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# CARCERAL STRATEGY AND THE SOCIAL STRUCTURE IN MAOIST CHINA

Mao-hong Lin

## ABSTRACT

This Article explores the connection between the carceral strategy utilized by the Chinese government and the social structure in the Mao era. From Mao's view, thought reform and profit-seeking were the two primary goals of the Chinese socialist prison. Yet, by placing the system of labor camps and post-release management into a broader context, this Article demonstrates that the system was designed to make inmates depend on the socialist settings through the measures of party-state apparatus, prisoner cards and dossiers, classification of prisoners, hard labor, and thought remolding. Those measures had their counterparts in the general social structure in communist China, like work unit, household registration and political dossier. In addition, the unique feature of punishment-profit nexus made the system of labor camps and post-release management crucial for the purposes of economic development and political control in Mao's time. In conclusion, the system of labor camps and post-release management was an integral part of the greater social control mechanism in Chinese society during Mao's time. It was designed and operated in a way to reform an ill population into qualified workers so as to fit socialist requirements and maintain social stability.

## ABOUT THE AUTHOR

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## INTRODUCTION

The Chinese Communist Party (CCP) has been well-known for its statewide use of labor camps to accommodate prisoners after it took control of China in 1949. This institution was a historical legacy from the Soviet Union. Mao Zedong, the first chairman of the CCP and the founding father of the People's Republic of China (PRC), transplanted the prototype into Chinese society with some adaptations. The idea of labor camps came from a quote of Karl Marx: "*physical labor is the best disinfectant for preventing social viruses.*"<sup>1</sup> For Mao, however, prisoners' labor also indicated a strong economic power to rebuild a "new China" out of the ashes of World War II and the civil war against the Chinese Nationalist Party. The system of labor camps was therefore positioned by the CCP as a "special state-owned enterprise" in 1952. Thought reform and profit-seeking became the two primary goals of the Chinese socialist prison through large-scale and intensive labor work.

There has been plenty of research on this unusual carceral-labor system from the Western view. Mühlhahn's work gives readers a general picture of criminal justice in China from the beginning of the twentieth century to the late 1970s.<sup>2</sup> Some literature traces the system of labor camps and its measures to correct prisoners back to the years when the

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1. KLAUS MÜHLHAHN, *CRIMINAL JUSTICE IN CHINA: A HISTORY* 150 (2009).

2. *Id.*

CCP was just established<sup>3</sup> or even earlier to the Qing dynasty and the Republican era.<sup>4</sup> The system's use of mandatory labor and political thought reform practices have also drawn strong criticism for violating human rights.<sup>5</sup> Dutton and Xu, from a view of traditional Chinese philosophy, explains that the idea of thought reform actually worked in the earlier decades, but gave way to more draconian legalist notions of retaliation as the social changes eroded the socialist roots.<sup>6</sup> Dutton also capitalized on the ideas of disciplinary power and governmentality to analyze the labor reform mechanism over the course of Chinese history.<sup>7</sup>

Some other studies pay attention to the economic function of Chinese labor camps. Mosher discusses the productive capability of camps and its integral part of national economic development in the reform era.<sup>8</sup> Tanner refutes the official reports on the labor camps' contribution to the state economy during the 1980s and 1990s and points out its economic vulnerability.<sup>9</sup> Seymour and Anderson's work provides us with insightful observations on the camps in Northwest China in the 1990s and explains that the challenges from the market economy beginning in the 1980s have worsened the penal economy.<sup>10</sup> It discloses that the output from the labor camps was in a downward trend.<sup>11</sup> By embedding China's carceral practice into a broader politico-economic context, Fu argues that

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3. See Frank Dikötter, *Crime and Punishment in Post-Liberation China: The Prisoners of a Beijing Gaol in the 1950s*, 149 CHINA Q. 147, 147–59 (1997); Frank Dikötter, *The Emergence of Labor Camps in Shandong Province, 1942–1950*, 175 CHINA Q. 803, 803–17 (2003); JOHN A. FYFIELD, RE-EDUCATING CHINESE ANTI-COMMUNISTS (1982); Aminda M. Smith, *The Dilemma of Thought Reform: Beijing Reformatories and the Origins of Reeducation Through Labor, 1949–1957*, 39 MOD. CHINA 203–34 (2013); AMINDA M. SMITH, THOUGHT REFORM AND CHINA'S DANGEROUS CLASSES: REEDUCATION, RESISTANCE, AND THE PEOPLE (2013).

4. See JAN KIELY, THE COMPELLING IDEAL: THOUGHT REFORM AND THE PRISON IN CHINA, 1901–1956 (2014).

5. Melissa P. Fruge, *The Laogai and Violations of International Human Rights Law: A Mandate for the Laogai Charter*, 38 SANTA CLARA L. REV. 473–520 (1998); Ramin Pejan, *Laogai: "Reform Through Labor" in China*, 7 HUM. RTS. BRIEF 22, 22–23, & 27 (2000); Michael Pareles, *Hard Times, Hard Labor: Prison Labor Reform in China from 1978 to Present*, 6 STAN. J. E. ASIAN AFF. 33–41 (2006).

6. Michael R. Dutton & Zhangrun Xu, *A Question of Difference: The Theory and Practice of the Chinese Prison*, in CRIME, PUNISHMENT, AND POLICING IN CHINA 103, 103–140 (Børge Bakken ed., 2005).

7. Michael R. Dutton, *Disciplinary Projects and Carceral Spread: Foucauldian Theory and Chinese Practice*, 21 ECON. & SOC'Y 276, 276–94 (1992); MICHAEL R. DUTTON, POLICING AND PUNISHMENT IN CHINA (1992).

8. Steven W. Mosher, *Chinese Prison Labor*, 1991 SOC'Y 49, 49–59 (1991).

9. Harold Tanner, *China's Gulag Reconsidered: Labor Reform in the 1980s and 1990s*, 9 CHINA INFO. 40, 56–63 (1994).

10. JAMES D. SEYMOUR & RICHARD ANDERSON, NEW GHOSTS, OLD GHOSTS: PRISONS AND LABOR REFORM CAMPS IN CHINA (1998).

11. James D. Seymour, *Sizing Up China's Prisons*, in CRIME, PUNISHMENT, AND POLICING IN CHINA 141, 141–170 (Børge Bakken ed., 2005); James D. Seymour (2006), *Profit and Loss in China's Contemporary Prison System*, in REMOLDING AND RESISTANCE AMONG WRITERS OF THE CHINESE PRISON CAMP 157, 157–173 (Philip F. Williams & Yenna Wu eds., 2006).

the macroeconomic changes beginning in the early 1980s have impacted not only on the ordinary citizens but also the people behind bars, which was detrimental to their rehabilitation and prison security.<sup>12</sup>

Building on a solid foundation of prior studies on Chinese imprisonment, this Article aims to probe into the interplay between the carceral-labor system and the social structure of Chinese society in the Maoist era (1949–1976). This approach has deep theoretical roots,<sup>13</sup> and it has produced abundant scholarship on Western experiences, mostly focusing on certain capitalist and democratic regimes.<sup>14</sup> Supplementing the existing literature on Western societies, this Article provides comparative analysis to fill the gaps in Western research.<sup>15</sup> Thus, by unravelling the connection between the labor camps and the social structure in an authoritarian polity through an analysis of a series of laws and government rulings in Mao's China, this Article aims to provide readers with a more complete picture of the prison system and the penal strategies embedded in socialist society during Mao's time.

The Article first outlines the structure and development of the Chinese economy in Mao's age and then depicts the three most important means of social control utilized by the CCP: work unit, household registration system, and party-state mechanism. By explaining the functions of the three social control methods, this Article paints the entire picture of Chinese society in the pre-reform period. Then, it moves on to the society in the shadows: labor camps. It further shows how the means of social control were reflected in the carceral design and how the system of labor camps was thus integrated into the plenary mechanism of social stability as well as production.

## I. SOCIAL STRUCTURE IN THE MAOIST ERA

### A. *Background*

The CCP intended to set up a centrally planned economy when it took control over China in 1949 and conducted some drastic revolutions on the original skeleton during the first years, including land reform, building up a state-owned economy, maintenance of price stability,

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12. Hualing Fu, *Punishing for Profit: Profitability and Rehabilitation in a Laojiao Institution*, in *ENGAGING THE LAW IN CHINA* 213, 213-229 (Neil J. Diamant et al. eds., 2005).

13. See GEORG RUSCHE & OTTO KIRSCHMEIER, *PUNISHMENT AND SOCIAL STRUCTURE* (2003); Georg Rusche, *Labor Market and Penal Sanction: Thoughts on the Sociology of Criminal Justice*, 10 *CRIME & SOC. JUST.* 2, 2-8 (1978); MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (1995); DARIO MELOSSI & MASSIMO PAVARINI, *THE PRISON AND THE FACTORY: ORIGINS OF THE PENITENTIARY SYSTEM* (1981).

14. See, e.g., DAVID GARLAND, *PUNISHMENT AND WELFARE: A HISTORY OF PENAL STRATEGIES* (1985); ALESSANDRO DE GIORGI, *RE-THINKING THE POLITICAL ECONOMY OF PUNISHMENT: PERSPECTIVES ON POST-FORDISM AND PENAL POLITICS* (2006); NICOLA LACEY, *THE PRISONERS' DILEMMA: POLITICAL ECONOMY AND PUNISHMENT IN CONTEMPORARY DEMOCRACIES* (2008).

15. David Garland, *Penalty and the Penal State*, 51 *CRIMINOLOGY* 475, 482 (2013).

unification of state finance, and adjustments in the industry structure.<sup>16</sup> After the years of settling down, particularly at the end of the Korean War and after the conclusion of land reform, the preparation work for socialist transformation was roughly completed.<sup>17</sup> The goals for the following years were to accomplish the country's industrialization and the socialist transformation of agriculture, handicrafts, capitalist industry and commerce. The CCP gave priority to heavy industry, in particular defense industries, as the experience learned from the civil war and the Korean War urged the CCP to establish a heavy industrial base for the weaponry. Therefore, the CCP launched the first five-year plan in 1953 with an emphasis on heavy industry and it was successful.<sup>18</sup> The CCP also spent nearly five years on changing the system of ownership from private to public, either in a collective form or state-owned.

The CCP further expressed its ambition to overtake or catch up with the United Kingdom in industrial production in fifteen years and the United States in twenty or thirty years, so it launched the Great Leap Forward (*dayuejin* 大跃进) in 1958.<sup>19</sup> This movement required industrial output to surpass agricultural output within five to ten years and the mechanization of agricultural tools within five to seven years to improve production efficiency.<sup>20</sup> The movement also transferred most of the labor force away from the production of consumer goods to iron, steel, and other heavy industrial goods. The trends implied a possible famine because China at that time was still a poor country.<sup>21</sup>

The CCP also began to build people's communes (*renmin gongshe* 人民公社) in the rural areas in 1958, by combining small agricultural cooperatives into bigger ones. The establishment of people's communes, in Mao's view, was the signal for a complete communist country. The duty of people's communes was to advance developments in the rural areas through large-scale production and greater accumulation, but in reality the output usually fell short of expectations. The people's commune was also an administrative entity. It replaced the original township and became the basic administrative district in the rural areas. The sectors of polity, society, and economy were all integrated into a single structure made up of people's communes, so the commune became a multifunctional organization. The attributes of its economic role, like labor-intensive production and self-reliance, reflected the CCP's political strategy to maximize the involvement of the masses and the expectation

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16. XIAO GUOLIANG (萧国亮) & SUI FUMIN (隋福民), *ZHONGHUA RENMIN GONGHEGUO JINGJISHI, 1949–2010* (中华人民共和国经济史, 1949–2010) [ECONOMIC HISTORY OF THE PEOPLE'S REPUBLIC OF CHINA, 1949–2010], 42–63 (2011).

17. QIZHI ZHANG, *AN INTRODUCTION TO CHINESE HISTORY AND CULTURE* 443 (2015).

18. CHRIS BRAMALL, *CHINESE ECONOMIC DEVELOPMENT* 87–89 (2009).

19. Wei Li & Dennis Tao Yang, *The Great Leap Forward: Anatomy of a Central Planning Disaster*, 113 *J. POL. ECON.* 840, 841 (2005).

20. XIAO & SUI, *supra* note 16, at 119–20.

21. BRAMALL, *supra* note 18, at 125.

that mass mobilization would become a strong weapon for the socialist revolution and development.<sup>22</sup>

Because of the great political pressure from the central and local governments, a trend of exaggeration spread through the country.<sup>23</sup> 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. China lost the technical support from the Soviet Union due to their break in 1960, and the problem with industrial production was thus aggravated.<sup>24</sup> Unfortunately, the crisis was ensued by a historical famine during the three years from 1959 to 1961 and led to millions of deaths.<sup>25</sup> Therefore, the CCP halted its policies, slowed down the revolutionary steps, and went through a period of recovery, but the beginning of the Cultural Revolution in 1966 dragged the country into a decade-long abyss.

### B. *Work Unit*

The process of economic transformation into a socialist structure in the early years of communist China radically and thoroughly altered the working class. Just as peasant households were integrated into the people's commune in the rural regions, urban workers became fully reliant on the enterprise and lost their independence. Almost every urban resident was required to assume a position in a workplace, such as a factory, store, school, or government office, which was called a work unit (*danwei* 单位). Since the CCP transformed the private enterprises into state or collective ownership during the first five-year plan, state or state-related enterprises employed the vast majority of urban labor force and most work units were administered by the state.<sup>26</sup>

Therefore, each work unit was regarded as an extension of the government organization; all work units were put under the bureaucratic arrays of government. The benefits and privileges of work units either solely or primarily came from the state, and the relationship between the state and employees were administrative rather than contractual. The assessment of a work unit was not only based on its economic achievements but also its performance of other government responsibilities such as planned birth, environment protection, or crime control. In summary, work units were the basic unit of social life in the urban areas and served as a pivotal mechanism for social control and operations.<sup>27</sup>

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22. Byung-Joon Ahn, *The Political Economy of the People's Commune in China: Changes and Continuities*, 34 J. ASIAN STUD. 631, 631–633 (1975).

23. XIAO & SUI, *supra* note 16, at 131.

24. Dwight H. Perkins, *The Centrally Planned Command Economy (1949–84)*, in ROUTLEDGE HANDBOOK OF THE CHINESE ECONOMY 41, 46 (Gregory C. Chow & Dwight H Perkins eds., 2015).

25. LI & YANG, *supra* note 19, at 841; BRAMALL, *supra* note 18, at 126.

26. Xiaogang Wu, *Work Units and Income Inequality: The Effect of Market Transition in Urban China*, 80 SOC. FORCES 1069, 1073 (2002).

27. *Id.* at 1073–74.

Through the domination and allocation of resources, work units and the corresponding government policies built a special social space for urban residents. One's style of living, working, thinking, or interpersonal relationships hinged upon one's work unit affiliation. The positive aspect was that one could enjoy all benefits and privileges provided by the work unit when assuming the position. Work units in this sense can be understood as having been small-scale welfare states. However, the negative aspect was that one would lose everything required to fulfill basic life requirements once leaving the work unit. In other words, urban residents could not live without an affiliation to a work unit.

A work unit's structural position in the government organization, including its rank in the hierarchy and type of ownership, decided the resources that it was able to acquire. If a work unit had a higher rank, such as in the central administration instead of provincial or local, it also had stronger bargaining power with the government supervisors. 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 pillars of the socialist regime and were thus ranked higher than the latter.<sup>28</sup> The distinctions between hierarchical rankings and between state-owned vs. collective work units formed the basis for inequality among urban residents.

### C. Household Registration

To solidify the rural-urban distinction, the CCP redesigned the traditional Chinese household (*hukou* 户口) institution into a new registration system in the mid-1950s, by which people were separated into "rural households" or "urban households" depending on where they resided. The household registration system requires every citizen to be registered with the authority at birth, and the registration works as the legal basis for personal identification. Research shows the system has two chief rationales.<sup>29</sup> 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 thus demands to minimize the migration of people and to set up a centrally planned economy by eliminating the labor market. Secondly, the CCP learned from the Soviet experience that the shortage of food and goods in the urban areas resulted from their overpopulation.

Free migration between rural and urban areas was allowed in the early 1950s, yet the influx of farmers into cities caused serious burdens and the central government hence started to control the "blind flows" of rural labor. Following a directive laid down by State Council,<sup>30</sup> farm-

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28. *Id.* at 1074.

29. DOROTHY J. SOLINGER, *CONTESTING CITIZENSHIP IN URBAN CHINA: PEASANT MIGRANTS, THE STATE, AND THE LOGIC OF THE MARKET* 33–36 (1999).

30. Guanyu Jianli Jingchang Hukou Dengji Zhidu de Zhishi (关于建立经常户



ers in the cities were required to be sent back to their hometowns in the rural regions in June 1955. Two months later, the State Council issued an interim measure<sup>31</sup> by which the urban population was entitled to a state-subsidized yet rationed supply of grain.<sup>32</sup> This experiment dividing the urban and rural population lasted for three years, and the urban-rural separation and the distinction between non-farmers and farmers was legalized when the Household Registration Ordinance of PRC<sup>33</sup> was officially passed in 1958. Under the Household Registration Ordinance, an individual needs to register with the authorities his long-term residence, temporary residence, birth, death, and change of address.

The household registration system had two interesting features that prevented peasants from entering the urban areas. First, it granted the authority to work units in the urban areas and to the people's commune in the rural areas to control and manage the affiliated labor. In other words, the labor force belonged solely to work units or people's communes and was not allowed to be freely exchanged or traded. Second, the public security agencies, namely the police in China, managed the household registration system, so they controlled the registration process, identification certificate issuance, and so forth. Together with the policies that all agricultural production was only allowed to be purchased by the state, the household registration system was designed to support the state to form the urban-rural binary and thereby to confine farmers in the rural areas. Consequently, the state was able to exploit the agricultural surplus to support the development of heavy industries in the non-rural areas.

The system established a rigid distinction between agricultural households and nonagricultural households and maintained the differentiated treatment for generations. Farmers were not entitled to the same benefits as urban residents, such as wages, coupons for buying rice, meat, food oil, or flour at low state-set prices, or medical care. They were excluded from the food ration system and had to be self-supporting.<sup>34</sup> Household registration thus grew into a carrier of benefits. Urban residents enjoyed more preferential treatments in social security, education, medical care, or public service than rural ones. Moreover, household status was "birth-subscribed," which meant people's household status came from their mother at the time they were born and couldn't be easily

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口登记制度的指示) [Directive on the Establishment of Regular Household Registration System] (promulgated by the State Council, Jun. 9, 1955, effective Jun. 22, 1955) (China).

31. Shizhen Liangshi Dingliang Gongying Zhanxing Banfa (市镇粮食定量供应暂行办法) [Interim Measures for Rationed Supply of Grain in Cities and Towns] (promulgated by the State Council, Aug. 25, 1955, effective Aug. 25, 1955) (China).

32. Kam Wing Chan & Li Zhang, *The Hukou System and Rural-Urban Migration in China: Processes and Changes*, 160 CHINA Q. 818, 820-22 (1999).

33. Zhonghua Renmin Gongheguo Hukou Dengji Tiaoli (中华人民共和国户口登记条例) [People's Republic of China Household Registration System Regulation] (promulgated by the Standing Committee of the National People's Congress, Jan. 1, 1958, effective Jan. 1, 1958) (China).

34. JEAN C. OI, *STATE AND PEASANT IN CONTEMPORARY CHINA* 30 (1989).

changed unless through higher education, joining the CCP or the People's Liberation Army, or inheriting the urban registration and job from one's urban father after his retirement.<sup>35</sup>

#### D. *Party-State Apparatus*

The CCP strengthened its influence in Chinese society by establishing party extensions within every enterprise. For example, research shows that the CCP built party-state connections within factories via setting up two organizations for forging political relationships as well as ensuring coverage of the lowest rungs of the hierarchy: primary party organization and the security department.<sup>36</sup>

A primary party organization is composed of all the party members in that factory with three levels: members, committee, and the secretary of the committee, who is the highest political official in the enterprise. According to the Constitution of the CCP of 1956, a party organization shall be formed in enterprises, rural areas, government organs, schools, research institutes, communities, social organizations, companies of the army and other basic units if there are three or more full-time party members. This organization is parallel with and unaffiliated to the administrative structure of the factory. Only members can attend the committee meetings and the information within the meetings are not allowed to be revealed to nonmembers. A security department is the extension of the Chinese public security agency and under the lead of the factory party committee. The Ministry of Public Security (MPS) has the authority of investigating criminal offenses and potential political resistance and revolts. It was also empowered to exert certain administrative sanctions without trials, including sending workers to labor reform camps during Mao's time.

The CCP also utilized some other methods to keep and check workers' loyalty to the party.<sup>37</sup> First, every worker was required to take part in regular group meetings of political study where group study leaders had to compose study notes and give oral reports to the party branch. In addition, workers were also encouraged to report on others about their political dispositions and thought problems. Another method was the system of political dossiers. A political dossier records each employee's political origin, attitude, and relevant political information from schooling to death. Reports, evaluations, criticisms, warnings, and other punishments are all included. These dossiers were kept by the party cadres and were circulated to the next work unit if there was a job change. Employees have no access to their own dossiers. The dossier stays with the worker permanently and has substantial influence on the chances to

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35. Xiaogang Wu & Donald J. Treiman, *The Household Registration System and Social Stratification in China: 1955–1996*, 41 *DEMOGRAPHY* 363, 365–67 (2004).

36. ANDREW G. WALDER, *COMMUNIST NEO-TRADITIONALISM: WORK AND AUTHORITY IN CHINESE INDUSTRY* 88–95 (1988).

37. *Id.* at 90–92.

change household registration status, enter a work unit or get promoted, join the party, or even apply for a passport.<sup>38</sup>

The scheme of political dossiers was a type of techno-scientific administration, through which the governing of the people was converted into the governing of things.<sup>39</sup> It was also a manner of semiotic control. The documentation of personal political dossier worked in a visible form belonging to the bureaucratic system while it also kept a mysterious and unpredictable nature that governed and regulated one's existence in a coded way. By wedding the coded personal details with the bureaucratic system, the CCP employed the visible and formless power of dossiers to control the welfare, social ranking, social and political identities, as well as the mobility of population in rural and urban areas.<sup>40</sup>

## II. OPERATION OF LABOR CAMPS

### A. *Nature of the Camps*

There were two chief types of labor camps in Communist China: labor reform (*laogai* 劳改) camps and labor reeducation (*laojiao* 劳教) camps. The former was a form of criminal punishment imposed on offenders through a formal judicial process, and the latter a form of administrative detention rendered by public security agencies for petty offenses and deviant behaviors such as begging on the street or prostitution without trial.<sup>41</sup> Both camps featured mandatory labor of inmates during their custody. Based on a resolution by the Central Committee of the CCP in 1951<sup>42</sup> and the subsequent legislation of Regulations on Reform through Labor of the PRC in 1954,<sup>43</sup> labor reform camps became the de facto prison system. According to the State Council's decision in 1957,<sup>44</sup> labor reeducation camps were defined as mandatory reeducation units equipped with the requirement of forced labor.

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38. Raymond W. K. Lau, *Socio-Political Control in Urban China: Changes and Crisis*, 52 BRIT. J. SOC. 605, 609 (2001).

39. Gary Sigley, *Suzhi, the Body, and the Fortunes of Technoscientific Reasoning in Contemporary China*, 17 POSITIONS 537, 548–50 (2009).

40. Jie Yang, *The Politics of the Dang'an: Specialization, Spatialization, and Neo-liberal Governmentality in China*, 84 ANTHROPOLOGICAL Q. 507, 510–12 (2011).

41. Hualing Fu, *Dissolving Laojiao*, 1 CHINA RTS. F. 54, 54 (2009).

42. Guanyu Zuzhi Quanguo Fanren Laodong Gaizao Wenti de Jueyi (关于组织全国犯人劳动改造问题的决议) [Resolution on the Question about Organizing All Criminals to Reform through Labor] (promulgated by the Central Committee of the Communist Party of China, May 15, 1951, effective May 22, 1951) The 3<sup>rd</sup> National Public Security Conference, May 15, 1951 (China).

43. Zhonghua Renmin Gongheguo Laodong Gaizao Tiaoli (中华人民共和国劳动改造条例) [PRC Regulations on Labor Reform] (promulgated by Central People's Government Administration Council, Aug. 26, 1954, effective Sept. 7, 1954) CLI.2.72 (China).

44. Guanyu Laodong Jiaoyang Wenti de Jueding (关于劳动教养问题的决定) [Decision on the Question about Reeducation through Labor] (promulgated by PRC State Council, Aug. 1, 1957, effective Aug. 3, 1957) 78<sup>th</sup> Meeting of the Standing Committee of the National People's Congress, Aug. 1, 1951 (China).

The 1951 resolution disclosed the purposes of labor reform camps. It read 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 preventing prisoners from living 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 regime.”

On the practical side, during the early years of the communist age the CCP amassed a vast number of counterrevolutionaries, criminals, petty offenders, and violators, and thus confronted the problems of incarceration capacity and budget shortage. At the same time, this new-born country was in serious need of a labor force for economic development. Ideologically, inmates were treated as viruses and as bad elements within society, and physical labor was thought to be the most efficacious cure for the inmates. Besides, from the CCP’s view, ordinary citizens in such a socialist state had to support their lives by working hard, and 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, mandatory labor would therefore be the best means to punish as well as reform or reeducate inmates. The labor camps were eventually positioned as a special state-owned enterprise.

The names also reflected the labor camps’ mixed nature of criminal sanctions, economic production, and political control. Starting in 1951, these labor camps were officially referred to as labor reform efforts in order to differentiate them from prior styles of imprisonment. In order to take credit for the products from labor reform camps, however, the MPS announced in 1954 that there would be two names for labor reform camps: the original name with the term of labor reform would be for internal use only; the name for external use was required to use the term “state-owned” instead of “labor reform” as well as include the local government’s title to differentiate from other manufacturers. Later in 1958, the MPS also applied the same policy of naming on labor reeducation enterprises.

### B. *Party-State Mechanism Inside*

When communist China was established in 1949, the Ministry of Justice (MOJ) was in charge of the management of prisoners at that time. But later, in November 1950, the CCP decided to transfer the authority to the MPS, and the MOJ would provide assistance and guidance if needed.<sup>45</sup> This transfer was brought about by an earlier directive of the central

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45. Guanyu Jianyu Kanshosuo Laodong Gaizaodui Yizhaun Gui Gongan Bumen Lingdao de Zhishi (关于监狱、看守所、劳动改造队移转归公安部门领导的指示) [Directive on Transferring the Authority of Prison, Detention Center, and Labor Reform Battalion to the Ministry of Public Security] (promulgated by the Ministry

government,<sup>46</sup> which emphasized that the first and foremost goal of justice work was to suppress rebellions and protect the masses, so it would be better to consign the responsibility as well as power of controlling labor camps to the MPS rather than the MOJ. Article 6 of Regulations on Reform through Labor also confirmed the leadership of public security agencies in labor reform work.

Political work is the essential part of the CCP tenets. As early as 1932, when the CCP was still a parochial party, it established the General Political Department within its army because Mao criticized on the “pure military viewpoint” that permeated through the party. By arguing that the party shall always wield the gun, which means the military shall be under control of the party, Mao required the military to be politicized.<sup>47</sup> In 1952, the Fifth National Conference of Public Security set the tone that every organ of the public security sector had to install agency or personnel in charge of the political propaganda as well as political control. Since labor camps were also under the management of public security agencies, in November 1954 the MPS required every labor camp to establish a unit responsible for the political work.<sup>48</sup>

The basic mission of political work in labor camps was 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 or reeducation process. Just as every work unit in the urban areas had it, the units of political work in labor camps were under the guidance of the secretary of the party committee in corporation with the political work leaders in the public security agencies. Every team within the labor camps was equipped with a political office and political work officials in charge of ideological education and thought reform tasks.

### C. *Financial Structure*

Labor reform camps, on account of the nature of state-owned enterprise, were required to become self-sufficient and only in some exceptional situations the state would provide funds to the camps, such as funds for infrastructure construction. Like other state-owned enterprises, labor reform camps were required to adopt a fiscal system of unified state control over income and expenditure. During the Fourth National Conference of Public Security in 1951, Mao ordered the labor

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of Justice, Nov. 3, 1950, effective Nov. 30, 1950) Ministry of Justice Directive No. 41 (China).

46. Guanyu Jiaqiang Renmin Sifa Gongzuo de Zhishi (关于加强人民司法工作的指示) [Directive on Strengthening People's Justice Work] (promulgated by the Central People's Government Administration Council, Nov. 3, 1950) Government Administration Council Directive (China).

47. David Shambaugh, *The Soldier and the State in China: The Political Work System in the People's Liberation Army*, 127 THE CHINA Q. 527, 531 (1991).

48. Guanyu Laodong Gaizao Gongzuo Bumen Zhengzhi Gongzuo de Ruogan Wenti de Guiding (关于劳动改造工作部门政治工作的若干问题的规定) [Regulations on the Questions of Political Work in Labor Reform Units] (China).

reform camps to advance from being partly self-sufficient to being completely self-sufficient within two years. Hence, the MPS laid down the policy of “setting off receipts against expenditures,” by which the camps were allowed to use the income to pay their own expenses first and the rest of income would then be handed to the central government. Labor reform camps had to pay sales tax as well if they had income from the sale of their products or from doing other kinds of businesses.<sup>49</sup>

Nonetheless, due to the serious problems caused by corruption, the central government determined to exert strict accounting measures on labor reform enterprises in 1956.<sup>50</sup> The policy of setting off receipts against expenditures was thus discarded and instead all the income had to be turned into the central government first and the central government would distribute needed funds to the camps based on their annual budget plans. The usage of funds would also be under the supervision of the People’s Construction Bank of China as part of the central government.<sup>51</sup>

In addition, for correctly estimating the cost of production, every labor reform enterprise was allowed to withdraw “assumed wage” of every inmate from the budget. The wage was only assumed and would not be given to inmate; instead, assumed wages could be used on inmates’ daily expenditure and as subsidies for the skilled inmates.<sup>52</sup> Assumed wage could be calculated by referring to the wage rate in a similar state-owned industry and to the directions issued by the MPS. By contrast, labor reeducation camps followed the same fiscal policy, yet their workers would receive wages for their tasks. The minimum wage for labor reeducation inmates in 1956 was 20 RMB per month. The rate of pay for labor reeducation inmates was determined on the principle of “more pay for more work done; less pay for less work done.” The rate for workers in the local state-owned enterprises or the rate for local peasants could be referenced as well, but the wage for labor reeducation workers could not be higher than that of local workers or peasants.<sup>53</sup>

49. Guanyu Laogai Shengchan Danwei Nashui de Guiding (关于劳改生产单位纳税的规定) [Regulations on the Tax Payment of Labor Reform Production Units] (China).

50. Guanyu Laogai Caiwu Guanli Wenti de Zhishi (关于劳改财务管理问题的指示) [Directive on the Problem of the Financial Management of Labor Reform] (promulgated by the State Council, Dec. 31, 1955, effective Jan. 1, 1956) (China).

51. Guanyu Laogai Qiye Caiwu Shouzhi Naru Yusuan Guanli de Tongzhi (关于劳改企业财务收支纳入预算管理的通知) [Notification on the Incorporation of Income and Expenditure of Labor Reform Enterprise into Budget Management] (China).

52. Guanyu Laogai Qiye Caiwu Guanli Wenti de Jixiang Juti Guiding (关于劳改企业财务管理问题的几项规定) [Regulations on the Problem of Financial Management of Labor Reform Enterprise] (promulgated by the Ministry of Public Security and Ministry of Finance, Dec. 31, 1955, effective Jan. 1, 1956) (China).

53. Guanyu Bei Laodong Jiaoyang Renyuan Gongzi Wenti de Pifu (关于被劳动教养人员工资问题的批复) [Response to the Question of Wage for Labor Reeducation Inmates] (promulgated by the Ministry of Public Security, Feb. 3, 1958) CLI.4.140606 (China).

#### D. *Management and Production*

The central government as well as every local government was required by the Regulations on Reform through Labor to establish a committee in charge of the management and supervision over the production from labor reform camps. Therefore, public security sectors in the central and local governments set up the Bureau of Labor Reform to deal with the general affairs of labor reform, and the Committee on Labor Reform Production and Management, affiliated to the bureau, had the sole duty to oversee the production from labor reform. The committee was composed of people from the financial and economic sectors, the public security agency, and the department of justice. The direction for the development of labor reform production was to push heavily on agricultural production, particularly grain production, and to develop auxiliary mining, hydraulic engineering, and road construction.

In order to provide places for labor reform teams to work in, namely the labor reform units, local governments, especially at the levels of province, district, and county, started to construct such places for labor work in 1951. Later they removed some underperforming units and reorganized small units into bigger ones. Even though labor production was the means and thought reform was the goal, the means usually overrode the goal, since the production, namely the income of a labor reform camp, would directly determine the budget for the camp's operation, particularly the staff members' wages. Just like putting the cart before the horse, it caused a huge number of deaths of inmates, especially during the time of the Great Leap Forward, despite the fact that CCP officials kept emphasizing on the policy of "reform first and production second." In some cities, labor reform camps and labor reeducation camps shared the units.

### III. REMOLDING PRISONERS INSIDE THE CAMPS

#### A. *Prisoner Card and Dossier*

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

In addition to prisoner cards, Article 29 of the Regulations on Reform through Labor also demanded every labor reform camp to build dossiers for each prisoner in order to inspect the performance of prisoners in the labor reform process. A prisoner dossier usually included two kinds of files. The first file collected documents from other organs, such as court judgments, rulings, law enforcement notifications, and registration forms of closed cases. The second file collected materials produced during the prisoner's term in the labor reform camp and duplicates of important documents, including performance appraisals, records of rewards and sanctions, accusation and confession reports, court decision copies, and prisoner's personal information.

In order to "clean up" the procedural flaws of trials in the earlier years, the MPS and the MOJ, beginning in the mid-1950s, jointly directed labor reform teams to list inmates whose criminal proceedings were not complete or whose materials were lost, and then to supplement their dossiers with required documents, such as indictments or court decisions. 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 caseload, public security could take on their duties instead.<sup>54</sup>

A form of release would be given to prisoners when they were released from the labor camps, and their prisoner dossiers would be kept by the units. When being released, a series of documents would be sent to the local police post or a people's committee for documenting the restoration of the released person's household registration status, including the stub of the form of release, a form of appraisal of release, a duplicate of court judgment (for labor reform inmates) or police decision (for labor reeducation inmates), and the original political dossier.<sup>55</sup> The ex-prisoners had to hand in their forms of release to the local 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.<sup>56</sup> If inmates were transferred from one labor reform unit to another rather than released, their prison dossiers would be circulated together with them among the units.

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54. Guanyu Jixu Qingli Anfan de Zhishi (关于继续清理案犯的指示) [Directive on Continuing to Clean Up Criminals]; (promulgated by the Government Administration Council of the Central People's Government and Sup. People's Ct., Aug. 27, 1951) (China); Guanyu Jixu Qingli Anfan de Buchong Zhishi (关于继续清理案犯的补充指示) [Supplementary Directive on Continuing to Clean Up Criminals] (promulgated by the Ministry of Public Security and Ministry of Justice, 1954) (China).

55. Guanyu Tongyi Shifang Zhengmingshu de Lianhe Tongzhi (关于统一《释放证明书》的联合通知) [Joint Notification on the Unified Form of Prisoner Release] (China).

56. Guanyu Shiyong Fanren Shifang Zhengmingshu Zhong Jige Wenti de Tongzhi (关于使用犯人《释放证明书》中几个问题的通知) [Notification on Some Questions about Using the Form of Prisoner Release] (China).



## B. *Classification of Inmates*

For gaining popular support, the CCP decided in 1951 to apply different treatments to female counterrevolutionaries, elderly criminals, and juveniles.<sup>57</sup> For female counterrevolutionaries, use of the capital sentence was limited; life sentence and death penalty with reprieve were possible alternatives. The death sentence was not applicable to those who were pregnant unless the masses strongly demanded the execution, and even if the death penalty was unavoidable the execution had to be carried one to two years after childbirth. In 1952, female convicts with five or less years' sentence could be released on parole if they had served one half or more of the sentence with good performance and the masses agreed to their release.<sup>58</sup> For elderly offenders who were more than sixty years old and whose sentence was five years or less, parole would be applicable to elderly offenders if the masses agreed, for fear of deaths of elderly offenders inside the prison. Four years later, the central government lowered the age limit from sixty to fifty-five years old. For juvenile criminals, the death sentence was never an option because they were still amenable to correction. Besides, they were also required to be incarcerated away from the adults to prevent them from learning bad habits, and their reform policy was focused on education. Later, all juvenile inmates were moved out of labor camps and placed in the juvenile corrective facilities for indeterminate periods of time for reeducation.<sup>59</sup>

In addition, weak, sick, and disabled inmates were not allowed to work in the labor camps because of their poor health conditions.<sup>60</sup> Their health would become worse when they were serving their sentences. The probability of their death inside the prison was thus heightened. It would bring about harmful influence on the politics if prisoners became sicker or even died in the labor camps, so the MPS decided to clean up weak, sick, and disabled inmates for embodying the humanitarian values of revolution, winning over more popular support, and alleviating the state's

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57. Guanyu Chuli Fan Geming Zuifan Zhong Nufan Shaonianfan ji Laonianfan de Zhishi (关于处理反革命罪犯中女犯、少年犯及老年犯的指示) [Directive on Handling Female Counterrevolutionaries, Juvenile and Elderly Criminals] (China).

58. Guanyu Chuli Nufan ji Bingcanfan de Buchong Zhishi (关于处理女犯及病残犯的补充指示) [Supplementary Directive on Tacking Female, Sick and Disabled Criminals] (China).

59. Guanyu dui Shaonian Ertong Yibanfan Buyu Daibu Panxing de Lianhe Tongzhi (关于对少年儿童一般犯不予逮捕判刑的联合通知) (promulgated by the Sup. People's Court, Sup. People's Procuratorate, and Ministry of Public Security, 1960) (China); Guanyu Tiaozheng Quanguo Xianyou Shaonianfan Guanjiaosuo de Tongzhi (关于调整全国现有少年犯管教所的通知) [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] (China).

60. Guanyu Chuli Laoruo Bingcan Fanren de Lianhe Zhishi (关于处理老弱病残犯人的联合指示) [Joint Directive on Dealing with Elderly, Weak, Sick, and Disabled Inmate] (promulgated by the Sup. People's Procuratorate, Sup. People's Ct., Ministry of Public Security and Ministry of Justice, Oct. 29, 1956), Gongfa Youzi No. 256 (China).

financial burden. Consequently, for inmates who suffered severe illness with medical proof, they could be released on medical parole; for inmates of the three types whose sentences were less than five years, the government tried to keep a small portion of them and release the rest by having them serve the sentence outside the prison or putting them on parole; for inmates of these three types with sentences of more than five years, if they were well reformed and unarmful to the society, they could be released on parole.

On the other hand, there were five main groups of people in the camps being thought of as detrimental to the state: counterrevolutionaries, landlords, rich farmers, bad influencers (usually criminals), and rightists. These groups were termed as the five black categories (*heiwulei* 黑五类). These groups of people were labelled as harmful elements to society and thus were put on “hats”. A hat here means a label of harmful element. They needed to have their hats removed (*zhaimao* 摘帽) so as to change their own ill components. Counterrevolutionaries would have their hats removed if they completed their sentences.<sup>61</sup> Landlords and rich farmers had to join the program of forced job placement (*liuchang jiuye* 留场(厂)就业, FJP)<sup>62</sup> after finishing their sentences, and through the process of discussion of all workers in the unit, review of the unit cadres, and the approval of county people’s committee, they would be able to remove the hats by changing their components from ill to socialist good such as workers or peasants.<sup>63</sup> Rightists were usually detained in labor reeducation camps and would be released after serving three years of labor reeducation or even earlier if they performed really well. Release didn’t mean the removal of hats, however; those released rightists were still under the supervision of local governments.<sup>64</sup>

There were also different measures exerted on foreign criminals.<sup>65</sup> They would be divided into three groups: serious international espionage

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61. Guanyu Fan Geming Fan Xingman Shifang Bing Huifu Zhengzhi Quanli Hou Shifou Xuyao Banli Zhaidiao Fan Geming Maozi Wenti de Pifu (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) [Response to 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] [hereinafter Response] (promulgated by the Sup. People’s Ct., April 30, 1957) CLI3.175509 (China).

62. The details of this program will be discussed *infra*.

63. Guanyu Dui Laogai Danwei Xingman Shifang Liuchang Jiuye Renyuan Zhong de Dizhu Funong Fenzi Gaibian Chengfen Chuli Shouxu de Pifu (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) [Response to the Procedure for Landlords and Rich Farmers Who Have Completed Their Sentences in the Labor Reform Units and Now Work in the Forced Job Placement Units to Change Their Components] (China).

64. Guanyu Laojiao Youpai Qiman Chuli Wenti de Tongzhi (关于劳教右派期满处理问题的通知) [Notification on the Problem of the Management of Rightists after Their Completion of Labor Reeducation] (China).

65. Guanyu Waiji Anfan Shifou Chanjia Laodong Shengchan de Pifu (关于外籍案犯是否参加劳动生产的批复) [Response to If Foreign Criminals Can Engage in Labor Production] (China).

criminals, counterrevolutionaries, and war criminals had to be detained in jail and were not allowed to work; criminals who came from imperialist countries were allowed to labor inside the walls; criminals who came from the Soviet Union, other communist countries, or were stateless could labor outside the walls.

In summary, there were four main criteria used by the CCP for the classification of labor inmates in the Maoist era: their capability of labor, corrigibility, political elements, and the government's reputation. Elderly, weak, sick, and disabled offenders had a higher possibility of being 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 labor team members, the government's reputation, the rest of the inmates' health, the efficiency of production, and the expenditure of camps were all implicated. The same considerations were also applicable to female offenders, particularly the pregnant ones. They were seen as less productive labor and needed higher budgets. Besides, killing female offenders or forcing them to labor as hard as male offenders were intolerable in the traditional patriarchal ideology and thus would be harmful to the government's reputation. Moreover, juvenile offenders were viewed as more corrigible than adults for their immaturity and 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 used to govern the politically aberrant population.

### C. *Improvement of Prisoners' Health and Skills*

As early as in 1952, the CCP noticed the importance of environmental health in labor reform units. The problem of public health in the labor reform camps was initially treated as an attack from the imperialist countries by using biological weapons.<sup>66</sup> In the next year, the central government noticed that the public health in prisons had an impact on 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 labor camps to strive for reforming more prisoners into newborn human-beings.<sup>67</sup> Thus, the CCP followed the policy of "less eligibility" and instructed local governments to set up the standards for prisoners' food and medical supply. But prisoners couldn't have better living conditions than the local population where

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66. Guanyu Zhuyi Fanren Weisheng Bing Qude Miqie Lianxi de Lianhe Zhishi (关于注意犯人卫生并取得密切联系的联合指示) [Joint Notification on Paying Attention to the Health of Prisoners and Keeping in Close Contact] (promulgated by the Ministry of Public Security, Ministry of Justice, and Ministry of Health, July 1952) (China).

67. Guanyu Jiaqiang Fanren Weisheng Gongzuo de Lianhe Tongzhi (关于加强犯人卫生工作的联合通知) [Joint Notification on Strengthening the Tasks of Prisoners' Health] (promulgated by the Ministry of Justice, Ministry of Security and Ministry of Health, 1953) (China).

the labor reform unit was located.<sup>68</sup> Two years later, the central government set the standards of daily goods and medical support for prisoners in different areas.<sup>69</sup> As the policy of rationed supply of grain was adopted in August 1955, labor reform camps, most of which were located in the rural areas, suffered from the shortage of food, so the central government allowed labor reform farms to plant more yams and potatoes as food for prison workers.<sup>70</sup>

As stipulated in Article 30 of the Regulations on Reform through Labor, labor reform production has to engage itself in agricultural and industrial development and serve the state's economic development in the framework of planned economy. Therefore, the equipment and facilities of labor reform camps and the skills of prison workers would play an important role in the process of labor reform production. With regard to 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, demanded that the departments of agriculture, public security, and water resources cooperate with each other to complete the necessary irrigation construction.<sup>71</sup> The labor reform production in the industrial field was focused on mining, ceramics, and other infrastructure construction and also supported the development and operation of labor reform farms. At first, the production from labor camps fell far behind expectations due to the poor skills and management. In order to make up for the production inefficiency, the central government ordered the related departments of local governments to assist the labor reform factories, by supplying materials, engaging in production management, forming a system of sale, and developing cadres with useful skills.<sup>72</sup>

Aside from the assistance from other governmental agencies, the camps also gave skillful prisoners special treatments. The MPS ordered that the deployment of skillful prisoners, such as engineers, technicians,

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68. Guanyu Youguan Yewu de Jige Wenti de Dafu (关于有关业务的几个问题的答覆) [Response to the Relevant Questions about Duties] (China).

69. Guanyu Fanren Shenghuo Feiyong Kaizhi Biaozhun de Guiding (关于犯人生活费用开支标准的规定) [Regulation of the Standards for Prisoners' Daily Expenditure] (China).

70. Guanyu Laogai Fanren Liangshi Gongying Wenti de Zhishi (关于劳改犯人粮食供应问题的指示) [Directive on the Problem of Food Supply for Labor Reform Prisoners] (China).

71. Guanyu Jigeng Guoying Nongchang ji Wanmu Yishang Laogai Nongchang Shuili Jianshe de Jixiang Guiding de Lianhe Zhishi (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) [Joint Directive on the Irrigation Construction on State-Owned Tillage and Labor Reform Farms of More Than Ten Thousand Acres] (promulgated by the Ministry of Agriculture, Ministry of Public Security, and Ministry of Water Resources, Mar. 15, 1954) (China).

72. Guanyu Jiaqiang Laogai Gongye Shengchan Lingdao de Lianhe Zhishi (关于加强劳改工业生产领导的联合指示) [Joint Directive on Strengthening the Production of Labor Reform Industry] (promulgated by the Ministry of Local Industry, Ministry of Third Machinery Industry, and Ministry of Public Security, Oct. 28, 1955) (China).

doctors, medical assistants, laboratory analysts, or pharmacists, 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 MPS, and local governments were not allowed to occupy the skilled prisoners without authorization.<sup>73</sup> These prisoners of skills also had better living supports in their food, pocket money and rewards, such as additional allowances from RMB 5 to 11 per month if their skill reached an operator's level, additional allowances from RMB 15 to 30 per month if their skill reached the levels of engineer, technician, professor, or doctor, and rewards if they had special contribution during their reform works.<sup>74</sup>

#### D. *Reforming Inner Self*

In addition to advancing prisoners' labor skills, thought reform was also an indispensable portion of the course of labor reform. According to an early administrative order, the goals of thought reform were to make prisoners admit their guilt, espouse the CCP and socialist society, develop the ideas and habits of labor, and eventually become qualified workers possessing socialist morality. Thus, improving prisoners' literacy, their obedience to prison cadres, and their loyalty to the CCP and the socialist society were substantial parts of the cultural and political education administered in the labor reform camps. Illiterate prisoners were required to participate in courses of elementary education and, if they fulfilled the requirements, primary education diploma or certificate in literacy could be conferred upon those prisoners.<sup>75</sup> They were required to take part in language courses with textbooks edited by labor reform officials. For political education, the means in common use during the early years were to read and discuss some classic communist books, attend lectures, criticize oneself and admit one's own fault, or secretly report another prisoner's incorrectness. Later in 1953, a mass line was also adopted: public criticism by other prisoners or ordinary citizens was one of the commonly used methods of political education.

Following the requirements of Regulations on Reform through Labor, there was a system of rewards and penalties in the labor reform camps. Prisoners would receive rewards for completely following rules and orders, reporting other prisoners' faults, achieving substantial performance in their labor production, improving production techniques or technology, preventing possible incidents or disasters, or performing

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73. Guanyu Tongyi Diaopei Jishu Fanren de Tongji (关于统一调配技术犯人的通知) [Notification on the Unified Deployment of Skillful Prisoners] (China).

74. Guanyu Tongyi Diaopei Jishu Fanren de Buchong Tongji (关于统一调配技术犯人的补充通知) [Supplementary Notification on the Unified Deployment of Skillful Prisoners] (China).

75. Fu Laogai Fanren Yeyu Xuexiao Xueyuan de Shizhi Zhengshu ji Biye Zhengshu de Banfa Wenti (复劳改犯人业余学校学员的《识字证书》及《毕业证书》的颁发问题) [Response to the Question of Conferral of Certificate of Literacy and Primary Education Diploma from Labor Reform Spare-Time Schools] (China).

other conduct beneficial to the country or citizens. On the other hand, they would be punished for violating rules or orders, stirring up trouble in the reform process, or hindering production procedures. Since the cadres had the authority to administer the rewards and penalties, prisoners would be expected to learn obedience to the cadres through the operation of system of rewards and penalties. Every prisoner's performance would be recorded in writing, and performances would be periodically reviewed—by month, season, half year, and year—with the focus on each prisoner's ideological reform, obedience to rules and orders, labor production efficiency, and health management.

For the development of prisoners' loyalty to the CCP and socialist society, in addition to the necessary political work by cadres, the CCP also fostered and mobilized the activists within prisoners to assist the labor reform and support the leading of CCP. Those "active prisoners" would form a special group which was positioned as a bridge between cadres and prisoners. The MPS allowed camps to form a committee of active prisoners, which didn't have the legal authority to manage other prisoners but had the substantive power to do so by providing suggestions to cadres or participating in the management of prisoners' food supply and public hygiene under the guidance of cadres.<sup>76</sup> Through the operation of this special group of active prisoners, prisoners hence had the incentive to be qualified as activists, those who were well reformed and had demonstrated their political loyalty to the party. Consequently, this institution of active prisoner group also consolidated the socialist leadership of the CCP and the obedience of prisoners to cadres.

#### IV. POST-RELEASE CONTROL

##### A. *Forced Job Placement*

After 1953, the CCP's principle for releasing prisoners from labor reform camps was to keep many and free few (*duoliu shaofang* 多留少放). This was the outset of the program of forced job placement (FJP). The purposes of FJP were to protect the society from possible crime threats and to improve the economy of the state, so FJP allowed prisoners to stay in the same labor reform unit or to relocate to another unit after completing their sentences, if prisoners were voluntary. Those who served their labor reform sentences in desolate areas and wanted to settle down right there were also permitted to do so. Additionally, if release would cause prisoners to become homeless or unemployed, the person must be kept inside the camp. Seventy percent of prisoners were held within the camps and the rest were to be released under this policy.<sup>77</sup>

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76. Guanyu Zuzhi Fanren Jiji Fenzi Weiyuanhui Youguan Wenti de Yijian (关于组织犯人积极分子委员会有关问题的意见) [Opinion on the Relevant Questions of Organizing a Committee of Active Prisoners] (China).

77. MOSHER, *supra* note 8, at 50; PEJAN, *supra* note 5, at 22.

The compensation for FJP workers at first had some ambiguities: in some units, if workers restored their political rights, they got paid, but in other units, no workers got paid. For dealing with the differences among different units, the central government required all units to pay wages to FJP teams,<sup>78</sup> but there were still differences in the wages and benefits between those with and without political rights.<sup>79</sup> “Distribution according to one’s job performance” and “equal pay for equal work” were the two guiding principles for FJP team members.<sup>80</sup> Skillful FJP workers 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.<sup>81</sup> However, FJP workers were not allowed to have any insurance for their labor. As the central government explained, labor camps were different from the ordinary state-owned enterprises, and FJP workers were also not the same as ordinary workers, especially taking the harm FJP workers had done to the society into consideration.<sup>82</sup>

The same policy for the removal of hats in the labor camps was also applied to FJP workers. The procedure of hat removal usually consisted of a public assessment, a police agency’s review, and the approval of the county people’s committee. Counterrevolutionaries who stayed in FJP teams did not need to undergo the ordinary procedure of hat removal because they had completed their sentences and their ill elements were thus eliminated.<sup>83</sup> As for the FJP workers who used to be landlords and

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78. Guanyu Xingman Liuchang Jiuye Renyuan he Laodong Jiaoyang Fenzi de Gongzi Naru Jihua de Lianhe Tongzhi (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) [Joint Notification on the Inclusion of Wages for FJP Team Members and Labor Reeducation Inmates into Budget Plans] [hereinafter Joint Notification] (China).

79. Guanyu Fuxing Qiman he Jiechu Laodong Jiaoyang hou de Liuchang Jiuye Renyuan Fanren Laodong Jiaoyang Fenzi Bei Qingli Shi de Daiyu ji Suoxu Jingfei de Lianhe Tongzhi (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) [Joint Notification on the Treatments and Budget When FJP Team Members, Prisoners Who Completed Their Sentences, or Ex-Inmates of Labor Reeducation Were Cleaned Up] (China).

80. Guanyu Xingman Liuchang Jiuye Renyuan Jiechu Laodong Jiaoyang Liuchang Jiuye Renyuan de Laodong Gongzi Jihua Guanli he Laodong Jiaoyang Fenzi de Gongzi Guanli Yiji Zhaxie Renyuan Jinnian Tiaozheng Gongzi Wenti de Tongzhi (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通知) [Notification on the Management of Wage Plan for FJP Team Members and of Wages for Labor Reeducation Inmates and the Question about Adjusting Their Wages This Year] (China).

81. Guanyu Xingman Liuchang Jishu Renyuan de Anzhi Yijian (关于刑满留场技术人员的安置意见) [Opinion on the Placement of Skillful FJP Team Members] (China).

82. Guanyu Zai Xingman Jiuye Renyuan Zhong Bu Shixing Laodong Baoxian Tiaoli de Pifu (关于在刑满就业人员中不实行劳动保险条例的批复) [Response to the Inapplicability of Regulations of Labor Insurance to FJP Workers] (China).

83. Guanyu Dui Liuchang Jiuye Renyuan Zhong Zhaidiao Fangeming Maozi he Gaibian Difu Chengfen Wenti de Pifu (关于对留场就业人员中摘掉革命帽子和改变地、富成份问题的批复) [Response to the Question about Removing the Hats of Counterrevolutionaries and Changing their Components of Landlords and Rich

rich farmers, they had to undergo the procedure of hat removal so as to change their ill components.<sup>84</sup>

The policy for the FJP program was somewhat altered a decade later when the principle of keeping four and freeing four (*siliu sibuliu* 四留四不留) was adopted in the Sixth National Conference of Labor Reform Work in 1964. This policy required the camps 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. Camps also had 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, or were so old, weak, sick, or disabled that they had lost their counterrevolutionary capacity and posed little risk to the society. This transition was brought about by the alteration in the makeup of the prison population over the past decade. During the 1950s, most of the prisoners were counterrevolutionaries, so it was reasonable for the CCP to adopt the policy of keeping many and freeing few. Beginning in the early 1960s, however, 80 percent of the prison population were the people of working class and it was hence inappropriate to apply the same policy.

FJP workers would usually not stay in the working units for more than three years, despite there being no specific rules or orders setting such limits. Once being released from the FJP teams, there were three ways for units to place those ex-prisoners: the first was to place them in the ordinary work units if they had special skills needed by the units; the second was to keep them in labor reform teams and assessed their wages on their skills or other requirements; and the third was to place them on farmlands and organize them into collective production groups and thus to build up new villages there. For prisoners who used to work in the government, in general they were not allowed to return to their original work posts after release, unless their offenses were minor, they performed well during labor reform process, and had special skills needed by the government.<sup>85</sup>

Those ex-prisoners who were discharged from FJP teams would receive wages for the month during which they left FJP teams, allowance for their previous production work, and a disability pension if they suffered permanent harm and lost working capacity during their reform

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Farmers When They Have Completed Their Sentences in the Labor Reform Units and Now Work in FJP Units] (China).

84. See Response, *supra* note 61.

85. Guanyu Xingman Shifang Jiechu Laojiao hou Nengfou Hui Yuandanwei Jiuye ji Qi Pizhun Quanxian Wenti de Pifu (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) [Response to the Questions about If Prisoners Who Used to Work in the Government Were Allowed to Return to the Original Work Unit and Who Had the Power to Approve Their Return] (promulgated by the Ministry of Internal Affairs, Ministry of Public Security, and Supreme People's Court, Nov. 4, 1963) CLI.3.295 (China).



production in the labor camps.<sup>86</sup> During the policy change in 1964, however, the allocation of benefits was also shifted. FJP workers who were qualified to be reserve workers or regular workers were still eligible for receiving these benefits, but other FJP workers would not receive an allowance for their previous production work and would acquire limited disability pension.<sup>87</sup> Additionally, once they returned to their own hometown, they had to reactivate their household registration status with certification issued by labor reform camps so as to claim their rationed food and cooking oil.<sup>88</sup>

During the decade of the Cultural Revolution, the FJP program was completely shut down after 1968. Most FJP workers were dismissed and sent back to their hometowns, and the rest of the members received such low wages that it was only enough to maintain their lowest life conditions. The situation lasted for a few years until the FJP program was gradually restored after 1972, and the policy of keeping four and freeing four played a pivotal role during the course of FJP restoration by retaining fewer prisoners than in the time of keeping many and freeing few.

#### B. *Parole and Labor Reeducation Camps*

Prisoners who were released on regular or medical parole 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 from their illness or injury, they would be sent back to their original labor reform camps.<sup>89</sup> Parolees were not eligible for the FJP program unless they voluntarily wanted to stay in the labor reform teams.<sup>90</sup> Additionally, parolees' political status would determine the level of their social benefits. If a parolee's political rights were still under suspension, social

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86. MOSHER, *supra* note 8, at 50; PEJAN, *supra* note 5, at 22.

87. Guanyu Liuchang Jiuye Renyuan he Fanren Laodong Jiaoyang Fenzi Bei Qingli Shi de Daiyu Ji Suoxu Jingfei de Zhanxing Duiding (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) [Interim Rules for the Treatments of FJP Team Member, Prisoners, Labor Reeducation Inmates When They Were Cleaned Up and Necessary Budget] (promulgated by the Ministry of Finance, Ministry of Labor, and Ministry of Public Security, May 18, 1965) (China).

88. Guanyu Bei Shifang de Zuifan Jiechu Laojiao de Fenzi he Pizhun Lichang de Jiuye Renyuan zai Fanxiang hou Liangyou Gongying Wenti de Tongzhi (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) [Notification on the Question about the Supply of Food and Cooking Oil for Ex-Prisoners, Labor Reeducation Ex-Inmates, and Discharged FJP Team Members] (China).

89. Guanyu Jiaqiang Jianwai Jiuyi Jianwai Zhixing he Jiashi de Fanren Jiandu de Tongzhi (关于加强对监外就医、监外执行和假释的犯人监督的通知) [Notification on Strengthening the Supervision over Prisoners Who Were on Medial Parole, Serving Sentence Outside Prison, or on Parole] (promulgated by the Sup. People's Court and Ministry of Public Security, Nov. 14, 1977) CLI.3.185989 (China).

90. Guanyu Dui Zuifan Jiashi hou de Zhengzhi Wuzhi Daiyu Wenti de Pifu (关于对罪犯假释后的政治、物质待遇问题的批复) [Response to the Question about Parolees' Political Rights and Social Benefits] (promulgated by the 11<sup>th</sup> Bureau of the Ministry of Public Security, Mar. 7, 1981) (81) Gonglao Guanzi No. 135 (China).

benefits for the parolee would be lower than an ordinary FJP worker; on the other hand, if a parolee's political rights had been restored, the social benefits would be the same as that of FJP workers.<sup>91</sup>

Since the labor reeducation camp itself was treated as another type of FJP for training social deviants into good citizens, there was not a unified policy for the management of ex-prisoners who were relieved from the reeducation units, and various measures were applied depending on the circumstances. Soldiers who were relieved from the reeducation units, for example, could return to their original troops if their military status was still kept; otherwise, these veterans would be rejected from their original troops and had to acquire a job with the local government's referral or stay with their labor reform teams.<sup>92</sup> Released rightists were usually eligible to remove their hats unless they performed extremely badly during their reeducation period. If their work status was kept, they could return to their original work units; if not, they could choose to join a people's commune or stay with their reeducation units.

Ex-inmates from labor reeducation camps who had useful skills or special qualifications would receive different treatment. Skillful ones who chose to stay in reeducation units were compensated at the same rate as ordinary skilled workers. Those who were intellectuals, celebrities in the capitalist class, or ex-cadres of the CCP were placed in work units by local governments after release.<sup>93</sup> Thus, these placements could be deemed as a similar type of FJP program within the labor reeducation system. The principles of "distribution according to one's job performance" and "equal pay for equal work" were as applicable to the labor reeducation workers as they were to FJP workers.<sup>94</sup>

## CONCLUSION

After placing the system of labor camps and post-release management into a broader context, we are able to see the close connection between the carceral mechanism and the social structure in the Maoist era. The combination of work unit, household registration and political dossier was a national plan implemented by the CCP for the purpose of exerting its omnipresent influence on every citizen's daily life in its 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 enacted through those institutions can be summarized with

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91. Youguan Jiashifan de Jige Wenti de Pifu (有关假释犯的几个问题的批复) [Response to Some Questions about Parolees] (China).

92. Guanyu Budui Laodong Jiaoyang Fenzi Jiechu Laojiao hou Anzhi Chuli de Tongzhi (关于部队劳动教养分子解除劳教后安置处理的通知) [Notification on Settling Down Ex-Inmates from Labor Reeducation Who Used to Be Soldiers] (China).

93. Guanyu Qingli Laodong Jiaoyang de Youpai Fenzi de Tongzhi (关于清理劳动教养的右派分子的通知) [Notification on Cleaning Up the Rightists in Labor Reeducation Units] (promulgated by the Ministry of Public Security, Nov. 9, 1961) (China).

94. See Joint Notification, *supra* note 78.

two ideas: human typology<sup>95</sup> and organized dependence.<sup>96</sup> Not surprisingly, the CCP applied a similar strategy to the management of inmates in their labor camps. Prison in communist China during the pre-reform period was considered another tool of social control for the unqualified labor force.

The unique feature of the nexus between punishment and profit-seeking made labor camps in China an integral part of economic development and political control in Mao's time. During the early years when the communist state had just been established, labor was in extreme shortage and the prison population, an unused vault of a great amount of labor force, promptly filled up the gap of human resources. Moreover, from a political point of view, social stability was the major concern of the CCP when it took over the territory, and thus preventing any social disorder was the central precept of the new government. Since labor camps were mostly located in desolate areas for cultivation or for setting up basic infrastructure, socially unstable elements were kept away from the masses and under the control of public security cadres. Consequently, labor camps in communist China were positioned as the amalgam of criminal sanction, economic production, and political control.

As we have learned from Mao's ideals, thought reform and profit-seeking were set as the two primary goals of the Chinese socialist prison in his time. In reality, production outweighed reform or punishment and became the first and the foremost goal of prison work. Since labor camps were required to be self-sufficient, inmates were nothing but an exploitable labor force. They were no longer criminals who needed to be punished, nor deviants who needed to be reeducated. Under the condition that reform work inherently relied on production work, it is no doubt that the reform or punitive purpose had to yield to economic demands. The directive "reform first and production second" served as a mere slogan in the labor reform sites, despite the strong appeal from the central government. Moreover, the remoteness and desolation of the camps' locations, together with the FJP program, caused the inevitable result that labor camps and their adjacent areas formed small societies containing a prison, enterprises (farms, factories, mines, etc.), and other social groups which provided daily supports, such as electricity, water, medication, education, or postal services. In this kind of prison-based society, the source for prison personnel was mainly the original staff members' children, and thereby these areas became self-circling prison-labor complexes.<sup>97</sup>

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95. FEI-LING WANG, ORGANIZING THROUGH DIVISION AND EXCLUSION: CHINA'S HUKOU SYSTEM 9-13 (2005).

96. WALDER, *supra* note 36.

97. Zhang Sujun (张苏军), *Woguo Jianyu Guanli Fazhi Zhuanxing Yanjiu* (我国监狱管理法制转型研究) [A Study on the Transition of the Law of Prison Management of Our Country], 6 Xingshifa Pinglun (刑事法评论) [CRIM. L. REV.] 520, 542-45 (2000).

In summary, the CCP utilized the means of “mandatory labor as punishment” to deal with the huge number of criminals and deviants and attempted to remold them into good labor so that they would be beneficial to the development of the country and be fit for socialist society after release. The details of the reform strategies shared several similarities with the general structure of social control, including the installment of party-state mechanism, the prisoner cards and dossiers, and the typology of prisoners. The mixed nature transformed labor camps into huge prison-labor complexes; it was designed to produce a class of good labor for socialist society and kick the bad materials out through the production line. In other words, the special state-owned enterprise in the Maoist era manufactured not only good products, but also a qualified labor force.

