classification of prisoners, the central government kicked off another round of clean-up of prisoners who were old, weak, sick, and disabled, as well as prisoners with mental diseases by early release, release on probation, release on medical probation, and serving sentence outside the prison (Joint Notification on Clean-Up of Prisoners Who Were Old, Weak, Sick, and Disabled, as Well as Those Prisoners with Mental Diseases).²⁴⁰ In addition to the traditional criteria of classification, the CCP administration also noticed the importance of science, technology and foreign languages to the development of prison enterprise. For example, the Ministry of Public Security sent a request report in December 1978 to State Council regarding the full utilization of prisoners and *jiuye* workers who had specialties in high-energy physics, electric engineering, ceramic engineering, soil science, animal husbandry, parasitology, human anatomy and pathology, as well as those prisoners with language proficiency in English, French, Japanese, or German (Request Report to State Council on the Question about the Treatment of Laogai and Laojiao Inmates and Jiuye Workers with Specialties in Science, Technology and Foreign Languages),²⁴¹ and later in March 1979, State Council approved the request and instructed to give subsidies to those prisoners and *jiuye* workers with specialties.

Besides, for petty offenders whose age were under eighteen, originally they must be sent to juvenile corrective facilities instead of *laogai* or *laojiao* camps; nevertheless, Ministry of Public Security lowered the upper limit of age for juvenile petty offenders from eighteen to sixteen since 1981. Therefore, petty offenders over sixteen years old were no longer juvenile and had to be sent to *laojiao* units (Notification on Question about the Age of Laojiao Inmates).²⁴²

²³⁷ 劳动改造机关执法文书格式。

²³⁸ 公安部十一局关于印发《劳改罪犯档案卡片管理办法（试行）》的通知。

²³⁹ 司法部、国家档案局关于罪犯、劳教人员档案管理暂行规定。

²⁴⁰ 最高人民法院、最高人民检察院、公安部关于清理老弱病残犯和精神病犯的联合通知。

²⁴¹ 公安部关于劳改犯、劳教分子、留场就业人员中科技、外语人员处理问题给国务院的请示报告。

²⁴² 公安部关于收容劳动教养人员年龄问题的通知。

3.1.3. Making Prisoners into Qualified Workers

Public health had been an important concern for a long time since the early years when labor reform camps were just established. In 1957 for the rampant epidemic diseases around several *laogai* camps and the prisoner deaths because of the terrible environment, Ministry of Health and Ministry of Public Security published a joint notification (Joint Notification on Strengthening the Guiding Works of Public Health in Laogai Units),²⁴³ which ordered *laogai* units to follow the policies and directives from the local departments of public health in their public health administration. Nevertheless, due to the devastation in the Cultural Revolution, public health works were completely shut down. Therefore, after termination of the ten-year catastrophe, the two Ministries requested all labor reform camps to restore the cooperation with local public health departments, and in “Rules for Prisoner’s Behavior under Reform” and “Rules for Prison Environment”²⁴⁴ were also provisions designed for the maintenance of prison sanitation and prisoners’ health. Besides, in 1991 the Ministry of Justice also released a similar set of measures for preventing *laojiao* inmates from the threats of diseases (Regulations for Management of the Hygiene of Laojiao Inmate’s Life).²⁴⁵

As for the daily goods support for prisoners, the principle of less eligibility was not held in the post-reform era. In 1980, the Ministry of Commerce and Ministry of Public Security determined to calibrate the distribution of prisoner clothing with the same standard for ordinary citizens (Joint Notification on the Unified Standard for the Supply of Laogai Prisoner Cloth and the Problem of Its Use),²⁴⁶ and later the central government made differential distribution of cotton wad: prisoners in the areas of hot weather would receive 8.5 catties for each person, those in the areas of mild weather would receive 11.5 catties for each person, those in the areas of cold weather would receive 14 catties, and the rest prisoners would receive their ration according to the standard of the local residents (Notification on the Standard of Cotton Wad Supply for Laogai Prisoners).²⁴⁷ Besides, grain and food oil supply for *laogai* prisoners would follow the standard of workers in state-owned enterprises if prisoners labor inside camps or follow the standard of ordinary citizens if they didn’t labor (Notification on the Supply of Grain and Food Oil for Laogai Prisoners and Juvenile Criminals).²⁴⁸ As the central control over the economy was gradually loosened and the development of a market economy was on trial, there were fluctuations in daily goods prices, so the central government increased the allowances for prisoner’s supplementary food in 1979 (Notification on Subsidies for Laogai and Laojiao Inmates’ Allowances of Supplementary Food)²⁴⁹ and daily goods in 1985 to cope with the rising prices (Notification on Solving the Problem that the Standard for Prisoner Living Expenses was on the Low Side).²⁵⁰

Aside from the changes in the daily goods supply, there were also shifts in prisoners’ education. In the pre-reform era, prisoners were required to learn from what they were assigned to do, namely,

²⁴³ 卫生部、公安部关于加强劳改单位卫生工作领导的联合指示。

²⁴⁴ See *supra* note 227 and 228.

²⁴⁵ 劳动教养人员生活卫生管理办法。

²⁴⁶ 商业部、公安部关于统一规定劳改犯人用布供应标准和使用问题的联合通知。

²⁴⁷ 公安部、供销合作总社关于劳改犯人絮棉供应标准的通知。

²⁴⁸ 公安部、粮食部关于劳改犯、少年犯粮、油供应问题的通知。

²⁴⁹ 公安部、财政部关于犯人、劳教人员副食品价格补贴的通知。

²⁵⁰ 财政部、司法部关于解决犯人生活费标准偏低问题的通知。

learning by doing.²⁵¹ Nevertheless, following the instructions from the National Conference on Justice Administration,²⁵² all *laogai* and *laojiao* apparatus had to develop themselves into a school style of correctional facilities so as to achieve the goal of “reform first and production second.” The CCP administration hence in 1985 required all *laogai* and *laojiao* units to install and step up necessary teaching equipment and staff. Besides, those *laogai* and *laojiao* inmates who finished required courses were eligible to participate tests on cultural knowledge or certain skills; if they pass, certificates would be conferred upon them (Notification on Enhancing Cultural and Skill Education for Laogai and Laojiao Inmates).²⁵³

After augmenting the skill training of a couple of years, it had brought about remarkable advancement in *laogai* and *laojiao* inmates’ skill education; traditional prisoner education of apprenticeship style had been transformed into technical and vocational education with finished spadework. Therefore, the CCP administration in 1987 began a new round of reform in prisoner education so as to build a complete system of technical and vocational education and attempted to connect the system with the needs of other work units so as to improve the technology which was crucial to the economic development (Notification on Moving Forward to Improve the Technological and Vocational Education for Prisoners).²⁵⁴

3.1.4. Cadres Quality Enhancement

As advocated in the Eighth National Conference of Laogai Works in 1981, for confronting the forthcoming era of economic reform, the central government needed to build high quality cadre teams who were energetic, united, and revolutionary with professional knowledge and skills. In the same year, regulation on the uniform for cadres were released (Notification on How Do Laojiao and Laogai Cadres Wear the Apparel for Civil Police).²⁵⁵ According to the regulation, most cadres in the *laogai* or *laojiao* camps were required to wear the same apparel as the civil police unless they had any disabilities or they worked in the facilities which affiliated to *laogai* units, such as kindergarten, research centers, hospitals, or stores, and the cost for their apparel should be borne by cadres themselves.

With regard to prison cadres’ salary and benefits, prison cadres were treated as one type of civil police since the early 1980s so they could enjoy the same level of wages as civil police in other government agencies (Response to the Question about Including Laogai Units into the Scope of Wage Reform in the Administrative and Public Institutions).²⁵⁶ Apart from the regular wages, the central government commenced a pilot program in 1981 to give unit allowances to cadres who worked in the *laogai* or *laojiao* teams and those who worked in the affiliated institutions were not eligible (Notification on the Pilot Program to Give Unit Allowances to Laojiao and Laogai Cadres).²⁵⁷ Later in the same year the Ministry of Public Security released an additional note that extended the policies of uniform and allowances to cadres who worked in the *jiuye* teams, so they were also eligible for the unit

²⁵¹ 做什么、学什么；边做边学。

²⁵² 全国司法行政会议。

²⁵³ 司法部、教育部、劳动人事部关于加强对劳改、劳教人员文化、技术教育的通知。

²⁵⁴ 国家科学技术委员会、司法部关于进一步做好对犯人职业技术教育的通知。

²⁵⁵ 公安部、财政部关于劳教、劳改工作干部着民警服装问题的通知。

²⁵⁶ 司法部关于对四川省司法厅请示劳改单位列入行政事业单位工资改革范围问题的答复。

²⁵⁷ 公安部、财政部、国家劳动总局关于劳教、劳改工作干部试行岗位补贴的通知。

allowances and had to wear the same apparel as the civil police (Additional Notification on the Unit Allowances and Apparel for Laojiao and Laogai Cadres).²⁵⁸ The pilot program of unit allowances had a shift in 1987, when the central government decided to dispense unit allowances on a daily basis instead of the prior monthly basis; in other words, prison cadres would receive 30-50 cents each day if they were on duty on that day (Notification on the Question about the Post Allowances for Public Security Cadres on Duty).²⁵⁹

In January 1986 the National Conference of Laogai and Laojiao Works²⁶⁰ was held by the Ministry of Justice, during which how to enhance the quality of prison cadres was one of the focal points. Subsequently, the Ministry of Justice proposed a plan for the *laogai* cadres training, through which by the end of 1990 20% of all *laogai* cadres would have a college degree or the equivalent and 40% of them would have a senior high school degree or the equivalent; for those cadres whose ages were under 45, one third of them would have a college degree or higher by the end of 1990, and the rest must reach the level of senior high school; for cadres who were sectional leaders, two thirds of them must have a college degree and for cadres who were divisional leaders, half of them must have a college degree (National Education and Training Plan for Laogai Cadres, 1986-1990).²⁶¹ Besides, the central government also paid attention to the *laogai* cadres' political orientation and faith and thus wanted to institutionalize the regular reports on the cadres' political thoughts and their work performance, so the Ministry of Justice released an set of interim provisions for regulating such circumstances (Interim Provisions on the Institution of Reports on Political Works in Laogai Units).²⁶²

For the enhancement of prison cadres' education and training, Ministry of Justice made a determination in 1989 to set up class sessions about the profession for *laogai*, *laojiao*, and economic administration for prison cadres. Those prison cadres who finished the coursework and passed exams would be conferred a certificate in that subject (Notification on the Statewide Launch of Professional Education and Certification in Laogai and Laojiao Systems).²⁶³

3.2. Prison Enterprise

3.2.1. Changes in the Production Model of Penal Labor Camps

After the termination of Cultural Revolution, *laogai* production was in the process of restoration and adjustment from 1976 to the early 1980s. Agricultural production from *laogai* farms was focused on grain in company with other farm commodities; on the other hand, industrial production was focused on the light industry products, fuel material, and raw materials. Taken as a whole, *laogai* production in the period of restoration and adjustment gave priority to agricultural production; it was gradually recovering from the collapse resulted from the ten-year catastrophe and moving forward to a

²⁵⁸ 公安部关于劳教、劳改工作干部岗位补贴和着装的补充通知。

²⁵⁹ 国务院工资制度改革小组、劳动人事部、财政部、公安部、国家安全部、司法部关于公安干警实行执勤岗位津贴问题的通知。

²⁶⁰ 全国劳改、劳教工作会议。

²⁶¹ 司法部劳改局一九八六年至一九九〇年全国劳改工作干警教育训练规划。

²⁶² 关于劳改政治工作报告制度的暂行规定。

²⁶³ 司法部关于在全国劳改劳教系统开展专业证书教育的通知。

prosperous enterprise. Since the second half of the 1980s, the direction of *laogai* production was diverted from agriculture to industry gradually.

Since *laojiao* administration and production were separated from the *laogai* system in the early 1980s, the State Council also decided to detach *laojiao* from *laogai* financially in 1981 (Notification on Listing Laojiao Units as Special Enterprise).²⁶⁴ Since then the *laojiao* system was, just like the *laogai* system, an independent special state-owned enterprise and thus adopted the mode of business administration of its production. Therefore, profits of *laojiao* enterprise was set up as an independent budget account (Notification on Adding Profits of Laojiao Enterprise as New Budget Account)²⁶⁵ and the separation of *laogai* and *laojiao* financial administration was also applied soon (Notification on the Separation of Laogai and Laojiao Financial Administration).²⁶⁶

Following the trend of wide use of contract responsibility system in rural areas in the early 1980s, several *laogai* units also adopted the same production mode. In Shandong Province, for example, there had been some *laogai* units applying the contract responsibility system around 1981 or 1982; *laogai* units in Guangdong Province also designated and completed the responsibilities of reform and production through contracts since 1983. Later in June 1984 the National Conference of Laogai and Laojiao Works, for improving the success rate in prisoner reform and heightening the efficiency of *laogai* production, reached a conclusion to apply the institution of contract responsibility to the entire *laogai* system, including its two important works: prisoner reform and prison production, i.e. the double contract responsibility system.²⁶⁷

Prisoner reform and prison production were the two most crucial tasks of the double contract responsibility system and every *laogai* unit would set up several indicators for achieving the two goals. For assessing the result of prisoner reform, the indicators were the numbers of prisoner escape and recapture, crime rate within a *laogai* unit and the clear-up rate, premature death of prisoners, infractions of *laogai* rules, the recidivist rate, the admission rate in prisoners' application for skill training and cultural education, the rate of attendance of daily labor, etc. For evaluating the efficiency of prison production, the indicators were the output value, quantity of output, quality of output, cost, profit, etc. Since there were some special inherent limitations on *laogai* enterprise, such as the quality of workers, working hours, and locations, the expected output of *laogai* enterprise was usually set at 20% lower than state-owned enterprise of the same industry. The adoption of contract responsibility system in the *laogai* and *laojiao* units helped to adjust their economic structure from focusing solely on grain production to developing sidelines such as industries of dairy, brickmaking, wine-making, wooden articles, or aquaculture.

The way of contract responsibility implementation was to assign the expected production through a hierarchical manner. A subordinate was responsible to the authority in higher level; every individual, squad, detachment and battalion had its own responsibility of production. The usage of profits, after paying taxes, was allocated in the manner of 30% for reinvestment in technology and facilities, 30% for improvement of the infrastructure, and the rest 40% was reserved for rewards, mostly for prison cadres and a small portion for prisoners. Therefore, the amount of profits was directly associated with

²⁶⁴ 国务院关于将劳动教养场所列为特殊事业单位的通知。

²⁶⁵ 财政部关于增设劳教企业利润等预算科目的通知。

²⁶⁶ 公安部关于劳改、劳教财务工作实行分别管理的通知。

²⁶⁷ 管教、生产双承包责任制。

prison cadres' material benefits and it was also the very reason to motivate the cadres to work hard in the post-reform era.

For enhancing the efficiency of prison production, Ministry of Justice in 1984 issued a directive requiring all *laogai* and *laojiao* units to improve their infrastructure, team organization, and financial system so that their output could increase (Opinion on Improving the Administration of Infrastructure of Laogai and Laojiao Units).²⁶⁸ In the same year Ministry of Justice formally expanded the use of double contract responsibility system to *laojiao* units (Opinion on Carrying out the Double Contract Responsibility System of Reform and Production in Laojiao Units),²⁶⁹ which encouraged every *laojiao* unit to apply various kinds of contracts for coping different industries, such as *laojiao* farms, factories, or mines, so that the output of the *laojiao* system could be enhanced. So as to motivate prisoners to work hard and produce more, Ministry of Justice also approved to offer prisoners rewards on the principle of working more and reward more (Notification on the Question about Offering Rewards to Prisoners).²⁷⁰ Due to the direct connection between the benefits of prison cadres and the profits of *laogai* and *laojiao* units, there were several cases that prison cadres ordered prisoners to labor for other production plans which were not affiliated to any labor reform programs. After noticing the issue, Ministry of Justice released an announcement requiring all penal labor units not to abuse prison labor for their own material benefits in 1985 (Notification on the Strict Prohibition against the Abuse of Prison Labor for Production outside Laogai and Laojiao Units).²⁷¹

As the contract responsibility system was applied to *laogai* and *laojiao* systems, they also built up the connection with township enterprise. Township enterprise, which used to be dubbed commune and brigade enterprise before 1984,²⁷² was a unique form of private enterprise composed of peasants in the rural areas and prospered since the economic reform was kicked off in the late 1970s (Zhou et al. 1992:202-210). Commune and brigade enterprise, as its name has showed, was under the control and management of people's commune and brigade. In the pre-reform era, commune and brigade enterprise was a way to utilize the agricultural surplus labor; peasant households teamed up to engage in some sidelines, such as handicraft or small factories of fertilizer, cement or machinery. Nevertheless, the Central Committee of CCP and the State Council stipulated in 1962 that communes and brigades were in general not allowed to run enterprises (Resolution on the Development of Rural Subsidiary Production),²⁷³ and during the Cultural Revolution, this type of enterprise was considered as a form of capitalism for its nature of commodity trade so suffered from suppression.

When the economic reform was commenced, however, this form of collective while private enterprise was revived by the central government's promotion of private enterprises and contract responsibility system and in 1979 the State Council released a set of ordinances to encourage its development (Pilot Provisions on A Few Questions about the Development of Commune and Brigade Enterprise).²⁷⁴ Commune and brigade enterprise was even booming when the contract

²⁶⁸ 司法部关于加强劳改、劳教单位基本建设管理工作的意见。

²⁶⁹ 司法部关于劳教单位推行管教、生产双承包责任制的意见。

²⁷⁰ 司法部、财政部关于对犯人发放奖金问题的通知。

²⁷¹ 司法部关于严禁滥用犯人和劳教人员外出搞生产经营的通报。

²⁷² 社队企业。

²⁷³ 中共中央、国务院关于发展农村副业生产的决定。

²⁷⁴ 关于发展社队企业若干问题的规定（试行草案）。

responsibility system was thoroughly adopted in the rural areas during the early 1980s because the contract responsibility system greatly helped to free surplus labor which had been limited on farms for a long period and in March 1984 the CCP administration changed its name to township enterprise (Notification about the Report on Initiating a New Stage of Commune and Brigade Enterprise).²⁷⁵ From then on the township enterprise has kept playing an important role in the economic development in the rural areas and has its own statute: Law of the People's Republic of China on Township Enterprises²⁷⁶ since 1997.

Consequently, some *laogai* units were operated in the manner of township enterprise or had strong cooperation with the local township enterprises. In Shandong Province, for illustration, there has been a graphite pit under managed by a local prison enterprise since 1972. The Ministry of Justice also laid down some stipulations in 1986 about the administration of *laogai* coal mines which were directly run by the Ministry or in joint operation by the Ministry and other enterprises (Provisions on the Administration of Infrastructure Construction in Laogai Coal Mines Run or in Joint Operation by Ministry of Justice),²⁷⁷ which required *laogai* coal mines to be self-operated with local prisoners and not to outsource to other enterprises unless the works in need of high skills and with the approval of the bureau of *laogai*.

In order to be adapted to the new system of planned commodity economy, *laogai* industry was required to increase the quality of their products so that *laogai* enterprise could catch up with the pace of the development of national economy. Consequently, the Ministry of Justice set up the administration quality award and the outstanding squad of administration quality and would give prizes to persons who were awarded, through competition of which the Ministry tried to enhance the quality of products from *laogai* enterprise (Provisional Measures for Laogai Industrial Enterprises about Appraising the Administration Quality Award and the Outstanding Squad of Administration Quality).²⁷⁸

Besides, even though the central government kept declining the accusation of exporting prison products and insisting on the ban against the *laogai* products exportation (Provisions on Reaffirming the Prohibition against Laogai Products Export),²⁷⁹ based on some researches, Chinese prison products are sometimes exported and have contributed huge revenue to the state (Seymour & Anderson 1998: 110-111; 211-212).²⁸⁰

²⁷⁵ 中共中央、国务院转发农牧渔业部和部党组《关于开创社队企业新局面的报告》的通知。

²⁷⁶ 中华人民共和国乡镇企业法。

²⁷⁷ 司法部直属、联营劳改煤矿基本建设施工管理的几项规定。

²⁷⁸ 司法部关于印发《司法部劳改工业企业质量管理奖、优秀质量管理小组评审试办法》的通知。

²⁷⁹ 国务院关于重申禁止劳改产品出口的规定。

²⁸⁰ For more details about prison products export in China, please refer to the report of Laogai Research Foundation in 2011, available at: <http://www.laogai.org/reports/building-back-prisoners>.

Table 5 Prison-Enterprise Combination in the Post-Reform Era²⁸¹

Provincial Government												
Bureau of Laogai Works Administration (before the enforcement of Prison Law in 1994) or Bureau of Prison Administration (since 1994)												
Warden (also served as director of prison enterprise)												
Reform through Labor and Prison Production												
Political Office	Prison Affairs Office	Education Office	Infrastructure Construction Office	Production Office	Financial Office	Supply and Marketing Office	Labor Wages Office	Health Office	Audit Office	Back Office	Mines Management Office	Other Offices

3.2.2. Changes in the Financial Infrastructure of Penal Labor Camps

With regard to the financial restructure of prison enterprise, on account of the application of contract responsibility system in *laogai* and *laojiao* units in the early 1980s, there were also some changes made to the use of administration expenses by the central government. For coping the changes in the economic structure of prison system, the Ministry of Public Security and Ministry of Finance published a joint notification in 1980 about the allocation of prison enterprise's administration expenses (Notification on the Issuance of Regulations on Laogai Administration Expenses).²⁸² The *laogai* administration expenses were independent from the *laogai* enterprise; the budget for administration expenses came from the assumed wages of *laogai* inmates and could be solely used on prisoner reform. Following the demands of contract responsibility, the guiding principle for the distribution of *laogai* administration expenses was "setting off receipts against expenditures, transferring a fixed amount of profits to government, keeping the balance, and no allowances for overspending," with which *laogai* administration expenses were expected to strike a balance between revenue and expenditure. As the guideline simply said to keep the balance and left the question on how to use of the balance open, the Ministry of Public Security published an additional note on the allocation of the balance of administration expenditure (Notification on the Use and Management of the Balance of Laogai Administration Expenditure).²⁸³

Since the Eighth National Conference of Laogai Works required to strengthen the skill and cultural education of *laogai* inmates, *laogai* units were inevitably confronted with the budget problem for adding such educational programs. For addressing this issue, the Ministry of Public Security and Finance allowed *laogai* units to withdraw 1.5% of inmates' assumed wages for setting up these programs and

²⁸¹ This type of prison organization was dubbed "same staff under two titles (一套人马，两块牌子)," which denotes the duo identities of prison cadres and officials.

²⁸² 公安部、财政部关于颁发《关于劳改业务费的管理规定》的通知。

²⁸³ 公安部关于劳改业务费财务包干结余使用范围和管理办法的通知。

listed the expense into the cost of prison enterprise (Notification on Addressing the Budget for the Cultural and Skill Education of Prisoners).²⁸⁴

Due to the strike-hard campaign against high crime rate in 1983, the *laogai* and *laojiao* population increased substantially, and it thus caused the problem that how to deal with the huge amount of prison labor. Besides, for coping with the forthcoming economic challenges from the seventh five-year plan from 1986 to 1990, every *laogai* and *laojiao* unit was responsible for enhancing its production efficiency and improving the infrastructure of labor reform equipment (Opinion on Strengthening the Administration of the Infrastructure of Laogai and Laojiao Units).²⁸⁵ Consequently, the central government decided to organize the surplus labor to excavate coal mines or engage in other local infrastructure construction (Notification on the Management of Loan Projects on Investments in the Construction and Extension of Laogai and Laojiao Units' Infrastructure).²⁸⁶ Pursuant to the notification, People's Bank of China was responsible for offering loans at low interest rates to *laogai* and *laojiao* units and the interests would be paid by the central budget; People's Construction Bank of China was responsible for reviewing construction plans and deciding the amount of each loan; the central Bureau of Laogai would sign loan contracts with People's Construction Bank of China and arrange matters concerned. The allocation of money to *laogai* units and reimbursement of loans shall be done solely by the central Bureau of *Laogai*. The interest rate was set at 5.4% per annum and the interest would be paid by the Ministry of Finance and local departments and bureaus of finance (Joint Notification on the Interest Rate of Loans for Infrastructure Construction in Laogai and Laojiao Units and on the Question about Payment of Interest by Financial Organs).²⁸⁷ The Ministry of Justice encouraged to broadly assign all kinds of construction responsibility to contractors, such as construction works, materials, term of construction, quality of construction, etc.

As the systems of *laogai* and *laojiao* are special state-owned enterprises, they have borne some special costs of policy or social expenditure that common enterprises won't bear, such as prison cadres' unit allowances and uniform, wages for personnel in the affiliated organizations, life and medical expenses for retired or disabled *jiuye* workers, and allowances for small-scale irrigation facilities, all of which needed to be reimbursed from the profits of *laogai* or *laojiao* enterprise so that the spirit of contract responsibility could not be thoroughly carried out, the performance of *laogai* and *laojiao* enterprises would not be able to correctly reviewed, and it also incurred some difficulties to their financial management. For addressing the problem, the central government decided to pay those expenditures by government budget since 1987 (Provisional Measures for Paying Some Social and Policy Expenses of Laogai Enterprise Instead by Government Budget).²⁸⁸

For giving impetus to all industrial enterprises to improve their business administration so as to fulfill the goals set by the seventh five-year plan, the State Council issued a scale of levels for all

²⁸⁴ 公安部、财政部关于解决犯人文化技术教育经费的通知。

²⁸⁵ 司法部关于加强劳改、劳教单位基本建设管理的意见。

²⁸⁶ 国家计划委员会、国家经济委员会、财政部、煤炭部、司法部、中国人民银行、中国人民建设银行关于新建、扩建劳改、劳教单位基建投资贷款项目管理办法的通知。

²⁸⁷ 国家计划委员会、财政部、司法部、中国人民银行、中国人民建设银行关于劳改、劳教单位基建贷款利率和财政贴息问题的联合通知。

²⁸⁸ 财政部、司法部关于将劳改企业若干社会性、政策性开支改为预算拨款管理的试行办法。

industrial enterprises: national superb level, national first level, national second level, and provincial advanced level, and after attaining or failed to attain necessary requirements, an industrial enterprise would move up or down in the scale (Resolution on Some Questions with respect to Augmenting Business Administration of Industry).²⁸⁹ Therefore, *laogai* industrial enterprises were also graded and classified by the scale since 1987 and, pointed out by the departmental team of strengthening business administration and lead, quality of products, consumption of raw materials and economic profits were the three main indicators for deciding the level of a *laogai* industrial enterprise (Resolution on the Relevant Questions about the Upgrading Works of Laogai Industrial Enterprises).²⁹⁰ Besides, there were also some inadequacy needed to be addressed. The resolution required *laogai* industrial enterprises, for example, to legalize, institutionalize, and scientify the works of prison administration because prisoner reform was quite important to the *laogai* business; every *laogai* enterprise had to propose its scheme for enterprise upgrade exerted during the period of the seventh five-year plan.

After determining to establish a socialist market economy, the CCP administration began the next round of wage system reform (the first round started in 1985) since 1993 and wages for workers in *laogai*, *laojiao* or *jiuye* units were also included. Workers are classified into two groups: government workers and enterprise workers.²⁹¹ Workers who labor in the field of prison administration will enjoy the same wage as ordinary government workers; workers who labor in the field of prison enterprise are expected to enjoy the same treatments as ordinary enterprise workers. Workers in the level of management or were specialists are allowed to enjoy the same wage as those who in similar positions in ordinary enterprises. As for the *jiuye* workers, they would enjoy the same wages as ordinary enterprise workers (Opinion on Some Questions about the Wage System Reform in Laogai and Laojiao Units).²⁹²

4. Post-Release Management

Ministry of Public Security, after the discussion with other high-ranking officials, determined to make some pivotal changes to the program of forced job placement. Firstly, since 1979 prisoners who finished their sentence would not be kept in *jiuye* units forcefully, and instead, they would be released to their hometowns, their household registrations would be restored, and they could settle down there. (Some Notifications on Question about the Management of Forced Job Placement).²⁹³ Secondly, for the *jiuye* workers' health care, Ministry of Public Security allowed them to enjoy the same benefits as ordinary workers. For illustration, if those *jiuye* workers who were infected with silicosis²⁹⁴ during the process of their work and were not disfranchised, they would have the same treatment, including medical care and wages, as ordinary workers with silicosis; if disfranchised, their affiliated work units had to provide necessary medical care and life support allowances (Notification on Whether Jiuye Workers with Silicosis Are Eligible for the Same Treatments as Ordinary Workers with Silicosis).²⁹⁵

²⁸⁹ 国务院关于加强工业企业管理若干问题的决定。

²⁹⁰ 部加强企业管理领导小组关于劳改工业企业升级工作有关问题的决定。

²⁹¹ 机关工人与事业单位工人。

²⁹² 司法部关于劳改劳教系统工人工资制度改革若干问题的意见。

²⁹³ 公安部关于处理留场就业问题的几项通知。

²⁹⁴ An occupational disease of miners.

²⁹⁵ 公安部十一局转发国家劳动总局函复新疆维吾尔自治区劳动局《关于患有矽肺病的刑满就业人员能否享受矽肺病待遇的问题》一文的通知。

Besides in 1980 the coverage of labor insurance was also extended to *jiuye* workers if they were not disentitled of their political rights (Response to State Bureau of Labor on the Question about if the Regulation of Labor Insurance Applicable to Jiuye Workers).²⁹⁶

Since there were numerous wrongful convictions during the period of the Cultural Revolution and many innocent persons were forced to stay and work inside the *laogai* camps, the CCP administration redressed vast majority of them and released them out of labor reform camps. Ironically, those innocent persons had a job and basic life support in the *laogai* units while faced a problem of unemployment after release. For addressing the conundrum here, the central government decided in 1980 to keep those released innocent persons working in the *laogai* units as ordinary workers if they were homeless, able to work, and willing to stay; if they were not able to labor, local governments were responsible for their settlement (Notification on Settling down the Homeless Persons Whose Convictions Were Redressed).²⁹⁷ In addition, if an ex-prisoner had a special skill which was needed by the state, the ex-prisoner was allowed to work in the original *laogai* unit if (s)he was voluntary to do so (Response to Question about the Political Rights of and Material Benefits for Prisoners Who Stay and Work in Teams After Release on Parole).²⁹⁸

Later the Standing Committee of the National People's Congress reached a resolution in 1981 that forced job placement would only applicable to *laogai* inmates who escape during their sentence or recommit an offence after release (Resolution on the Management of Laogai or Laojiao Inmates Who Escape or Recommit an Offense),²⁹⁹ and to *laojiao* inmates if they recommitted offenses or violations after they were discharged from *laojiao* camps and their urban *hukou* would be cancelled (Notification on A Few Questions about the Persistent Execution of Laojiao Measures in "Resolution" of Standing Committee of the National People's Congress).³⁰⁰ Once those *laojiao* inmates lost their urban *hukou*, it also meant that they lost the possibility to find a job in work units in the towns or cities (Response to the Question about Whether to Discharge Laojiao Inmates' from Their Work Units If Their Urban Hukou Have Been Cancelled).³⁰¹

Following the conclusion reached by the Standing Committee of the National People's Congress mentioned above and the changes to the *jiuye* practice since 1979, the Eighth the Eighth National Conference of Laogai Works summarized the experience of *jiuye* in the past decades and determined in December 1981 to formally adjust the policy of forced job placement. First, in principle prisoners who finished their sentences would be released to their original residences or the places where their relatives lived. Second, for current *jiuye* workers, if they were old, weak, sick or disabled, they would be cleaned out of the *jiuye* units. Third, for the newly kept *jiuye* workers, they would be treated as ordinary workers or peasants and enjoy the same wages and benefits. Later in 1983 the Ministry of Public Security and the Ministry of Labor Personnel started a program to transfer current *jiuye* workers

²⁹⁶ 公安部关于刑满就业人员能否实行《劳动保险条例》问题对国家劳动总局的答复。

²⁹⁷ 最高人民法院、公安部、民政部、国家劳动总局关于安置平反释放后无家可归人员的通知。

²⁹⁸ 公安部十一局关于罪犯假释后留队生产的政治、物质待遇问题的批复。

²⁹⁹ 全国人民代表大会常务委员会关于处理逃跑或者新犯罪的劳改犯和劳教人员的决定。

³⁰⁰ 公安部關於貫徹執行全國人大常委會《決定》中有關勞教方面幾個具體問題的通知。

³⁰¹ 公安部、司法部、劳动人事部关于对职工中被收容劳动教养并注销城市户口的人员是否开除公职问题的答复。

into regular workers if they satisfied certain requirements, such as that they had to be healthy, support the leadership of the CCP, able to labor and have stayed in the *jiuye* teams for more than five years (Notification on Question about the Material Benefits for Jiuye Workers).³⁰²

The transformation of *jiuye* program was kept moving with the goal to transfer all *jiuye* workers into regular workers. In 1988 Ministry of Justice and Ministry of Labor jointly determined that the *jiuye* workers then were allowed to be transferred to regular workers under contract labor system if their skills which were needed by the state had attained the middle level or higher. The goal of transfer must be reached by the end of March in 1989 (Additional Notification on Question about the Material Benefits for Jiuye Workers).³⁰³ Therefore, the program of forced job placement for both *laogai* and *laojiao* inmates officially came to an end in 1989 and the management works of previous *laogai* and *laojiao* inmates were succeeded by *anzhi* (settle down for *laogai* ex-prisoners) and *bangjiao* (reeducation assistance for *laojiao* ex-prisoners).

The guiding principle of the policy of *anzhi* was to “give them a way out,”³⁰⁴ which required government departments concerned to help ex-prisoners to find a way out of being the socially detrimental elements and return to the correct path (Notification on Performing Well in Restoring Hukou and Settling Down Ex-Prisoners Who Have Completed Their Sentences).³⁰⁵ Thus, when utilizing the *anzhi* approach, if ex-prisoners’ positions in their original work units were still retained, they would be able to return to the positions or work in other positions in the same work units; prisoners whose positions were revoked or who were jobless when under arrest, they would be managed by local governments and await job assignment; prisoners who were peasants when under arrest would be sent back to rural areas and engage in agricultural production (Response to Guizhou Province on Question about Settling down Ex-Prisoners).³⁰⁶

After employing the new post-release policy of *anzhi* for a few years, the policy was also confronted with the changes brought about by the application of market economy in the early 1990s, such as floating population kept increasing or private enterprises were booming, the difficulty of *anzhi* was also enhanced. Therefore, a new policy was published in 1994 (Opinion on Moving Forward to Strengthen the Anzhi and Bangjiao Works on Ex-Prisoners).³⁰⁷ In addition to emphasizing the importance of original *anzhi* measures, the central government required competent authorities to assist the reeducation of the released population if they have demonstrated the inclination towards deviance (*bangjiao*). Moreover, the new strategy also demanded to change the original *anzhi* and *bangjiao* means from administrative ones to legal and economic ones and to transfer the duty from local sector to central government, and that the content of *anzhi* and *bangjiao* must keep pulse with the market economy.

³⁰² 公安部、劳动人事部关于刑满留场（厂）就业人员有关待遇问题的通知。

³⁰³ 司法部、劳动部关于刑满留场（厂）就业人员有关待遇问题的补充通知。

³⁰⁴ 给出路。

³⁰⁵ 国务院办公厅关于做好犯人刑满释放后落户和安置工作的通知。

³⁰⁶ 国家劳动总局关于刑满释放人员就业安置问题给贵州省的复函。

³⁰⁷ 中央社会治安综合治理委员会、公安部、司法部、劳动部、民政部、国家工商行政管理局关于进一步加强对刑满释放、解除劳教人员安置和帮教工作的意见。

There was a change in the competent authorities of post-release management before the end of the 20th century. The Coordination Group on Anzhi and Bangjiao Works was established in 1997, and the *anzhi* and *bangjiao* works, which were originally born by the Bureau of Prison Administration, Ministry of Justice, were transferred to the scope of the Department of Grass-Root Work,³⁰⁸ Ministry of Justice. Afterwards, the Department of Grass-Root Work takes on the works of *anzhi* and *bangjiao* under the guidance of Coordination Group on Anzhi and Bangjiao Works, instructing local agencies of justice administration to carry on the post-release management works (Notification on Bureau of Prison Administration's Anzhi and Bangjiao Works Were Transferred to Department of Grass-Root Work).³⁰⁹ The Ministry of Justice started to conduct the statistics of *anzhi* and *bangjiao* works in 1999 to know well about the circumstances of the effects of those works and then to adjust forthcoming policies (Notification on the Engagement in Statistics of Anzhi and Bangjiao Works).³¹⁰

Table 6 History of the Measures for Post-Release Management

Year	Description
1954	The beginning of <i>jiuye</i> program with the strategy of keeping many and freeing few.
1964	The strategy of keeping four and freeing four was implemented.
1968-1972	<i>Jiuye</i> program was completely shut down. Most <i>jiuye</i> team members were cleaned up and sent back to their hometowns and the rest members received very low wages.
1979	Ministry of Public Security decided not to keep all released ex-prisoners in <i>jiuye</i> teams.
1981	Standing Committee of the National People's Congress concluded that only under certain circumstances ex-prisoners had to stay in <i>jiuye</i> teams; otherwise they had to be released. Eighth the Eighth National Conference of Laogai Works followed the conclusion and made some changes to <i>jiuye</i> program.
1983	Ministry of Public Security started to transfer <i>jiuye</i> workers into regular workers if they satisfied the set standards.
1989	<i>Jiuye</i> program came to an end and was replaced by <i>anzhi</i> and <i>bangjiao</i> . Some <i>jiuye</i> workers were transferred into regular workers under contract and the rest <i>jiuye</i> workers were cleaned up.
1997	The Coordination Group on Anzhi and Bangjiao Works was established. The government authority over <i>anzhi</i> and <i>bangjiao</i> works was transitioned from the Bureau of Prison Administration to the Department of Grass-Root Work, and the Department of Grass-Root Work takes on the works of <i>anzhi</i> and <i>bangjiao</i> under the guidance of Coordination Group on Anzhi and Bangjiao Works and instructs local agencies of justice administration to carry on the post-release management works.

5. The Crisis of Prison Enterprise

5.1. Struggle and Adjustments

Even though it welcomed the new age of economic reform by being equipped with the contract responsibility system, the prison enterprise composed of *laogai*, *laojiao*, and *jiuye* systems began to

³⁰⁸ 基层工作司。

³⁰⁹ 司法部关于部监狱管理局负责的刑释解教人员安置帮教工作移交部基层工作司的通知。

³¹⁰ 司法部关于对安置帮教工作情况进行专项统计的通知。

encounter economic difficulties in the late 1980s and the early 1990s. The prison enterprise had some inherent drawbacks that made itself inadaptable to the new commodity economy, such as that most of the labor reform camps were located in remote and desolate places, limited access to outside information, lack of skilled operating personnel, poor infrastructure and facilities, terrible traffic conditions, low quality yet high mobility of labor force, and inadequate supply of raw materials. In addition to those innate defects, the acquired ones, particularly the financial burden from tax, loan, and social and policy expenses, made prison enterprise's problems in the age of economic reform even much worse. The direct connection between prison cadres' benefits and the economic performance of prison enterprises, together with the inherent and acquired defects of prison enterprise, have incurred that prison cadres had no choice but to concentrate on production rather than prisoner reform with full force. Consequently, the importance of prison enterprise outweighed that of prison administration; the combination of prison administration and prison enterprise had in fact tilted to the enterprise side (Jia 1991:552-553).

For alleviating the aggravation of prison economy, the central government started out on the task of tax. The State Council decided to grant some deduction on its taxes (Notification on the Request from Ministry of Justice for Instructions in Current Economic Difficulties in Laogai and Laojiao Units).³¹¹ The State Administration of Taxation laid down further details for the enforcement of tax deduction policy (Notification on Carrying out the Order of No. Guofa-1990-20 on Taxation from State Council).³¹² According to the tax deduction details, *laogai* and *laojiao* units with poor performance, including prison (in PRC's definition before 1994), *laogai* and *laojiao* units (farms and factories included), could apply for the deduction on their product tax, value added tax, and business tax, but factories affiliated to *laogai* or *laojiao* units and run by cadres' family members were not eligible for the tax deduction. Besides, some local tax agencies also granted some kinds of tax exemptions to the *laogai* and *laojiao* units in their districts, for example, in the Wuhan City of Hubei Province, *laogai* or *laojiao* units would not be levied on usage tax on their cadre cars, prison vans and some of their construction sites.

As for the loans, People's Bank of China released a notification in 1990, which set a fixed interest rate of 10.08% per annum for *laogai* and *laojiao* units' construction loans in spite of their length and decided to grant a one-year deduction of 2.16% per annum to the interest rate in 1990 (Notification on a Deduction in the Interest Rate for the Infrastructure Construction Loans of Laogai and Laojiao Units in 1990).³¹³ The deduction policy was extended to the next year and the following years, and the deduction was more favorable to *laogai* and *laojiao* units: during the period between September 21, 1990 and April 20, 1991, the interest rate was 10.08% per annum, People's Bank of China would give a 2.16% deduction, *laogai* and *laojiao* units only needed to afford 0.88%, and the rest interest would be paid by the financial departments and other government organs; since April 21, 1991, the interest rate would be changed to 8.46%, People's Bank of China would give a 0.9% deduction, *laogai* and *laojiao* units needed to afford 0.52%, and the rest interest would be still paid by the financial departments and other government organs (Notification on Questions about the Adjustments to the Interest Rate of Loans for Infrastructure Construction of Laogai and Laojiao Units).³¹⁴ In 1996 People's Bank of China changed the interest rate again to 11.52% per annum; 8.73% of the interest would be borne by

³¹¹ 国务院批转司法部关于解决当前劳改劳教单位经济困难请示的通知。

³¹² 国家税务局关于贯彻国务院国发〔1990〕20号文件有关税收规定的通知。

³¹³ 中国人民银行关于1990年对劳改劳教单位银行基本建设贷款予以贴息的通知。

³¹⁴ 中国人民建设银行关于调整劳改劳教基本建设贷款利率有关问题的通知。

prisons and rest of the interest would be paid by the central and local governments (Notification on Questions about the Interest Rate of Loans for Infrastructure Construction of Prison, Laogai and Laojiao Units and the Interest Discount).³¹⁵

Moreover, for pursuing more effective management of the loans for prison infrastructure construction, including their planning, reviewing, using and supervising, the National Planning Commission and the Ministry of Justice laid out provisions on the matter in 1997 (Interim Regulations on Management of Bank Loans and Investment Plans for Infrastructure Construction of Prison and Laojiao Systems).³¹⁶

The poor performance of prison enterprise also incurred the deterioration the quality of prisoners' lives; the miserable living quality of prisoners also led to low efficiency of economic performance of prison enterprise. Prisoners working in the factories or mines encountered the worse lives than before and those who worked on the *laogai* or *laojiao* farms were confronted with even more terrible living conditions. For improving the administration of prisoners' lives, the Ministry of Justice required all *laogai* and *laojiao* units to take measures released by the Ministry (Notification on Moving Ahead to Augment the Administration of Prisoners' Lives).³¹⁷ To assure the allowances for prisoner's daily life would not be diverted to other use, to broaden sources of income and reduce expenditure, and to set up reasonable working hours per day were the main points of the measures. With those measures the Ministry of Justice expected to heighten the quality of prison life and thus to improve the performance of prison enterprise.

The State Council also had a meeting in December 1993 on the issue of economic difficulties in *laogai* and *laojiao* units,³¹⁸ in which the State Council approved several lenient measures on prison enterprise's economic struggle. With respect to the expenditure of prison administration, the State Council determined that prison cadres' wages and prisoners' daily expenses shall be assured by government budget; the former would be paid by the central or local governments and the latter would be paid solely by local governments. With regard to the outlays for the operation of prison enterprise, it needed to take steps to separate the income and expenses and put them on different tracks. As for the investments in prison infrastructure construction, in 1994 and 1995 the amount would be increased from RMB 40 million each year to 70 million, and during the period of the ninth five-year plan (1996-2000), the amount would be increased as well. With reference to the loan interest, the state would prepare RMB 1 billion in 1994 and 1995 to pay for the interest: 0.7 billion for infrastructure construction and 0.3 billion for mine construction. As to the tax deduction for prison enterprise, previous instructions shall be followed. Eventually, the State Council also planned to build a few model prisons with excellent equipment and administration. The State Council in 1995 published a comprehensive notification based on the conclusions reached in the meeting to all local governments and its subsidiaries, which required them to strive for the modernization of prison and help to improve

³¹⁵ 中国人民银行、司法部、财政部等关于监狱劳改劳教单位基本建设贷款利率及贴息问题的通知。

³¹⁶ 国家计委、司法部关于监狱、劳教系统基本建设银行贷款投资计划管理暂行规定。

³¹⁷ 司法部关于进一步加强犯人生活管理的通知。

³¹⁸ 1993年12月19日国务院第十七次总理办公会议纪要：研究解决劳改劳教单位的经济困难问题。

the production and management of prison system (Notification on Moving forward to Strengthen the Administration of Prison System and Laojiao Works).³¹⁹

For making the financial system of prison administration and prison enterprise sound and steady, according to Article 8 of Prison Law of PRC, which was promulgated in 1994,³²⁰ the state is required to ensure the expenditures of a prison, including the expenditures for prison cadres, for the reform of prisoners, for the living expenses of prisoners, for the administration and installations of the prison, and other special expenses shall be included into the state budget; besides, the state also shall provide necessary production facilities and production expenses for prisoners to work. Moreover, the Ministry of Finance released two regulations: Institution of Prison Finance and Institution of Prison Accounting in 1997,³²¹ both of which are applicable to prison administration while the laws and regulations for ordinary enterprises are also effective to the finance and accounting of prison enterprises (Notification on the Questions about the Effects of Institution of Prison Finance and Institution of Prison Accounting).³²²

In the beginning of the 21st century, the Ministry of Justice released a set of provisions in order to carry out an orderly system of prison business administration (Measures for Regulating and Managing the Business of Prison and Laojiao Production).³²³ According to the Measures, prison enterprises are defined as the enterprises which provide prisoners with the places and the means of production and set the objective they are working for, and those enterprises are under the lead and management of local bureaus of prison administration. Prison enterprises are not allowed to use the terms or symbols of prison or *laojiao* in their brand names, commercials, and business activities. Prisoners who work in those enterprises are still under the supervision of prison cadres and the cadres can't be dressed in the uniform when they engage in the business activities outside the prison space. Prison enterprises are required to be self-sufficient with an independent accounting institution and pay labor compensation (prisoners' wages) to prisons; their profits have to be used on the development and improvement of production and living equipment. Local governments and all departments concerned are required to support and assist prison enterprise by fulfilling their legal responsibilities, carrying out the preferential policies on finance, tax, investment, and loan, and preserving their land and other natural resources.

5.2 Separation of Prison and Enterprise

2003 was a pivotal year for the prison reform in China. The Ministry of Finance and Ministry of Justice firstly issued the standards of basic expenses of prison administration in March 9, 2003 for preventing the unnecessary expenses and saving the cost of prison administration,³²⁴ which kicked off the new round of prison reform. Later in the same month, the State Council released the most influential decision to carry out a new form of prison by separating the prison administration and the prison

³¹⁹ 国务院关于进一步加强监狱管理和劳动教养工作的通知。

³²⁰ The importance of the promulgation of Prison Law will be discussed in next chapter. The term “prison” has replaced the old term “*laogai*” since the Prison Law took effect in 1994.

³²¹ 监狱财务制度、监狱会计制度。

³²² 财政部关于监狱财务、会计制度实施中有关问题的通知。

³²³ 司法部关于印发《监狱劳教生产企业规范管理办法》的通知。

³²⁴ *Supra* note 6.

enterprise.³²⁵ The new form was completely different from the traditional one that featured the combination of prison administration and enterprise and has existed since the establishment of communist China. The State Council thus approved and appointed some experimental locations to conduct a pilot program of the new form of prison in 2003 (Notification on the Instructions for the Works of the Pilot Program of Prison System Reform)³²⁶ and the Ministry of Justice gave an inspection of the progress of the pilot program in December 2004 (Notification on the Inspection of the Works of the Pilot Program of Prison System Reform).³²⁷

The reform of prison system has moved further in the following years. The central government in 2004 allowed prison enterprises to declare bankruptcy and thus being closed.³²⁸ In the new form of prison system, prison enterprise is separated from the traditional prison mechanism and thus lacks its own legal status. For addressing the issue, the State Council in 2006 ordered the Ministry of Justice and other departments concerned to figure out possible resolutions (Summary of the Research on the Problems of the Redeployment of Prison and Prison System Innovation at Certain Experimental Units)³²⁹ The Ministry of Justice hence required the relevant organizations, by consulting the Prison Law, Company Law, Enterprise Law, and Measures for Regulating and Managing the Business of Prison and Laojiao Production, to provide legislative suggestion with regard to the legal status of prison enterprise, and expected to complete the reform works by 2010.³³⁰

The Ministry of Justice inspected the progress of the reform works of the prison system by going on a journey to the fifteen experimental prisons in the six provinces of Shanxi, Jilin, Fujian, Hainan, Yunnan, and Shaanxi from October to November 2009. After the inspection journey, the Ministry of Justice summarized its observations and released the instructions about further works on this matter in March 2010 (Notification on Moving Forward to Strengthen the Works on the Redeployment and Adjustment of Prison System).³³¹ In accordance with the instructions, the works for the next round of the prison system reform were to accelerate the progress of prison renewal and construction, to ensure that the funds for prison construction would be distributed to every prison on time, and to conduct accurate supervision of every detail of the prison reform works so as to establish an accountable, well-functioning, and easy-to-watch-over working mechanism.

In accordance with the report on the enforcement of Prison Law and the situation of prison works from the State Council in 2012,³³² the four goals of the restructure of prison system set in 2003³³³ have reached certain achievements, and a socialist prison system with Chinese characteristics has been therefore approximately established then. As for the first goal of fully guaranteed budget, a financial mechanism within which the funds from local governments play a major role and the funds from the central government are rather supplementary has been almost set up and in the year of 2011, 87.9% of the prison expenditure was paid by government budget; as for the second goal of separating prison

³²⁵ *Supra* note 7.

³²⁶ 国务院批转司法部关于监狱体制改革试点工作指导意见的通知。

³²⁷ 司法部关于对监狱体制改革试点工作进行检查的通知。

³²⁸ *Supra* note 8.

³²⁹ 国务院关于研究监狱布局调整和监狱体制改革试点有关问题的会议纪要。

³³⁰ *Supra* note 9.

³³¹ 司法部关于进一步加强监狱布局调整工作的通知。

³³² 国务院关于监狱法实施和监狱工作情况的报告。

³³³ *Supra* note 2.

and enterprise, prisoner reform and of production management are mutually independent now with their own administration systems; as for the third goal of different financial schemes for prison and enterprise, prison administration expenditure and income from prison production now run in different accounting tracks; as for the fourth goal to operate prison through legal rules, several laws and regulations based on the core idea of prisoner reform have been enforced and thus the functions of prison are being correctly performed.

In sum, when in the traditional form of prison-enterprise combination, the prison system had one single governing authority over its daily operation, i.e., the Bureau of Prison Administration of the provincial government, which also had to serve as the parent company of prison enterprise at the same time; a warden, in addition to working as the leader of bureau of prison administration, was the CEO of a prison enterprise as well. Besides, even though the Article 8 of the Prison Law requires that the expenditure of prison shall be fully borne by the government budget, it did not attract any attention until the restructure of prison system kicked off in 2003; the connection between the profits of prison production and the expenditure of prison administration made the financial situation of the entire prison system even worse despite the government kept granting some preferential policies to prisons. After the 2003's four goals are carried out to a substantial extent, the structure of prison system will be like the descriptions in the following table.

Table 7 Separation of Prison and Enterprise since 2003

Provincial Government	
Bureau of Prison Administration	Parent Company
Prisons and the Accounting System	Several Subsidiary Companies and the Accounting System (Prison Enterprise)
Prisoner Reform	Prison Production
<ol style="list-style-type: none"> 1. Prisoners Management 2. Rights Protection 3. Educational Reform 4. Reform through Labor 	<ol style="list-style-type: none"> 1. Means of Production 2. Products 3. Profits 4. Labor Protection

6. Concluding Remarks

As the Cultural Revolution came to an end and the era of economic reform rose in the second half of the 1970s, the tremendous shifts in the society also brought about the transformation of prison system. The transformation can be specified in three major aspects, one is the economic role of the carceral mechanism in communist China, another is the improvement of the prison system and its division of labor within the organization, and the other is the legalization of the imprisonment mechanism.

With respect to the economic function of prison in Chinese society, the first trait is that the principle of less eligibility, which used to play an important role in the pre-reform age, has been no longer emphasized in the post-reform era.³³⁴ We can infer that, of their identity, namely prison labor, the element of punitiveness was losing its importance and the element of labor was rather catching

³³⁴ *Supra* note 247.

more attraction, and this change is possibly resulted from that the economic performance outweighed other concerns in the post-reform era. As the general economic structure was redirected to the contract-responsibility system since the late 1970s, prison production thus modulated itself into the same direction to address the huge loss and collapse caused by the Cultural Revolution. Even though they both belong to one form of prison-enterprise combination and needed to be self-sufficient, prison in people's commune style in the pre-reform era and prison in the contract-responsibility system in the post-reform era had different fates.

The former, existing in the period of planned economy, didn't encounter the challenge from the market because all business activities, including supply, transportation, marketing, sale, etc., were under the control of the state, and all the prisons had to do was to produce. On the other hand, the role of the latter was complicated by affording several business activities since the economic reform was boosted. During the first a few years after adopting the contract-responsibility system, prison enterprise acquired some profits, but as the new economic system kept moving farther, the inherent weakness of prison enterprise in a combination form and the mutually conflicting organizational settings made itself incapable of competing with other business units and began to suffer the economic difficulties since the late 1980s.

The inadaptability of prison-enterprise combination in the market economy led to the change of the prison restructure, which kicked off in 2003 and was approximately achieved in 2012. The four chief goals of prison reform, namely budget to be fully guaranteed, prison and enterprise to be separated, different financial schemes for prison and enterprise, and to operate prison through legal rules, adjusted the role of prison in the macroeconomic system. We still need to wait for a period of time to review the influence of this change on the prison system as well as the society. Besides, as the state was lowering its appearance in the economic system and changing its control over the market in a more intricate way during the process of economic reform, the *jiuye* program thus lost its economic importance, came to an end in 1989, and was succeeded by the new programs of *anzhi* and *bangjiao*, both of which feature the less of their economic function and the more of social control over the ex-prisoners.

As for the improvement of prison organization, the *laojiao* system was independent from the *laogai* system in its organization in 1979³³⁵ and in its financial structure in 1981.³³⁶ After the central government retrieved all prisons from local governments, the competent authority over prison was transferred from the Ministry of Public Security to the Ministry of Justice in 1983.³³⁷ Besides, in the pre-reform era, the focus of prison enterprise was put on the amount of production and other parts of the entire prison system were rather ignored. Nevertheless, when coming into the post-reform age, not only the financial structure and prisoners' living conditions attracted some attention, the usage of prison dossiers and cards and the quality of prison cadres in their education and professional training were both being valued more than before and thus being improved as well, and the typology of prisoners also had some updates: in addition to traditional criterion of their ability to labor, new specialties such as their special skills and foreign language ability were also added into the classification criteria so as to adapt itself to the external changes.

³³⁵ *Supra* note 230.

³³⁶ *Supra* note 264-266.

³³⁷ *Supra* note 218-219.

In addition, as the separation of prison and enterprise was officially adopted in 2003, the division of labor within the entire prison system began to play a more crucial role than before. When in the time of prison and enterprise combination, the most common organizational setting in practice was “same staff under two titles,”³³⁸ every member of prison cadres and prison official was assigned various duties based on their duo roles in prisoner reform and prison production and their benefits were directly connected with the profits of prison enterprise. This organizational setting performed well in the period of planned economy but was stumbling along in the post-reform period and eventually was replaced by the separation mode, which foregrounds the cruciality of independence and cooperation of different departments within an organization.

With relation to the legalization of prison mechanism, in the post-reform era, particularly in the 1990s, the CCP administration began to systemize relevant laws and regulations, such as “Interim Measures for Reeducation through Labor” and “Execution Details for the Administration of Reeducation through Labor,” both of which was for *laojiao* and published in 1982, “Details for the Administration of Prison and Labor Reform Battalion” in 1982, “Rules for Prisoner’s Behavior under Reform” and “Rules for Prison Environment” in 1990, “Regulations for Management of the Hygiene of Laojiao Inmate’s Life” in 1991, and “Interim Regulations on the Management of Laogai and Laojiao Inmates’ Dossiers” in 1994. Moreover, the CCP administration also laid down new instructions and provisions. The White Paper on Human Rights in China, for example, was published by the State Council in 1991, of which the sections 4 “Human Rights Protection in China’s Judicial Work” discussed about the human rights protection in prison work, prison labor, and *laojiao*; the promulgation of Criminal Law and Criminal Procedure in 1979 and Prison Law in 1994 also demonstrated the resolution of legalization of the entire system of criminal justice. Furthermore, one of the four critical goals of prison reform which commenced in 2003 was “to operate prison through legal rules” and the *laojiao* institution was eventually repealed in 2013,³³⁹ both of them are also strong manifestations of the legalization the prison system.

³³⁸ *Supra* note 281.

³³⁹ *Supra* note 29.

Chapter Four

Prison Reform as Part of the Legitimation Plan for the CCP Regime

1. Introduction

The two research questions of the dissertation, as explained in chapter one, are that how has the entanglement of prison and enterprise been developed and that what made the prison system move in this trajectory. Starting off on the two bases that “prison system in China is a special state-owned enterprise” and “forced labor is considered as a type of punishment,” chapter two and chapter three have coped with the first research question, in light of which we are able to know about, from the state’s perspective, the establishment of prison-labor complex and its derivative types, the changes made to the carceral system, and the prison-labor nexus as the core force that drives the prison-enterprise entanglement in the pre- and post-reform era through a series of historical inquiries. Therefore, this chapter will be focused on the second research question in relation to how did the prison system evolve into its current form over its turbulent history; in other words, we have to find out a rounded and consistent explanation for its changes and the unchanged.

Chapter two and chapter three have told readers about the interactions between the communist state and the prison system over time. It is not possible for these interactions, however, to happen in a virtual world without any institutions; on the contrary, they must have happened in a way of social embeddedness where the norms, customs, mores, traditions, and so forth are located (Williamson 2000:596), or to be more concrete, in an institutional environment where the interactions are supposed to hinge on the laws, polity, judiciary, and bureaucracy (Williamson 2000:597). The two most crucial institutional factors for the emergence of the interactions, as elaborated in chapter two and chapter three, are the economic structure and, as will be argued in this chapter, the legitimation plans of the CCP regime.

Through a historical analysis of institutional changes in the prison system, the thesis of this chapter, based on the core ideas of historical institutionalism, namely path dependence or punctuated equilibrium, is to map out the route through which the prison system has evolved into its current shape. Prior studies on path dependence or punctuated equilibrium laid particular emphasis on two dimensions: one is the analysis of critical junctures and the other is the inspection of positive feedback. Studies on the former attempt to foreground the pivotal moments at which an institution is being built or redirected into different developmental tracks, and studies on the latter rather focus on the restricting effects from past trajectories on a present institution when it continues to advance in response to external shifts (Thelen 1999:387-388).

Consequently, after combining the two groups of studies on positive feedback and critical juncture, we will have a rather complete analysis of the changes and the unchanged of a certain institution. When in ordinary times, an institution’s development will bear the “lock-in” effect from the previous institutional decisions and thus have bounded selections for its future movements, but when encountering crises, an institution needs to engage in a large-scale transformation, which is supposed to spill out of the originally expected scope, for enduring the crisis and continuing its existence. The

dynamic process of alternations of critical junctures and positive feedback forms a punctuated equilibrium in the evolution of an institution over time.³⁴⁰

Accordingly, this chapter starts off with the discussion of the CCP regime's measures to maintain its legitimacy in the different periods of planned economy from 1949 to 1978, planned commodity economy from 1979 to 1991, and socialist market economy from 1992 to present. Subsequently, the focal point of the chapter will be directed to the institutional shifts of the prison system within the stasis and dynamics of the economic system over the PRC history and the route through which the movements of the prison system were able to match the state's legitimation plans. The chapter aims to argue that as the institutional environment changed from the period of planned economy, to the period of planned commodity economy, and to the period of socialist market economy, the prison system of communist China has evolved into divergent forms in response to the state's legitimation plans which were embedded within different economic systems.

2. Legitimacy of the CCP Regime

In Max Weber's ideas, human compliance is established on three major bases: habit, affection, and rational calculation, and accordingly he specified three ideal types of legitimacy through which sovereign power can be built on: tradition, charisma, and logical reasoning (Weber 1978:28). Recent study argues that, other than focusing on the basis of human compliance as Weber's taxonomy of legitimacy has shown, the possible ways to justify dominance used by state will be another feasible approach to form one's legitimacy: setting up fair laws or regulations and procedures, providing public goods, and the use of shared values, inclusive of traditional, religious, or ideological ones. Therefore, legitimacy can be otherwise categorized into three types: the legal-procedural, performance-based, and ideological ones. The legal-procedural legitimacy is supported when laws and regulations are equally binding to all persons and groups concerned through a generally recognized process; the performance-based legitimacy is enjoyed when the people perceive state's actions to be beneficial to them; the ideological legitimacy is espoused when the foundational value of a state's domination is widely recognized and accepted by the people (Zhao 2015:38).

With respect to the legitimacy of the CCP regime, researches show that the sources of the CCP's legitimacy varied in different phases. From the establishment of PRC in 1949 to the end of the Cultural Revolution in 1976, the CCP's legitimacy was primarily based on the revolutionary and communist ideology and its concrete performance to terminate the civil war and to make the state stable. When coming into the post-reform era which kicked off in the late 1970s, economic performance became the crucial source of the CCP's legitimacy. After the stunning Tiananmen Square Incident in 1989, which caused large-scale crackdown, 241 deaths and around 7,000 wounded from the official report (Frontline),³⁴¹ and the collapse of communism across the Eastern Europe and Soviet Union from 1989 to 1991, legitimization in an ideological and institutional approach, together with the performance-based legitimacy, are utilized by the CCP to make its governance steady (Holbig & Gilley 2010:396).

2.1. Period of Planned Economy from 1949 to 1978

³⁴⁰ For details, please refer to the section 4.3 of chapter one.

³⁴¹ Amnesty International (2004) estimated that the Chinese army moved tanks into the Tiananmen Square and killed several hundreds of unarmed civilians on the night of June 3-4, 1989.

It is widely assumed that in the pre-reform era the legitimacy of the CCP regime was built on the revolutionary ideology to establish a republican country of communism and the people's democratic dictatorship³⁴² so as to replace the fascist one of capitalism and feudalism under the control of KMT.³⁴³ The CCP, as vanguard of the proletariat, was expected to lead the country dominated by the people and shared by the people through the process of socialization. In Mao's thoughts (1949b), the people of China meant the working class, the peasantry, the urban petty bourgeoisie and the national bourgeoisie. These classes were led by the working class and the CCP and united to form their own state and elect their own government. They enforced the dictatorship over landlord class, bureaucrat-bourgeoisie, and the KMT reactionaries. Democracy was only practiced within the ranks of the people, who enjoyed the rights of freedom of speech, assembly, association and so on. The right to vote belonged only to the people, not to the reactionaries. The combination of these two aspects, democracy for the people and dictatorship over the reactionaries, was the people's democratic dictatorship.

The people's democratic dictatorship was Mao's version of democratic theory that provided a blueprint for the transitional phase from the rule of bureaucratic capitalism to socialism and finally communism (Steiner 1950:39). During this period of ideological legitimacy, law was considered by the CCP as an instrument for shaping the society, consolidating its proletarian dictatorship over the country and finally exterminating the bourgeois class and all other reactionaries. In the early years since the inception of PRC, legal instrumentalism did a great job for the CCP, in compliance with the ideology of suppressing the original ruling classes comprising imperialists, feudalists, bureaucratic capitalists, and compradors, to justify its large-scale crackdowns over those counterrevolutionaries. On account of the instrumental feature of law in the pre-reform era, it would be used only when it was needed. Vacuums of legal order during the Anti-Rightist Movement, Great Leap Forward Movement, and the Cultural Revolution were thus not beyond expectation, since non-legal means were more preferable than legal ones in those periods (Yu:1989:40-41).

Nevertheless, the excessive extra-legal methods of the Anti-Rightist Movement, conflicts among factions within the CCP, and the disastrous famine brought by the Great Leap Forward Movement led to the ebb of the CCP's ruling legitimacy, and later the lethal violence across the country during the Cultural Revolution, which was definitely an outright catastrophe to the society, accelerated the decline of Mao's ideology and thus completely dumped away the legitimacy of the CCP regime. A shift of the CCP regime's legitimacy away from the traditional communist ideology was imperative under the circumstances (Holbig & Gilley 2010:397). Therefore, right after the death of Mao in 1976, the high ranking officials of the CCP soon fostered a transformation to reestablish the CCP leadership as well as its legitimacy primarily on the future economic performance.

2.2. Period of Planned Commodity Economy from 1979 to 1991

During Mao's era, the Great Leap Forward movement has clearly proved that the top-down model of planned economy, in other words the state was responsible to commence numerous economic plans of all sizes for civilians to devote themselves in, was incapable of providing adequate incentives for people to work hard and the ten-year devastation of the Cultural Revolution even pushed the weak

³⁴² 人民民主专政。

³⁴³ Quoted from the preamble of Common Program of the Chinese People's Political Consultative Conference. *See supra* note 48.

Chinese economy on the verge of breakdown. Consequently, the pressures and desires from Chinese people for a secure and stable environment for economic development in the post-Mao era forced the CCP administration to implement some strategies based on the policy of reform and opening up so as to invigorate the internal economy and expose China to the external world as described in chapter three.

Whilst the economic reform was zealously supported by most of the high ranking officials of the CCP, the traditional communist mindset still wielded strong influence on some top CCP officials in the 1980s. These officials held firm faith that the communist ideology was still the basis of the CCP regime's legitimacy; that is, they were not fully convinced of the performance-based legitimacy. The economic transformation in the early reform era hence caused some problems before the long process of ideological adaptation has been done (Schubert 2008:192). In consequence, when these conservative state officials felt the threats to their power, they usually initiated protective political campaigns to conserve themselves, such as the anti-spiritual pollution campaign in 1983³⁴⁴ and the anti-bourgeois liberalization campaign in 1987,³⁴⁵ but those campaigns never lasted long and had little effects on reversing the reform and opening up policy (Zhao & Yang 2013:21).

The legal instrumentalism retained its strong support during the period of performance-based legitimacy. The CCP leaders justified the pivotal transformation of the economic system by concluding in the Sixth Plenary Session of the Eleventh Central Committee of CCP³⁴⁶ in 1981 that class struggle was no longer vital because the exploiting class has been excluded out of China.³⁴⁷ The instrumental role of law in the service of economic development was illustrated by the report of Ziyang Zhao in the Thirteenth National Party Congress of CCP in 1987, which emphasized the importance of legal institutions in the primary stage of socialism and the need to establish a socialist legal system so as to advance to a socialist democratic society. Thus, CCP applied the policy that legal means were the chief method, supplemented by other types of method, to maintain the economic order and improve the economic performance (Yu:1989:41).

The opening up policy allowed overseas tourists from all over the world, particularly the persons with the same languages and similar cultures from Taiwan and Hong Kong, to visit China. Their visitations brought Chinese people new ideas and new ways of life; Chinese people were especially stunned by the wealthy life led by their relatives or friends from other parts of the world. Chinese people began to doubt the traditional conviction in the primacy of socialism so that the CCP administration, for maintaining its ruling legitimacy, had no choice but to increase its dependence on economic performance.

Nevertheless, the market-oriented reform strategies inevitably brought about inflation which never showed up during the period of planned economy; the expansion of individual freedom also led to the critiques about the government's vicious conducts during the Cultural Revolution and the reflections on what caused the government to do so. Besides, the economic reform also resulted in the wide range of corruption in the central and local governments and the enlargement of wealth disparity. All of these triggered the public grievances and finally led to the Tiananmen Square Incident

³⁴⁴ 清除精神污染运动。

³⁴⁵ 反对资产阶级自由化运动。

³⁴⁶ 中共十一届六中全会。

³⁴⁷ *Supra* note 163。

in 1989 (Zhao & Yang 2013:22-25). The outbreak of Tiananmen Square Incident, together with the collapse of communism across the Eastern Europe and Soviet Union from 1989 through 1991, had gradually undermined the CCP regime's performance-based legitimacy and also destabilized its dominance in the late 1980s and later they contributed to the next round of the CCP regime's legitimation plan in the early 1990s.

2.3. Period of Socialist Market Economy from 1992 to present

Confronted with the crisis of its regime during the late 1980s and early 1990s, the CCP applied a series of strategies to regain legitimacy. Those plans for rebuilding the CCP's legitimacy were finally successful: in light of some studies, China has been maintaining its high political trust since the early 1990s (Schubert 2008:192) and in a comparative perspective China also ranked 13th out of 72 countries for its increasing public support during the period from the late 1990s to the early 2000s (Gilley 2006:63) while in the meantime several democratic countries, including the United State, Japan, and some Western European countries, were facing a falling trend in citizens' confidence in their governments because of a "crisis of democracy" (Wang 2005:114-115). The efforts of the CCP to restore its legitimacy after the critical point of Tiananmen Square crackdown and communism collapse, according to the relevant researches, can be understood as "a mix of nationalism, economic performance, technocratic governance and limited political reform (including a more legally based system)" (Schubert 2008:192-193), or, in a nutshell, an encapsulation of economic growth, social stability, and national security (Laliberté & Lanteigne 2008:8).

Even though the legitimation strategy for the period was performed in a mixed style, there is still an order of importance between individual components. According to an opinion in July 1992 from the Central Committee of CCP (Opinion on Strengthening the Works of Law and Politics for Providing Better Service to the Reform and Opening Up and Economic Construction),³⁴⁸ the CCP administration then still treated laws and politics as instruments for economic performance. In the Opinion the CCP required to augment the works of laws and politics mainly in two areas: on the onehand, it was necessary to take advantage of the law and political departments to regulate economic relations, improve the legal environment for the reform and opening up policy, and protect the rights of investors and those who engaged in the economic experiments; on the other hand, it was also needed to protect the country and society from the invasion of criminal conducts so as to establish a more stable social order in service for the the reform and opening up policy and economic development. In addition, the Opinion also emphasized on the importance of ideology for the economic restructure. The consciousness of service and reform and the prevention of left-leaning helped everyone to be aware of the significance of economic construction; the consciousness of social democracy, law and the mass line would be advantageous to the social stability.

Facing the widely critiques of the bloody suppression and the breakdown of communist front, Chinese leaders were trapped in a dilemma that they had to abandon the traditional ultra-leftist ideology which used to help the CCP build the country however now to no avail, but at the same time they were also afraid of losing their power. Chairman Deng, strongly believing the only way out was to insist on the reform and opening up policy, approved the establishment of development district in Shanghai and stock exchanges in Shanghai and Shenzhen, and China joined the APEC (Asian Pacific Economic Cooperation), all of which happened in 1991. After Deng inspection tour in southern China

³⁴⁸ 中共中央关于加强政法工作，更好地为改革开放和经济建设服务的意见。

in early 1992, the CCP administration accelerated the economic reform by loosening its monetary restraint, deregulating its price control on most products, encouraging the development of private and foreign enterprises, installing a new tax system, legalizing the bankruptcy and sale of state-owned enterprises, and, needless to say, the establishment of a (socialist) market economy. In addition, the instructions from the roots of Tiananmen Square Incident reminded the Chinese state of placing “anti-corruption” and “rule of virtue” at the center of the state’s plans for regain the performance legitimacy. Clearly, the communist ideology has been subtly discarded by the CCP administration after China widely accepted the economic liberation plans (Zhao & Yang 2013:23-28).³⁴⁹

The economic affluence in the 1990s also led to a friendlier political and social environment for the CCP regime to regain its legitimacy. The Tiananmen Square Incident and the subsequent repression intimidated many political dissidents either to move out of China or to silence themselves; those Chinese leaders with traditional leftist ideology were also silenced after Deng’s southern China tour in 1992; the replacement of centrally planned economy with market mechanism transferred the public dissatisfaction with the central government to the market itself to a certain extent, which means that the social problems were decentralized and depoliticized; besides, Chinese people were then immersed in the economic performance of the CCP and thus paid less attention to individual rights and relevant legal institution (Zhao & Yang 2013:31-32). All of these successfully helped the CCP to claim they are the only powerful one capable of assuring social and political stability in China and solidified the legitimacy of its rule (Schubert 2008:193). Contrary to the prediction of some Chinese experts and democracy theorists that the authoritarian regime of the CCP would have decline and China would have approached to democracy after the legitimacy crisis during 1989 to 1991, the CCP reclaimed its legitimate power over the control of China. Through the strategies for the institutionalizations in four major aspects of the regime’s succession politics, meritocracy instead of traditional factionalism in the promotion of political elites, structural differentiation and functional specialization in the regime organization, and the enlargement of political participation of ordinary citizens, the reconsolidation of the CCP regime after the crisis is dubbed “authoritarian resilience” (Nathan 2003).

The Chinese nationalism has been widely used as legitimation tactics since the 1990s; as the communist front collapsed, Chinese people’s dissatisfaction with the West was in particular provoked; several anti-western and anti-Japanese movements were carried out and becoming common. Studies have showed that to a certain degree the public disenchantment with the West and Japan, namely the Chinese nationalism, was supported the CCP administration through the officially well-refined narrative over decades that China used to be intruded and abused by the Western countries in the 19th century, cruelly tyrannized by Japan during the Second Sino-Japanese War from 1937 to 1945, and the condescension of the Western countries during the postwar period when in the face of the rising Chinese power (He 2007; Holbig & Gilley 2010:402). Those humiliations grew up together with the economic liberation, the diversification of personal life and identity and the ensuing pressures of the uncertainty in education and employment, and finally became the Chinese patriotism (Barmé 1995; Holbig & Gilley 2010:401-402). On the contrary, the state also applied a strategy of obliteration and misremembering in its official story since the early 1980s so as to gloss over the disgraceful past in Mao’s era, especially the state itself’s criminal behaviors during the Cultural Revolution (Friedman 2008). The Chinese nationalism thus worked as a state-sponsored bottom-up popular patriotism and at the same time as a top-down legitimation plan.

³⁴⁹ For details of the Chinese economic reform in the 1990s, please see section 2.3 of chapter three.

As for ideology, the CCP administration has never given up to exploit it as one of its legitimation plans, even in the period of socialist market economy. When in a speech to the military cadres on June 9, 1989, five days after the Tiananmen Square Incident, Deng emphasized that the biggest mistake that has been made in the past ten years was about the education of ideological and political thoughts (Deng 1989). For strengthening the ideological control over the country, especially knowing the ruling party KMT lost two times in a row in the Presidential Campaign of Taiwan in 2000 and 2004, Zemin Jiang, who was Deng's successor, put his concept of "Three Represents"³⁵⁰ into the Constitution of PRC and since then it is juxtaposed and has the same importance with Marxism-Leninism, Mao's Thoughts, and Deng's Theory (Holbig & Gilley 2010:405-406). Besides, the negative effects of the economic reform began to ferment in the late 1990s and the early 2000s and how to maintain the social and political stability thus emerged as a crucial point; therefore, to build a "socialist harmonious society"³⁵¹ became the major ideology of the CCP administration. The term of socialist harmonious society was firstly used by the chairman of CCP, Jintao Hu, in the the Fourth Plenary Session of the Sixteenth Central Committee of CCP³⁵² in September 2004 and to build a socialist harmonious society was then included in the five most crucial abilities of the CCP to hold the reins of China. Later in October 2006 when the Central Committee of CCP published the "Significant Resolution on Certain Questions about Building a Socialist Harmonious Society,"³⁵³ further laid down the details of the plan of building a socialist harmonious society.

Among the principles of building a socialist harmonious society, the principles of socialist rule of law and socialist democracy are the most comprehensive two. They require the CCP to lead all citizens to advance the country's economy, politics, culture, and the social life of everyone into legalization and institutionalization so as to promote the social justice and fairness. To be specific, under the lead of the CCP, for strengthening the democratic values, it is necessary to improve the design of National People's Congress, to legislate democratically and scientifically, and to enlarge the scope of public participation in and public surveillance over the political decision-making process; besides, socialist rule of law is the foundation of a socialist harmonious society, so human rights protection, a rule-of-law government and administration, and the establishment of a socialist judiciary with public, fair, efficient, and authoritative trial system. Consequently, democratic values and rule of law are both considered by the state as part of the legitimation plan from an ideological perspective (Schubert 2008:194-199).

3. Trajectory of the Changes in the Prison System

As we can see in the previous section, the legitimation plans of the CCP regime in different periods of time changed primarily with the transformations in the state's economic system. In this section the dissertation is about to depict the trajectory of the institutional shifts in the prison system along with the CCP's legitimation plans. The section will firstly foreground the critical junctures for prison's institutional changes at different times and its positive feedback for reenforcing its own existence in a

³⁵⁰ 三个代表。The definition of Three Represents denotes that the importance of the communist party in modernizing the nation—representing the demands for the development of advanced social productive forces, the direction of advanced culture, and the fundamental interests of the greatest majority of the people (Holbig & Gilley 2010:406).

³⁵¹ 社会主义和谐社会。

³⁵² 第十六届四中全会。

³⁵³ 关于建构社会主义和谐社会若干问题的重大决定。

certain period, and then the section is going to illustrate the role of prison in the macro legitimation plans of the CCP regime.

3.1. Period of Rule by Authority from 1949 to 1978

The systems of reform through labor and reeducation through labor were formally set up in 1951 and 1957 respectively, shortly after the end of the civil war between the CCP and the KMT. Since China just came off the lengthy warfare of World War II and the civil war at that time, the ways the CCP administration utilized to corroborate its unstable ruling legitimacy over the Chinese territory, as illustrated in the prior section, were through the revolutionary and communist ideology of the people's democratic dictatorship, which featured the differential treatments between the people and the enemies of the socialist society, and through the CCP's effective performance to end the warfare and to assure every citizen of an ordinary social life.

Similarly, the CCP administration's legitimation plan then also bore on the measures to govern the communist prison in its primary form. China's penal labor camp system rooted in the Soviet Union's experience of gulag scheme on the principle of punishing and reforming criminals through forced labor, which was an ideological derivative of Karl Marx's quote that physical labor is the best disinfectant for preventing social viruses, but the CCP administration made some modifications to its details for the adaptation to the Chinese society in the postwar period. According to the resolution that formalized the institution of *laogai* in 1951, for reforming criminals, for addressing the problem of prison capacity, and for disallowing criminals to be parasites of the society, the huge amount of prison labor must be sufficiently exploited in service of the development of the state. Therefore, even though both Soviet Union and China applied the principle of forced labor as punishment, China was more prone to focus on the economic function of forced labor while the Soviet Union rather preferred its punitive effects. Accordingly, the publication of the Resolution on the Question about Organizing All Criminals to Reform through Labor in 1951 was the first critical juncture for *laogai* mechanism, or the communist prison system, to come into being and could exert its self-reinforcing effects on its own institutional existence and other derivative penal labor systems such as the forced job placement program in 1954 and the reeducation through labor system in 1957.

The guiding principle of forced labor as punishment of the Chinese prison apparatus perfectly matched the legitimation basis of the CCP regime. The ideology of the people's democratic dictatorship required to differentiate the people and the enemy of the society and only the former would be treated democratically and were allowed to enjoy the individual rights while the latter, such as the landlord class, the bureaucratic bourgeoisie, and the KMT reactionaries, would be governed through autocracy and dictatorship. As explained in chapter two, those "enemies" would be sent to either *laogai* or *laojiao* camps based on their criminality to be separated from the ordinary society and engage in forced and hard labor. Thus it proves that the system of penal labor camps helped to carry out the ideology of the people's democratic dictatorship in the pre-reform era and served as part of the legitimacy plan of the CCP regime on the ideological side. Moreover, the emphasis on the economic function of penal labor camps not only fulfilled the communist ideology that every citizen needs to work for supporting their own life, the output of prison labor including its production and the infrastructure construction also consolidated the CCP regime's performance-based legitimacy.

Even though the PRC was established in 1949, the civil war between the CCP and the KMT and other regional riots were not completely over in some areas until 1954, and the legal instrumentalism

was wielding its influence, so during the period the National People's Congress was not able to work and there were thus no laws in the real meaning with regard to the prison system and instead numerous government policies and administrative regulations from the State Council, Ministry of Public Security and relevant government organs for certain governmental purposes possessed the command over the entire prison system. The resolution for *laogai* establishment in 1951, the Regulations on Laogai of 1954, Interim Measures for Forced Job Placement of 1954, Decision on the Question about Reeducation through Labor of 1957, and Details for Labor Reform Teams of 1962 are pertinent examples here. On account of the authoritative governing over the prison system via government policies and administrative regulations for certain governmental purposes of political control, economic development, and prisoner reform, penal labor camps existed during the period can be understood as under the rule by authority.

3.2. Period of Rule by Economic Output from 1979 to 1991

When the Chinese society approached into the post-reform era, the major missions of both the government and the general public were to improve the national economy and make more profits; the traditional legitimation plan of revolutionary and communist ideology was fading out and the importance of performance-based legitimacy was gradually increased and finally occupied a dominant position. The atmosphere of being pragmatic permeated through the entire post-reform society and the government was required to “come down to earth” in its policies. The contract responsibility system, the planned commodity economy, and subsequent market-oriented measures led China to a period of affluence, and the crisis of the CCP regime's legitimacy resulted from the Cultural Revolution was hence appeased.

The profit-seeking feature of the CCP administration in the post-reform era inevitably penetrated into the system of penal labor camps. As the revival of township enterprise and its connection with labor camps under the contract responsibility system in the late 1970s, the prison-labor complex then was in practice transformed from a self-supporting people's commune into a profit-seeking workshop or factory in the form of prison-enterprise combination. The practice of prison enterprise under the contract responsibility system was officially recognized and even encouraged by the state in Eighth National Conference of Laogai Works in December 1981, and later in June 1984 the National Conference of Laogai and Laojiao Works decided to extend the scope of the contract responsibility system, which originally only covered the prison production in *laogai* units, to the task of prisoner reform, and thus it became a system of double contract responsibility of prison production and prisoner reform. In the same year, the system of double contract responsibility was also applied to the *laojiao* system. Since then, the entire prison system consisting of *laogai* and *laojiao* units was enveloped in the effects of contract responsibility system and every labor camp was required to be not only self-supporting but also profit-making; the latter was not a requirement in the pre-reform era because under the planned economy production was the eventual goal and needless to be transferred into profits through a market mechanism.

Therefore, the Eighth National Conference of Laogai Works convened in December 1981 can be viewed as the critical juncture for the prison system as it opened a new door for it by applying the contract responsibility system to the dilapidated penal labor camps which were smashed and shut down during the Cultural Revolution and helped it to restore from a mass of ashes and debris and even became prosperous in the 1980s. After the CCP administration set the tone for the prison system to foreground its nature as special state-owned enterprise operated under the system of contract

responsibility, the subsequent relevant policies were locked in the route by the anchoring effect of major tone.

Similarly, the instrumental role of law also carried weight actively and served as a supplementary character in the institutional changes of the prison system during this period as it did in the previous decades. There were still no real laws with relation to the prison system while the scattered provisions about criminal offenses and criminal proceedings were finally codified in 1979. Instead, the CCP administration kept taking advantage of administrative rules and governmental policies for their traits of being purposeful, temporal, policy-oriented, and particularized and released numerous resolutions, regulations, plans, measures, provisions, standards, notifications, instructions, opinions, etc.

Consequently, after the issuance of the conclusion of the Eighth National Conference of Laogai Works, no matter whether the following policies were about prison enterprise itself or were related to the financial structure, prison cadres, business administration, or prisoner reform tactics, they were all centered on making the prison system more market-adapted and profitable, and this trend appropriately matched the performance-based legitimacy during this period. Accordingly, as the prison system consisted of the combination of prison administration and prison enterprise and the latter outweighed the former for the government's economic policy of reform and opening up, prisons existed during the period can thus be seen as under the rule by economic output.

3.3. Period of Rule by Law from 1992 to present

The opinion release by the Central Committee of CCP in July 1992³⁵⁴ had preliminarily laid out the some measures of prison reform relevant to its legitimation plan, such as to draw up the laws for *laogai* and *laojiao*, to grant some preferential policies to the prison enterprise, and to actively regulate the ex-prisoners. A month later, the State Council released the white paper "Current Situation of Prisoner Reform in China"³⁵⁵ in August 1992, which summarized the experience of *laogai* practice in the past decades and laid down the blueprint for future development of Chinese prison system. Previous government announcements on prison affairs mostly put their focus on the ideology or economic output of prison reform practice. The conclusion of the Eighth National Conference of Laogai Works in 1981, for example, attributed the high amount of premature deaths in *laogai* units in the pre-reform era to the wrongful influence of the leftist ideology and blamed the serious ideological errors for the economic loss of prison production, particularly during the Cultural Revolution. On the contrary, the white paper lowered the tone of ideology and economic profits and downplayed their importance in the labor reform practice in the past; instead it claimed the significance of legalization, modernization and civilization in the prisoner reform works.

The publication of the white paper on prisoners' situation in China was not out of the blue; on the contrary, it rooted in a prior white paper "Current Situation of Human Rights in China,"³⁵⁶ which was published also by the State Council in November of the previous year. The section 4 of the human rights white paper was about human rights protection in the Chinese criminal justice system. Aside from the discussion about arrest, detention, search, evidence collection, prosecution, and adjudication, it also probed into the human rights issue in the systems of *laogai* and *laojiao* in China. It

³⁵⁴ *Supra* note 349.

³⁵⁵ 中国改造罪犯的状况。

³⁵⁶ 中国的人权状况。

reaffirmed that prisoner's rights were legally protected and the state exercised humanitarian, scientific and civilized prison administration; prison labor was not simply a type of punishment but also a humanitarian reform or reeducation measure that assisted *laogai* and *laojiao* inmates to reenter the society after their release more smoothly.

If combining the observations on the two white papers of the early 1990s, we can find out that the CCP administration not only expatiated on the situation of the prison system then but also set the primary tones for its future development: legalization, civilization, humanitarianism, and scientization. In the Ministry of Justice's point of view, those objectives could be put together for building a "modern and civilized prison system." The Ministry further laid down the definition of and standards for a modern and civilized prison system by emphasizing the importance of a legal apparatus through which the prisoner reform process can be operated in a humanitarian, scientific, and civilized way (Standards and Opinions on Building a Modern and Civilized Prison System).³⁵⁷ The State Council in February 1995 extended the prison reform works to the system of *laojiao*.³⁵⁸ Consequently, the publication of the white paper of Current Situation of Prisoner Reform in China in 1992 can be seen as the critical juncture for the prison evolution because it not only set up the core points for the following trajectory but also diverted the prison system from while connected it with the previous scheme.

This trajectory of prison evolution set in the 1990s was further clarified and concreted in an official opinion from the Ministry of Justice in 2003 (Opinion on Moving Forward to Advance the Legalization, Scientization, and Socialization of Prison Works),³⁵⁹ which kept the original tasks of legalization and scientization and combined humanitarianism and civilization into a single goal of socialization. Socialization here means to make the prison system more closely connected with the society and thus prisoners can reenter the society more easily after being released. Since then the prison system has been going through a reform process with the three spirits of legalization, scientization, and socialization, and the organizational restructure from the combination of prison and enterprise to a separated form is also considered as part of the reform scheme (Notification on the Questions about Moving ahead to Deepen the Reform of the Prison System).³⁶⁰

For achieving the contemporary prison reform works, the central government kicked off it by prohibiting prisons to print "*laogai*," "criminal," "offender" or the likes of such discriminative words or sings on prisoners' costume,³⁶¹ and the prohibition was considered as part of the civilization works. Later in August 1994 the traditional term "reform through labor" was superseded by "prison" (Notification on Unification of the Names of Prison Administration Organizations and Prisons)³⁶² in coordination with the forthcoming new Prison Law of PRC, which was promulgated in December 1994 to replace the Regulations on Laogai, and the latter eventually became ineffective in October 2001. Away from the lengthy controversy over the priority of reform or production in the duties of the prison system, Article 3 of the Prison Law reiterates that the principle of two combinations: combining punishment with reform and combining education with labor, dominates the prison

³⁵⁷ 司法部关于创建现代化文明监狱的标准和实施意见。

³⁵⁸ *Supra* note 319.

³⁵⁹ 司法部关于进一步推进监狱工作法制化、科学化、社会化建设的意见。

³⁶⁰ 司法部关于进一步深化监狱体制改革有关问题的通知。

³⁶¹ *Supra* note 317.

³⁶² 司法部关于统一规定监狱管理机关和监狱名称的通知。

operation so as to transform criminals into law-abiding citizens. The principle of two combinations used to appear in the Regulations on Laogai as well, but at that time it was more ideology-oriented by asserting the combination of punishment and “thought reform” and the combination of labor production and “political education”, and this trait also matched the CCP’s legitimation strategy in the pre-reform era. The name change of labor reform mechanism and the modification of the content of the principle of two combinations have manifested that the traditional understanding of the Chinese carceral apparatus from a simply economic and political point of view is outdated and at present the prison system is assuming a more complicated role in the CCP regime’s legitimation plan at current stage.

In addition to the Prison Law and a few comprehensive guidances, the Ministry of Justice also published some administrative instructions for prison cadres and prisoners, such as Provisions on the Works of Prison Education and Reform in 2003,³⁶³ Regulations on the Behavior of Prisoners in 2004,³⁶⁴ the Statewide Activity of forming an Image of Civilized Law Enforcement in Prisons and Laojiao Units in 2004,³⁶⁵ and Outline of Educational Reform of Prisoners in 2007.³⁶⁶ These detailed administrative rules manifested and substantiated the spirits of legalization, scientization and socialization in the daily prison practice. Besides, the section 7 of the Standards and Opinions on Building a Modern and Civilized Prison System³⁶⁷ also required the prison cadre teams to be equipped with necessary legal knowledge, more specialized in reform techniques and more skilled in business administration of prison enterprise; in summary, prison cadres needed to be technocrats in the field of prison affairs. According to the report in April 2012 from the State Council, which examined the effects of the Prison Law after its enforcement in 1994 and the situation of prison works,³⁶⁸ those prison renovation works have reached the set objectives at the current stage and it is ready to move ahead to take next steps.

The prison reform strategies since the early 1990s were in a more intricate way to match the CCP regime’s legitimation plan. As mentioned in the prior section, the legitimation plan of the CCP regime during this period was a mix of nationalism, economic performance, technocratic governance and limited political reform with a more legally based system, and there are some matches between the legitimation plan and the prison reform strategies. Except for the nationalism, other components of the legitimation plan can find their parallels in the prison reform strategies. The reform regarding the separation of prison and enterprise for addressing the economic crisis of the prison system, for example, can be seen as the counterpart of the performance legitimacy; the emphases on the scientization of prison and the enhancement of cadres’ quality and skills can be seen as a derivative of the technocratic legitimation; the enforcement of Prison Law and other relevant legalization works are part of the macro legal-procedural legitimation plan.

By and large, the prison reform strategies during this period were still implemented mostly through administrative regulations and government plans. Even though the Prison Law of PRC was finally enforced, we can’t not thus easily infer or even argue that legal instrumentalism was abandoned; on

³⁶³ 监狱教育改造工作规定。

³⁶⁴ 监狱服刑人员行为规范。

³⁶⁵ 司法部关于在全国监狱劳教系统开展文明执法树形象活动的通知。

³⁶⁶ 教育改造罪犯纲要。

³⁶⁷ *Supra* note 354.

³⁶⁸ *Supra* note 332.

the contrary, the Prison Law, together with the numerous administrative regulations, continues to function as a vehicle to achieve various goals of the government. In other words, law is still treated as an instrument by the state, and therefore prisons exist during the period can thus be viewed as under the rule by law. Why not rule of law? Even though the State Council asserted in the white paper in 1991 that the human rights were strongly protected in China and in the white paper “Legal Construction of China”³⁶⁹ in 2008 that China is approaching toward a socialist country under the rule of law, as studies have showed (Peerenboom 2002; Yi 2008), the state is still on the half way to a completely rule-of-law country and the rule-by-law heritage remains visible in some aspects of the government activities.

Nevertheless, the remaining elements of rule by law are going through an elimination process in recent years. The Standing Committee of the National People’s Congress issued a resolution in December 2013 to abolish the system of *laojiao* for it allowed persons to be detained for several years without a judicial procedure and thus was incompatible with the requirement of rule of law.³⁷⁰ In October 2014 the Central Committee of CCP has released a resolution on advancing the country to situate under the rule of law in an all-round manner,³⁷¹ according to which, the CCP administration started off a new stage of legal reform of the state administration, and the reform of justice system, including judicial independence and the openness and accountability of the justice system, is one of the core duties. Accordingly, the Ministry of Justice in April 2015 kicked off a program to make the information about the prison administration public accessible (Opinion on Moving Forward to Deepen Transparency in the Prison Administration)³⁷² and therefore to increase the public trust in the prison system and the effects of its law enforcement conducts.³⁷³

4. Concluding Remarks

By applying the point of view of the historical institutionalism to analyze the development of the prison system in communist China since 1949, the interactions between the state and the carceral mechanism within the context of the state’s macroeconomic changes serve as the focal point of the chapter. The chapter has illustrated that the interactions will to a certain extent reflect the entanglement between economic restructure and the state’s legitimation plan in communist China. To be specific, the economic reforms that connected different periods of time over the PRC history served as a momentum pushing the state to create the critical junctures which propelled the subsequent institutional changes of the prison system. In other words, when a certain economic system was adopted, the CCP administration subsequently exerted a plan that was able to legitimize the regime, and the legitimation plan together with the existent economic stasis and dynamics would support as well as restrict the prison system to develop in a particular way rather than allow it to freely evolve.

The chapter further manifested the details of the interactive relationship between the Chinese government and the prison system in different economic contexts. When under the planned economic

³⁶⁹ 中国的法治建设。

³⁷⁰ *Supra* note 29.

³⁷¹ 中共中央关于全面推进依法治国若干重大问题的决定。

³⁷² 司法部关于进一步深化狱务公开的意见。

³⁷³ For the details of the opinion published by the Ministry of Justice in English, please refer to the news report at <http://chinalawtranslate.com/prisontransparency/?lang=en>.

system, the CCP regime majorly built its legitimacy on the revolutionary and communist ideology and its performance to end the civil war and to make the state stable, and the operation of penal labor camps then also featured thought reform and hard labor, both of which matched the legitimation plan. When in the period of planned commodity, the CCP regime's legitimacy primarily came from its economic performance, and the system of labor camps then put all its energy on prison production so inevitably began to sink into the financial crisis since the 1990s. When coming into the socialist market economy, the CCP regime's legitimacy is a mixture of nationalism, economic performance, technocratic governance and limited political reform with a more legally based system, and the prison system, along with the legitimation plan, also went through a transformation into a legalized, scientized, and socialized one.

In sum, so as to clarify the changing trajectory of the Chinese prison system in the communist age, the chapter has probed into the interactions between the CCP administration and the carceral mechanism within the context of the macroeconomic transformation over the PRC history. The chapter finds that the institutional changes in the prison system can be considered as one of the outcomes of the restructure of state's economy and also as part of the state's legitimation plans at different times. Besides, during the process of the institutional shifts in the prison system, in addition to the structural factors that bore on the route of prison evolution, leaders of the CCP, inclusive of Mao with his ultra-leftist and revolutionary thoughts during the era of planned economy, Deng with his pragmatic economic theory in the age of economic reform, and Jiang with his three represents and Hu with his goal of socialist harmonious society in the late 1990s and the early 2000s, all made significant adjustments to the prison system. Those state leaders acted as the most important and active social actors here and successfully demonstrated their autonomy to make their own decisions and capacity to influence the development of the prison system. Consequently, just as Garland has stated (2013:494) "social currents may ebb and flow, but they have no penal consequence unless and until they enlist state actors and influence state action," it thoroughly accounts for the correlation between the drastic changes in the economic as well as the prison system in China over the past sixty something years.

Chapter Five Conclusion

This dissertation is motivated by the CCP administration's treatment of separation of prison and enterprise for the financial crisis of the prison system in 2003. The official statements and the relevant studies by Chinese scholars have demonstrated their endogenous limitations that the prison system in China needs to be either in the form of combination of prison and enterprise or in the form of their separation. According to their accounts, the prison system in the combination form, which functioned well in the central planned economy, was unable to adapt itself to the grand transformation to socialist market economy and thus has to advance to the separation form for addressing the financial difficulties in itself. The obvious prison-enterprise binary and the dichotomy of combination and separation in their discourse have illustrated the confining effects on the official as well as scholarly understandings of imprisonment, but it also points the dissertation to trace the origin of the concept of the prison-enterprise binary.

Breaking away from the scope of Chinese thoughts on the prison system, studies by western scholars on the matter from a social scientific perspective manifest some intriguing details of the Chinese prison system. Some studies have showed that in the post-reform age the prison system was no longer a cash cow as it used to be in the pre-reform age and was even a financial burden on the national economy (Tanner 1994; Seymour & Anderson 1998; Fu 2005a; Seymour 2005 & 2006). Besides, Dutton's studies (1992a & 1992b) uncovered the disciplinary nature of the Chinese prison system and argued that penal labor camps were producing the entire proletarian class. These studies lead the dissertation to inspect the economic role of the prison system and its connection with other social institutions, and Mühlhahn (2009) and Garland's (2013) works remind the importance of the state leaders and relevant laws and rules in the development of the prison system. After taking the historical, economic, legal and political parameters into consideration, the full picture of penal labor camps in the Chinese socialist society can be eventually disclosed.

Consequently, the dissertation employs a historical institutionist approach as the main theoretical backbone, trying to clarify the formation and development of the carceral mechanism from an economic point of view and to match it with the CCP regime's legitimation plans in different periods of time. With this theoretical framework, the dissertation aims to address two research questions: how has the entanglement of prison and enterprise been developed over the history of communist China and what made the prison system move in this trajectory. The dissertation adopts a top-down standpoint that focuses on the carceral strategies utilized by the CCP administration rather than a bottom-up one which resides its argument on personal experience from prisoners or prison staff members.

For conducting the case study of the prison system in communist China, the dissertation collects relevant data from various sources, two most crucial ones of which are the compilations of laws, regulations, and historical documents with respect to PRC's justice administration from 1949 through 1989, and 13 province-level local gazettes, which catalogued the history of penal labor camps in their respective province. The compilations, which are internally circulated only, are beneficial to frame the organizational structure of penal labor camps in different periods, and the local gazettes assist to stuff up the details of the prison system's operation.

In chapter two the dissertation finds the mutual connection between the three institutions of *hukou* (household registration), *danwei* (work unit), and the prison system in the background of central planned economy. The three institutions jointly, on the one hand, constructed a massive mechanism of control for social stability through two major means of human typology and organized dependence and, on the other, were under the central management of the internal installment of party-state organization and the system of *dangan* (political dossiers). Besides, at the inception of the system of penal labor camps which chiefly consisted of *laogai*, *laojiao* and *jinye*, chairman Mao defined it as a special state-owned enterprise and determined to employ forced labor as punishment. The two critical features established the prison-labor nexus as the core force of prison works and decided the orientation of the communist prison system as a prison-labor complex. Any types of combination or separation of prison and enterprise, such as people's commune, workshop, factory or even a company, are within the scope of prison-labor complex.

Following the efforts done by chapter two about the correlation between the system of penal labor camps and other social control means in the pre-reform age, chapter three moves ahead to focus itself on the changes in the prison system when the system was facing the gigantic economic shifts in the post-reform era and uncovers the flexible nature of the prison-labor complex. Chapter three begins with the macro economic policy of reform and opening up in 1979 and then lays out the three major changes in the prison system. The first one is in relation to the economic role of prison. In the post-reform era, the economic performance of a prison outweighed other penal goals, the principle of less eligibility was no longer important, and the prison system has undergone two main economic restructures, one is the adoption of the contract responsibility system and the other is the separation of prison administration and prison enterprise. The second crucial change in the prison system is the organizational shift: The Ministry of Justice regained its authority over the prison system in 1983, the *laojiao* system acquired its independence from the *laogai* system, the traditional pattern of "same staff under two titles" has disappeared due to the adoption of prison-enterprise separation, and the adjustments in the prisoner typology in response to the external economic transitions are explicit illustrations. The third critical change is the systematic legalization of the prison system: the promulgation of the Prison Law and relevant regulations, the emphasis on the rights protections of prisoners, and the repeal of *laojiao* are the appropriate examples.

After knowing how has the entanglement of prison and enterprise been developed in the previous two chapters, chapter four turns its focus onto the second research question, that is, what made the prison system move in this trajectory. By applying the point of view of the historical institutionalism, chapter four manifests the institutional influences of the economic structure and the legitimation plans of the CCP regime on the interactions between the communist state and the prison system over time. Chapter four further shows the details of the interactive relationship in different periods. When under the planned economic system, the CCP regime primarily based its legitimacy on the revolutionary and communist ideology and its performance to end the civil war and its endeavor to ensure a stable country, and the operation of penal labor camps then also featured thought reform and hard labor, both of which matched the legitimation plan. When in the period of planned commodity, the CCP regime's legitimacy primarily came from its economic performance, and the system of labor camps then put all its energy on prison production so inevitably began to sink into the financial crisis since the 1990s. When coming into the socialist market economy, the CCP regime's legitimacy is a mixture of nationalism, economic performance, technocratic governance and limited political reform with a more legally based system, and the prison system, along with the legitimation plan, also went through a transformation into a legalized, scientized, and socialized one. Consequently, other than the mere observations from a criminological perspective, chapter four helps readers to know more about why

the institutional changes arose in the prison system by putting it into the context of the CCP's plans for consolidating its legitimacy.

As for the contributions, the findings of the dissertation firstly help readers to break away from the conventional and single-sided view that under the combination and separation binary the penal labor camps were endogenously inadaptable to the market economy; instead, the dissertation relates the financial crisis of the prison system and the prison reform plan in the first decade of 21st century to the country's historical and politico-economic context and thereby to provide a multidimensional analysis of the CCP's carceral strategies. Besides, the dissertation also makes a contribution to the western scholarship of punishment and society by providing the Chinese example. Dutton's study (1992a & 1992b), for instance, has suffered from the criticism to be too theoretical without empirical support (Tanner 1995), and the dissertation's empirical findings from legal archival documents and local gazettes can make a supplement to Dutton's argument about the disciplinary nature of China's penal labor camps. Garland's proposal to add the study on penal state into current scholarship of penalty for building a comprehensive and explanatory analytic framework also got substantiated by the dissertation's attempt to fit the CCP's carceral strategies into its legitimation plans in different periods. All of such are able to add new flavors to the present punishment and society recipes.

On account of the limited materials about and the restricted access to the prison practice in communist China, the methods used by the dissertation to probe into the research questions is quite indirect and thus the dissertation bears the risk that what have been described and explained in the dissertation are possibly contrary to what happens in the real world. Based on the findings of the dissertation, future researches are needed in two areas: one is the legal status of the prison enterprise and its future evolution, and the other is the influence of rule of law doctrine on the prison system.

As stated in chapter three, the State Council has required relevant governmental organs to find an appropriate location in the legal system for the prison enterprise. The socialist market economy in China is usually described as "Chinese State Capitalism" (Bremmer 2009 & 2010; Lin & Milhaupt 2013) and the Central Committee of CCP and the State Council just kicked off another round of reform for state-owned enterprises by publishing a joint announcement in September 2015 (Guiding Opinion on Deepening the Reforms of State-Owned Enterprises).³⁷⁴ According to the announcement, to modernize state-owned enterprises, to augment the management of state assets, to promote mixed ownership, and to prevent the erosion of state assets are the four primary missions of the plan. Several commentators have described the forthcoming reform as the vehicle to "Temasek Model," which is widely used in Singapore (Bloomberg News 2015; Yu 2015; The Economist 2015). What influence the imminent wave of state firms reform will bring about on the prison enterprise, it needs future researches to conduct deep examinations.

As for the prison administration under the broader configuration of the rule of law doctrine, even though in October 2014 the Central Committee of CCP has determined to build a country under the rule of law,³⁷⁵ Jinpin Xi, current chairman of the CCP and the president of PRC, defined rule of law doctrine in his explanation as that administrating a country through laws (Xi 2014). The definition reminds us of the long-used legal instrumentalism over the PRC history. Therefore, future researches

³⁷⁴ For its English report, please *see* the news report at http://www.china.org.cn/business/2015-09/14/content_36575657.htm.

³⁷⁵ *Supra* note 370.

Chapter Five: Conclusion

need to clarify the true meaning of the rule of law when it is applied to the Chinese society in the following years.

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Appendix

Appendix 1: Map of China

