

# WORKFORCE EQUALITY: THE CONSTITUTIONAL CONCEPTION OF EDUCATIONAL EQUALITY IN MAO-ERA CHINA

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## INTRODUCTION

Reconstruction and the rise of leftwing thought in the wake of World War II brought unprecedented attention to educational equality across the globe. Most prominently, the U.S. Supreme Court’s unanimous opinion in *Brown v. Board of Education* not only marked a milestone in the fight for equal rights in education for African-Americans,<sup>1</sup> but also inspired many other traditionally disadvantaged groups at home and abroad.<sup>2</sup> The pursuit of

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<sup>1</sup> *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

<sup>2</sup> *See, e.g.*, Ruth Bader Ginsburg, U.S. Sup. Ct. Assoc. J., *Brown v. Board of Education in International Context*, Speech at the University of Pretoria Centre for Human Rights (Feb. 7, 2006), *available at*

educational equality in Maoist China was a surging yet overlooked part of that wave of movements. Unlike the U.S., where civil rights reforms were scattered across states and pursued by many organizations, the highly centralized system in post-1949 China produced a nationally unitary and clearly defined connotation of educational equality.<sup>3</sup> How, then, was educational equality conceived and practiced in Mao-era China? This Article answers this question by narrating the constitutional conception of equality-as-empowerment and how equal education laws were designed to transform the masses into the workforce deemed necessary for rapid industrialization.

The controversy over educational equality has become one of the prominent conflicts in contemporary Chinese society.<sup>4</sup> It is, however, never easy to reach an agreed upon definition of equality even when narrowed down to the field of education.<sup>5</sup> As with other

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[https://www.supremecourt.gov/publicinfo/speeches/viewsspeech/sp\\_02-07a-06](https://www.supremecourt.gov/publicinfo/speeches/viewsspeech/sp_02-07a-06)  
[<https://perma.cc/2FG9-946Z>].

<sup>3</sup> See *infra* Part II.

<sup>4</sup> See, e.g., *Education Inequality for Migrants' Children: "This Problem Has Taken Over My Life,"* OBSERVERS (Feb. 28, 2012), <https://observers.france24.com/en/20120228-china-beijing-amid-mounting-inequality-hukou-migrant-workers-demand-education-rights> [<https://perma.cc/7N9E-E9MC>] (discussing a gathering of hundreds outside China's Ministry of Education to demand equal education rights for children of *migrant workers*); Didi Kirsten Tatlow, *Women in China Face Rising University Entry Barriers*, N. Y. TIMES (Oct. 7, 2012), <https://www.nytimes.com/2012/10/08/world/asia/08iht-educlede08.html> [<https://perma.cc/P3D2-LV4S>] (discussing that women who shaved their heads protested the growing gender discrimination in university admissions); Chris Buckley, *Henan Delegates Protest Inequality in University Admissions*, N. Y. TIMES (Mar. 11, 2015), <https://cn.nytimes.com/china/20150311/c11university/dual/> [<https://perma.cc/Y63J-CLD2>] (discussing the discrimination in university admissions against applicants from *provinces* such as Henan); Javier C. Hernández, *China Tries to Redistribute Education to the Poor, Igniting Class Conflict*, N. Y. TIMES (June 11, 2016), <https://www.nytimes.com/2016/06/12/world/asia/china-higher-education-for-the-poor-protests.html> [<https://perma.cc/Q3E5-CF9P>] (discussing a series of protests occurred in four provinces against a reform in university admission quotas that was believed to be detrimental to the children of local middle class); Ding Jie et al., *School District Reform Prompts Parent Protests in Beijing*, CAIXIN (July 9, 2018, 08:26 PM), <https://www.caixinglobal.com/2018-07-09/school-district-reform-prompts-parent-protests-in-beijing-101297434.html> [<https://perma.cc/G5JK-AMLC>] (discussing protests about a school district reform in Beijing that no longer guarantee the children of the “residents of sought-after *school districts* and recent homebuyers who paid a steep premium” to be admitted to an elite school) (*italic added*).

<sup>5</sup> See, e.g., Mary Warnock, *The Concept of Equality in Education*, 1 O. REV. EDUC. 3 (1975) (distinguishing “an equal right to education” and “a right to equal education”); Julia Kwong & Hong Xiao, *Educational Equality Among China's Minorities*, 25 COMP. EDUC. 229, 229–30 (1989) (discussing three interpretations of educational equality).

canonical constitutional terminology, the concept of equality is abstract, ambiguous, and may even be considered “empty.”<sup>6</sup> As a result, the conventional research on educational equality in China is comprised mostly of empirical and quantitative sociological studies and a handful of legal studies that are difficult to place in conversation with each other due to their vague and contested definitions of equality.<sup>7</sup> This Article, in contrast, in order to address the controversy, reframes equality through a constitutional construction of educational equality.

All five of China’s constitutions since the People’s Republic have promised equality, for example, that “[w]omen shall enjoy equal rights with men,”<sup>8</sup> “[a]ll nationalities . . . are equal,”<sup>9</sup> and

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<sup>6</sup> See, e.g., Peter Westen, *The Empty Idea of Equality*, 95 HARV. L. REV. 537 (1982); Steven J. Burton, *Comment on “Empty Ideas”: Logical Positivist Analyses of Equality and Rule*, 91 YALE L. J. 1136 (1982); Kent Greenawalt, *How Empty Is the Idea of Equality?*, 83 COLUM. L. REV. 1167 (1983); RONALD DWORKIN, *SOVEREIGN VIRTUE* 2 (2000).

<sup>7</sup> See, e.g., Xue Lan Rong & Tianjian Shi, *Inequality in Chinese Education*, 10 J. CONTEMP. CHINA 107 (2001); Emily Hannum, *Poverty and Basic Education in Rural China: Villages, Households, and Girls’ and Boys’ Enrollment*, 47 COMP. EDUC. REV. 141 (2003); Wing-Wah Law & Su-Yan Pan, *Legislation and Equality in Basic Education for All in China*, 40 INTERCHANGE 337 (2009).

<sup>8</sup> GONGTONG GANGLING (共同纲领) [Common Program of the Chinese People’s Political Consultative Conference] (adopted by the First Plenary Session of the Chinese People’s Political Consultative Conference, Sept. 29, 1949), CLI.1.124417(EN) (Lawinfochina), art. 6 (“Women shall enjoy *equal rights* with men in political, economic, cultural, educational and social life.”) [hereinafter GONGTONG GANGLING]; XIANFA art. 86, § 2 (1954) (“Women shall enjoy the *equal right* with men to vote and to be elected.”), art. 96, § 1 (1954) (“Women shall enjoy *equal rights* with men in political, economic, cultural, social, and family life.”); XIANFA art. 27, § 4 (1975) (“Women shall enjoy *equal rights* with men in all respects.”); XIANFA art. 53, § 1 (1978) (“Women shall enjoy *equal rights* with men in political, economic, cultural, social, and family life. *Equal pay for equal work* for men and women.”); XIANFA art. 48 (1982) (“Women shall enjoy *equal rights* with men in political, economic, cultural, social, and family life. The state shall protect the rights and interests of women, apply the principle of *equal pay for equal work* to men and women alike, and train and select cadres from among women.”) (emphasis added).

<sup>9</sup> GONGTONG GANGLING, *supra* note 8, art. 9 (“All nationalities in the People’s Republic of China shall have *equal rights and duties*.”), art. 50 (“All nationalities within the boundaries of the People’s Republic of China are *equal*.”); XIANFA art. 3, § 2 (1954) (“All nationalities are *equal*.”), art. 58 (“The local people’s congresses . . . [shall] safeguard the rights of citizens and the *equal rights* of minority nationalities.”); XIANFA art. 4, § 2 (1975) (“All nationalities are *equal*.”); XIANFA art. 4, § 2 (1978) (“All nationalities are *equal*.”), art. 36, § 1 (1978) (“The local people’s congresses . . . [shall] safeguard the rights of citizens and the *equal rights* of national minorities.”); XIANFA art. 4, § 1 (1982) (“All nationalities in the People’s Republic of China are *equal*.”), art. 89, § 11 (1982) (“[The State Council shall] . . . safeguard the *equal rights* of minority nationalities.”) (italic added).

“[a]ll citizens . . . are equal before the law.”<sup>10</sup> They have also created a right to education and made it subject to the requirement of equal treatment.<sup>11</sup> Such textual commitments, however, are abstract and loosely defined, if not rhetorical, the courts are restrained from interpreting the Constitution,<sup>12</sup> and the statutes and administrative rules are devoid of an articulated conception of equality. Therefore, constructing the constitutional concept of educational equality requires attending to political sources, such as leaders’ speeches and Party documents in history.<sup>13</sup> Documentation and analysis of laws and regulations in education and beyond further refines and bolsters that constitutional construction. This Article thus construes equality not only by exploring the founders’ explicit perceptions and visions of equality, but also by analyzing the conceptions of equality implicit in those legal-historical sources. It holds that educational equality as a secondary constitutional value, always serves the ultimate constitutional vision,<sup>14</sup> which has

<sup>10</sup> XIANFA art. 85 (1954) (“All citizens of the People’s Republic of China are *equal* before the law.”); XIANFA art. 33, § 2 (1982) (“All citizens of the People’s Republic of China are *equal* before the law.”) (italic added).

<sup>11</sup> GONGTONG GANGLING, *supra* note 8, art. 6 (“Women shall enjoy *equal rights* with men in political, economic, cultural, *educational* and social life.”); XIANFA art. 94, § 1 (1954) (“Citizens of the People’s Republic of China shall have the *right to education*.”); XIANFA art. 27, § 2 (1975) (“Citizens shall have the right to work and the *right to education*.”); XIANFA art. 51, § 1 (1978) (“Citizens shall have the *right to education*. The state shall gradually increase the number of schools and other cultural and educational facilities of all types and popularize education, in order to ensure the enjoyment of this right by its citizens.”); XIANFA art. 46, § 1 (1982) (“Citizens of the People’s Republic of China have the *right and duty to education*.”) (italic added).

<sup>12</sup> Guanyu yi Qinfa Xingmingquan de Shouduan Qinfa Xianfa Baohu de Gongmin Shoujiaoyu de Jiben Quanli Shifou Ying Chengdan Minshi Zeren de Pifu (关于以侵犯姓名权的手段侵犯宪法保护的公民受教育的基本权利是否应承担民事责任的批复) [Reply on Whether the Accused Shall Bear Civil Liability for the Infringement of the Citizen’s Fundamental Rights of Receiving Education under the Protection of Constitution by Means of Infringing the Right of Name] (promulgated by the Sup. People’s Ct., July 24, 2001, effective Aug. 13, 2001, repealed Dec. 24, 2008), SUP. PEOPLE’S CT. GAZ, May 1, 2001, at 152, *translated in* CLI.3.36302(EN) (Lawinfochina).

<sup>13</sup> For arguments that constitutional construction depends on such historical factors as “privileged sources of meaning, inspiration, and guidance,” *see, e.g.*, AKHIL REED AMAR, *AMERICA’S UNWRITTEN CONSTITUTION*, at ix–x, 245–75 (2012); Jack M. Balkin, *The New Originalism and the Uses of History*, 82 *FORDHAM L. REV.* 641, 652, 672–91 (2013); Jiang Shigong, *Written and Unwritten Constitutions: A New Approach to the Study of Constitutional Government in China*, 36(1) *MOD. CHINA* 12, 25–37 (2010); Xin He, *The Party’s Leadership as a Living Constitution in China*, 42 *HONG KONG L. J.* 73 (2012).

<sup>14</sup> For the ultimate constitutional vision, *see, e.g.*, GONGTONG GANGLING, *supra* note 8, art. 1 (writing “for independence, democracy, peace, unity, prosperity and strength of China”); XIANFA pmb. ¶ 1 (1954) (envisioning that “in a peaceful way banish exploitation

often been embodied in concrete national objectives at different historical stages. The implicit conception of educational equality can thus be inferred by examining the national objective of a given period and its interaction with equal education laws.

The Mao era stands out in construing the constitutional conception of educational equality. This is not only because the leaders of that era's ideas and their practices have significantly shaped law and society in contemporary China;<sup>15</sup> Moreover, it is because the Maoist ideology, albeit superseded by that of the transformative reform era that followed, has become a specter haunting China ready, if not already, for a resurgence.<sup>16</sup> Understanding equality in the Mao-era constitution, both as written and politically constructed, therefore, is needed to determine its significance for today's controversies. Accordingly, this Article adopts a legal-historical and legal-sociological research approach. It traces three decades of the Mao-era constitutional history, both in and beyond the legal text: not only exhaustively examining education laws and regulations in government gazettes and the *Chinalawinfo* database; but also scrutinizing the coverage and discourse in *People's Daily (Renmin Ribao)*, *People's Education (Renmin Jiaoyu)*, *Selected Works of Mao Tse-Tung*, and other Party leaders' remarks that pertain to the conception of educational equality. The Article also draws on data from the *China Statistical Yearbooks* and the *China Education Yearbooks* to contextualize the implementation of the laws and policies and their effects. By analyzing those primary sources, this Article reveals that the founders of socialist China, pursuing the goal of industrialization, conceived of equality in education as the empowerment of the

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and poverty and build a prosperous and happy socialist society"); XIANFA pmb. ¶ 7 (1982) (professing “to modernize the industry, agriculture, national defense, and science and technology” and “to turn China into a socialist country that is highly civilized and democratic”). For the argument that the same is true of the United States, see Mengyun Ma, *The Evolving Concept of Equality in Education: From WWII to Freeman 2* (Mar. 28, 2018) (unpublished manuscript) (on file with author).

<sup>15</sup> See, e.g., AFTERLIVES OF CHINESE COMMUNISM: POLITICAL CONCEPTS FROM MAO TO XI (Christian Sorace et al. eds., 2019) (depicting various political concepts of the Mao era and how they have shaped Chinese politics today).

<sup>16</sup> For arguments that Xi Jinping has closed China's reform era and revived Maoism, see, e.g., Suisheng Zhao, *Xi Jinping's Maoist Revival*, 27 J. DEMOCRACY 83 (July 2016); Willy Lam, *Xi Jinping's Ideology and Statecraft*, 48 CHINESE L. & GOV'T 409, 412 (2016); CARL MINZNER, *END OF AN ERA: HOW CHINA'S AUTHORITARIAN REVIVAL IS UNDERMINING ITS RISE* (2018).

workforce. That notion of workforce equality was a constant in the dramatic revolution of Mao-era China.

Reframing the concept of equality in Mao-era China, this Article's contribution is twofold. First and foremost, the Article draws out the thread of the idea of equality embedded in the constitutional law of education and theorizes it. Like many of its counterparts in other arenas of the period, Maoist education law featured the mass line and mass mobilization campaigns.<sup>17</sup> Maoism's egalitarian implications have thus been the intuitive perception of much of the population and have been inspected in many scholarly works.<sup>18</sup> Interestingly, however, some scholars have perceptively noted that beneath the veil of plain language "equality," Maoist China was, in reality, unequal in some respects.<sup>19</sup> This wisdom is insightful for understanding and studying socialist China and the philosophy underlying its equal education laws. The varied categorization of equality in those works, however, has left the thread of the Mao-era conception of equality less clear. This

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<sup>17</sup> See, e.g., H. Arthur Steiner, *Current "Mass Line" Tactics in Communist China*, 45 AM. POL. SCI. REV. 422 (1951) (arguing that the Chinese Communist Party applied the tactics of the mass line to almost all of its governance); Wen-hui Tsai, *Mass Mobilization Campaigns in Mao's China*, 6 AM. J. CHINESE STUD. 21 (1999) (outlining several mass movements in the economic, political, and social spheres of Maoist China); Lin Chun, *Mass Line*, in AFTERLIVES OF CHINESE COMMUNISM, *supra* note 15, at 121 (arguing that the mass line was the CCP's tool to seize and consolidate power).

<sup>18</sup> See Donald Munro, *Egalitarian Ideal and Educational Fact in Communist China*, in CHINA: MANAGEMENT OF A REVOLUTIONARY SOCIETY 256, 256–58 (John Lindbeck ed., 1971) (relating Mao's quest for the egalitarian ideal to the mass line); Emily Hannum, *Political Change and the Urban-Rural Gap in Basic Education in China, 1949–1990*, 43 COMP. EDUC. REV. 193 (1999) (arguing that the educational policies of the Mao era, especially during the Cultural Revolution, were egalitarian, as they reduced the urban-rural gap in education); Lin, *supra* note 17, at 121, 124 (discussing the egalitarian implications of economic democracy, an important manifestation of the mass line, as exemplified by the Angang Constitution—managers joining shop-floor workers in their labors and workers partaking in factory management).

<sup>19</sup> See MAURICE MEISNER, *MAO'S CHINA AND AFTER* 124–26, 178 (3rd ed. 1999) (arguing that despite the egalitarian drive being a major aim of Maoist policies, Chinese industrialization led to the emergence of new patterns of inequality); Richard Curt Kraus, *The Limits of Maoist Egalitarianism*, 16 ASIAN SURV. 1081 (1976) (arguing that the equality advocated by Maoist programs was essentially symbolic in nature, a "mask[ing] [of] factual inequalities with a formal equality"); Martin King Whyte, *Rethinking Equality and Inequality in the PRC*, in THE 50TH ANNIVERSARY CONFERENCE FOR THE FAIRBANK CENTER FOR EAST ASIAN RESEARCH (2005), at 6–17, available at [https://datascience.iq.harvard.edu/files/wcfia/files/1068\\_mkw\\_rethinkingequality.pdf](https://datascience.iq.harvard.edu/files/wcfia/files/1068_mkw_rethinkingequality.pdf) [<https://perma.cc/UC6Y-XMST>] (arguing that despite the small disparity in personal fortunes, Mao-era China was an inegalitarian place due to intentional policy interventions that aggravated social and many other cleavages).

Article, in contrast, lifts that thread up to theorize on the constitutional law of education and reframes Maoist egalitarianism. Terming it workforce equality, the Article construes Maoist egalitarianism as a large degree of equality of results for the sake of the masses, that is, the workforce, and for the purpose of expanding and empowering the workforce. This definition is neither a cliché that socialism is all about equality of results, as in noting that vertically there was a certain extent of equality of opportunity in education before 1958, and that horizontally the urban-rural and industrial-agricultural differences persisted throughout the Mao era; nor is it an assertion that the masses benefited exclusively, as intellectual elites, especially engineering specialists, were valued in the 1950s and bureaucratic elites and their offspring were, in fact, privileged in education in socialist China.<sup>20</sup> Rather, the reframing evinces that workforce-oriented equality of outcome, dictated by the goal of industrialization, was the dominant ethos of Maoist egalitarianism.

Second, the Article provides a legal and indigenous perspective to the study of equality ideas in China during the Mao era and beyond. The massive and radical social transformation in post-1949 China has attracted a great deal of popular and scholarly attention. Among them are brilliant works that look into the educational movements, the ill-fated intelligentsia, and their underlying political rationale,<sup>21</sup> some particularly examining the egalitarian implications and causality between educational reforms

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<sup>20</sup> See, e.g., JOEL ANDREAS, RISE OF THE RED ENGINEERS 61–83 (2009) (mentioning that before the Cultural Revolution college graduates and the technical elite were very welcome in industrial enterprises, despite the Red-over-expert structure); MEISNER, *supra* note 19, at 125–26 (arguing that the new education system during the First Five-Year Plan perpetuated privileged strata, including Party and government officials and the technological intelligentsia); MARTIN KING WHYTE & WILLIAM L. PARISH, URBAN LIFE IN CONTEMPORARY CHINA 46 (1985) (claiming that the children of administrative elite cadres received privileged educational opportunities such as attending elite boarding schools by the early 1960s); Julia Kwong, *Is Everyone Equal before the System of Grades: Social Background and Opportunities in China*, 34 BRIT. J. SOC. 93, 93–96 (1983) (revealing that the recommendation-based system of educational advancement during the Cultural Revolution disproportionately selected the children of high-ranking officials).

<sup>21</sup> E.g., THOMAS P. BERNSTEIN, UP TO THE MOUNTAINS AND DOWN TO THE VILLAGES (1977); RUTH GAMBERG, RED AND EXPERT (1977); DONGPING HAN, THE UNKNOWN CULTURAL REVOLUTION (2000); SUZANNE PEPPER, RADICALISM AND EDUCATION REFORM IN TWENTIETH-CENTURY CHINA (1996).

and the changes in workforce demand.<sup>22</sup> Those works of political science have provided invaluable information and insight into a period when available and reliable resources were limited; however, legal perspectives, particularly examining equality in education through a constitutional lens, are missing. This Article, in contrast, fills that academic gap. By extensively marshaling the constitutional laws, it reveals that the law of universal and labor-combined education empowered the masses, especially workers and peasants, who had traditionally been educationally disadvantaged, to become the workforce for industrialization. It also shows that at the same time, intellectuals were coerced under those laws into becoming industrial manual laborers, thus shedding new light on a notion of workforce equality in which almost everyone was disciplined into homogeneous workers through educational regulations.

Furthermore, this Article adds a Chinese indigenous research perspective to the purely Western legal concept of equality. Traditionally, Chinese jurisprudential studies have urged using western jurists' equality theories to modernize the Chinese legal system.<sup>23</sup> Most studies have focused on employment discrimination.<sup>24</sup> Some researchers, mainly drawing on Western legal practice, have also focused on the equal protection of the right to education in China.<sup>25</sup> Those legal scholars have laid the

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<sup>22</sup> Munro, *supra* note 18, at 272–79, 285–90, 295–96; LEO A. ORLEANS, PROFESSIONAL MANPOWER AND EDUCATION IN COMMUNIST CHINA (1961); Joel Glassman, *Educational Reform and Manpower Policy in China, 1955–1958*, 3 MOD. CHINA 259 (1977).

<sup>23</sup> See, e.g., Zhang Hengshan (张恒山), *Lun Zhengyi he Falü Zhengyi (论正义和法律正义)* [On Justice and Legal Justice], 8 FAZHI YU SHEHUI FAZHAN (法制与社会发展) [L. & SOC'L DEV.] 23 (2002) (introducing the theories of Alexander Hamilton, John Rawls, Plato, Cicero, Aristotle, etc.).

<sup>24</sup> See, e.g., Zhou Wei (周伟), *Lun Jinzhi Qishi (论禁止歧视)* [On the Prohibition of Discrimination], 28 XIANDAI FAXUE (现代法学) [MODERN L. SCI.] 68 (2006) (utilizing antidiscrimination theory to discuss five famous cases of employment discrimination regarding height, age, gender, and certain diseases).

<sup>25</sup> See, e.g., YANG CHENGMING (杨成铭), SHOUJIAOYU QUAN DE CUJIN HE BAOHU (受教育权的促进和保护) [THE PROMOTION AND PROTECTION OF THE RIGHT TO EDUCATION] Ch. 5 (2004); Zhang Qianfan (张千帆), *Qishi Haishi Jiupian Gaokao Luqu Fenshuxian de Hexianxing Jianyan (歧视还是纠偏?—高考录取分数线差别的合宪性检验)* [Discrimination or Redress?: The Constitutionality of the Difference in Admission Score Lines for College Entrance Examinations], 9 HUADONG ZHENGFA DAXUE XUEBAO (华东政法大学学报) [ECUPL J.] 118 (2006); JIAOYU GONGPING DE FALÜ BAOHU YANJIU (教育公平的法律保护研究) [STUDY ON THE LEGAL PROTECTION OF EDUCATIONAL EQUITY] 43–90 (Wang Xigen ed., 2012); DAXUE ZHAOSHENG YU XIANFA PINGDENG (大学招生与宪法平

groundwork for improved institutional design and further research. An indigenous perspective on equality, however, is mostly missing. Yet there were a lot of equality-related ideas in ancient China that profoundly influenced how the Chinese people and institutions conceived of equality for millennia. These included “the world-state is for the equality of all peoples (*tianxia weigong*)”<sup>26</sup> and “education for everyone without distinction of classes (*youjiao wulei*).”<sup>27</sup> Although those ideas have rarely been incorporated into the contemporary Chinese legal system, indigenous and contextualized understandings of equality persist. Based on the primary-source legal-historical documents, the Article presents how equality was viewed by those who held sovereignty, thus enriching the study of equality in China by adding an indigenous dimension. This approach to constitutional construction utilizing historical sources also sheds light on the studies of equality and other constitutional concepts in China today.

In order to answer the question of how educational equality was conceived and practiced in the constitutional gaze of Mao-era China, this Article presents its history in three parts. The first part explores where the Maoist concept of educational equality came from, that is, the constitutional goal that drove the idea of equality-as-empowerment. Upon the founding of the People’s Republic, the Communist Party of China (CCP) established the goal of industrialization, divided into socialist revolution and socialist reconstruction, with which the equal education laws were in line. The second part examines how the Maoist egalitarianism in education worked, elaborating on the legal embodiment of equality-as-empowerment and the engagement of workforce equality with industrialization. The new regime included the disadvantaged in its educational programs through universal mass education, and imposed a combination of education and productive labor, thereby empowering them to become industrial laborers. The third part traces where the Maoist view of educational equality was going, namely the consequences and implications of the constitutional conception of workforce equality. Maoist equality of results led to

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等) [UNIVERSITY ADMISSIONS AND CONSTITUTIONAL EQUALITY] (Zhang Qianfan & Qu Xiangfei eds., 2011) (so far the only study on educational inequality entirely through a constitutional approach).

<sup>26</sup> THE BOOK OF RITES, LIYUN [THE CONVEYANCE OF RITES], Ch. 9.

<sup>27</sup> THE ANALECTS, WEI LING GONG, Ch. 39.

an unprecedented supply of education and to a considerable gap between education and employment that the authorities sought to bridge, both of which had important impacts on market-oriented reforms in the post-Mao era.

### I. THE GOAL OF INDUSTRIALIZATION IN THE CONSTITUTIONAL VISION

The goal of industrialization in post-war China was a common aspiration of the Chinese people and political parties after a hundred years of social disturbance, political instability, and intellectual anarchy since the late imperial era. In the official narrative, this once glorious civilization, after its encounter with the West in the mid-nineteenth century, was plunged into extreme poverty and nearly lost its independence due to lagging civil and military industries.<sup>28</sup> The communist leaders, with Mao Zedong at the helm, blamed a century of suffering on the fact that “those who fall behind get beaten,”<sup>29</sup> and were eager to defend independence, get rid of poverty, and establish a socialist system.<sup>30</sup> As a result, at the Political Consultative Conference in late September 1949, immediately prior to the establishment of the regime, the CCP together with other political parties set the constitutional goal of industrialization in the *interim* Constitution: “The People’s Republic of China must . . . steadily transform the country from an agricultural into an industrial one.”<sup>31</sup> That objective was reaffirmed in the subsequent official Constitution of 1954, where it was termed “socialist industrialization of the country.”<sup>32</sup>

The choice of industrialization as the constitutional goal in the early years of the People’s Republic was attributed to a number of factors. First, the nascent communist regime was under

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<sup>28</sup> See, e.g., 5 MAO ZEDONG, *The Chinese People Have Stood Up!* (Sept. 21, 1949), in *SELECTED WORKS OF MAO TSE-TUNG* 15, 15–18 (1977).

<sup>29</sup> See Joseph Vissarionovich Stalin, *The Tasks of Business Executives: Speech Delivered at the First All-Union Conference of Leading Personnel of Socialist Industry* (Feb. 4, 1931), *Speech at the First All-Union Conference of Leading Personnel of Socialist Industry*, available at <https://www.marxists.org/reference/archive/stalin/works/1931/02/04.htm> [https://perma.cc/afb7-b6w5] (putting forward the notion that “those who fall behind get beaten”).

<sup>30</sup> See *infra* pp. 8–10.

<sup>31</sup> GONGTONG GANGLING, *supra* note 8, art. 3.

<sup>32</sup> XIANFA pmb1. ¶ 2 (1954).

tremendous influence of Marxist theory and the experience of the Soviet Union. Theoretically, Marxism implied that industrialization was the premise and foundation of communism. It suggested that “[t]he great industry made it absolutely necessary to establish an entirely new social organization,” in which “[t]he proletariat w[ould] use its political supremacy to . . . increase the total productive forces as rapidly as possible.”<sup>33</sup> Practically, the Stalinist economic model, which gave great priority to the development of industry, was a success. A faithful follower of the U.S.S.R. at that time, Mao and other CCP leaders were remarkably uncritical in accepting the transplantation of the Soviet model in China.<sup>34</sup> The Chinese First Five-Year plan of 1953–57, in particular, was a close imitation of the Soviet First Five-Year plan of 1928–32, both of which were aimed at rapid industrialization with special emphasis on heavy industry.<sup>35</sup> Given the perception that the imbalance in the industrial structure of China, where heavy industry accounted for only around 20% of the total industrial GDP in 1950,<sup>36</sup> had been greater than that of the Soviet Union, the CCP’s overemphasis on heavy industry was exacerbated.<sup>37</sup>

Second, as the communist regime faced military challenges near and far after coming to power, rapid industrialization, especially the raising of the military industry, became an imperative for it in the 1950s. On the one hand, despite its retreat to Taiwan after losing the civil war of 1945–49, the Kuomintang (KMT or Nationalist Party) still maintained a strong military presence in the

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<sup>33</sup> 1 KARL MARX & FRIEDRICH ENGELS, *Manifesto of the Communist Party*, in MARX/ENGELS SELECTED WORKS 98–137 (Samuel Moore trans., Progress Publishers 1969) (1848), *available at* <https://www.marxists.org/archive/marx/works/download/pdf/Manifesto.pdf> [https://perma.cc/fct2-shhh].

<sup>34</sup> MEISNER, *supra* note 19, at 109–11.

<sup>35</sup> CENT. INTELLIGENCE AGENCY, COMPARISON OF THE FIRST FIVE YEAR PLANS OF COMMUNIST CHINA AND THE USSR (June 1959), *available at* [https://www.cia.gov/library/readingroom/docs/DOC\\_0000313443.pdf](https://www.cia.gov/library/readingroom/docs/DOC_0000313443.pdf) [https://perma.cc/phf5-88qf].

<sup>36</sup> ZHONGHUA RENMIN GONGHEGUO JINGJI DANG’AN ZILIAO XUANBIAN 1949–1952 ZONGHE JUAN (中华人民共和国经济档案资料选编, 1949–1952, 综合卷) [ECONOMIC ARCHIVES DATA OF THE PEOPLE’S REPUBLIC OF CHINA, 1949–1952, SYNTHETIC STUDY VOLUME] 65 (Chinese Acad. Soc. Sci. & the Nat’l Archives Admin. eds., 1990) [hereinafter ECONOMIC ARCHIVES] (indicating that the three major heavy industrial sectors—steel, coal, and electricity—only accounted for 6–8% of the industrial GDP, respectively).

<sup>37</sup> MEISNER, *supra* note 19, at 112.

Mainland, especially in the South. The Nationalists, according to Mao, were “resort[ing] to bandit guerrilla warfare,” “sabotaging the people’s economic undertakings,” and “assassinating the personnel of the Party and government organizations.”<sup>38</sup> The nascent communist regime, therefore, was threatened and eager to strengthen its military power to “consolidate national defense” and “liberate Taiwan.”<sup>39</sup> On the other hand, founded in the context of the Cold War, the communist regime saw itself as hostile and threatened by capitalist countries. As a significant member of the socialist camp and a close Soviet ally, the CCP felt obligated to build up its military industry in order to form and guard “an international united front.”<sup>40</sup> More importantly, Mao’s anticipation of a possible third world war, confirmed by the Korean War, made the military industry a high, if not the top, priority.<sup>41</sup>

Third, industrialization, especially of civilian industries, was a compelling need for socialist economic construction. For one thing, China was traditionally an agricultural country, with 93% of its population living in rural areas in 1949.<sup>42</sup> In order to establish a people’s democratic dictatorship, the CCP had to first realize the socialization of agriculture through educating the peasantry who were economically dispersed. Mao held that “[t]he steps to socialize agriculture must be co-ordinated with the development of a powerful industry,” therefore, national industrialization was essential for achieving socialism.<sup>43</sup> For another, China’s industrial productivity was almost at its lowest point in 1949.<sup>44</sup> The modern industrial base of China during the KMT’s rule was mainly built under foreign imperialist auspices, relied heavily on external

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<sup>38</sup> MAO ZEDONG, *Fight for A Fundamental Turn for the Better in the Nation’s Financial and Economic Situation (June 6, 1950)*, in *SELECTED WORKS OF MAO TSE-TUNG*, *supra* note 28, at 26, 27.

<sup>39</sup> *Id.* at 30.

<sup>40</sup> 4 MAO ZEDONG, *On People’s Democratic Dictatorship (July 1, 1949)*, in *SELECTED WORKS OF MAO TSE-TUNG* 411, 415 (1961).

<sup>41</sup> MAO, *supra* note 28, at 26.

<sup>42</sup> See Chen Bin (陈彬), *Woguo Chengzhenhua Fazhan de Lishi yu Weilai Qushi (我国城镇化发展的历史与未来趋势)* [*The History and Future Trend of China’s Urbanization*], GUOJIA XINXI ZHONGXIN (国家信息中心) [ST. INFO. CENT.] (Apr. 8, 2016), <http://www.sic.gov.cn/News/455/6167.htm>. [<https://perma.cc/j2kx-3p7e>].

<sup>43</sup> MAO, *supra* note 40, at 419.

<sup>44</sup> See *ECONOMIC ARCHIVES*, *supra* note 36, at 65 (enumerating that compared with those of the best years in terms of annual industrial output, China in 1949 produced only one-tenth of the iron, one-sixth of the steel, and less than half of the coal).

economic relations,<sup>45</sup> and required massive imports of raw materials.<sup>46</sup> Faced with a weak and constrained industry, the CCP thus opted for rapid industrialization by self-reliance (*zili gengsheng*) for independence and economic development.<sup>47</sup> That desire for self-sufficiency in industrial supply became more urgent after the U.S. trade embargo on China in 1950 following the entry of Chinese troops into the Korean War and the Sino-Soviet rift in 1960.<sup>48</sup> Realizing that “there w[ould] probably be a period of peace for a decade or more” in 1956, Mao further shifted the focus of industrialization from military to civilian industries.<sup>49</sup>

In this regard, the new regime continued to emphasize the constitutional objective of industrialization in the early years of its existence. The *interim* Constitution of 1949, the Common Programme, professed to “lay the foundation for the industrialization of the country” mainly through a “planned, systematic rehabilitation and development of heavy industry.”<sup>50</sup> The First Five-Year Plan, which served as the economic constitution of the time, particularly emphasized the need for socialist industrialization and the “socialist transformation of agriculture, handicrafts and capitalist industry and commerce.”<sup>51</sup> The Constitution of 1954 declared, for the first time, that the socialist industrialization and transformation of agriculture and industry were the “fundamental task of the State.”<sup>52</sup> Heavy industry was then designated as “the chief index” of socialist industrialization and “the

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<sup>45</sup> MEISNER, *supra* note 19, at 107.

<sup>46</sup> ECONOMIC ARCHIVES, *supra* note 36, at 40.

<sup>47</sup> 3 MAO ZEDONG, *We Must Learn to Do Economic Work (Jan. 10, 1945)*, in *SELECTED WORKS OF MAO TSE-TUNG* 189, 191 (1967).

<sup>48</sup> *Report by the Department of Commerce of Actions Taken by the Department of Commerce, in Consultation with the Departments of State and Defense and Other Government Agencies, on Trade with China* (Dec. 4, 1950), in *FOREIGN RELATIONS OF THE UNITED STATES, 1950, EAST ASIA AND THE PACIFIC* 672–73, available at <http://images.library.wisc.edu/FRUS/EFacs2/1950v06/reference/frus.frus1950v06.i0009.pdf>.

<sup>49</sup> MAO ZEDONG, *On the Ten Major Relationships (Apr. 25, 1956)*, in *SELECTED WORKS OF MAO TSE-TUNG*, *supra* note 28, at 284, 287.

<sup>50</sup> GONGTONG GANGLING, *supra* note 8, art. 35.

<sup>51</sup> *FIRST FIVE-YEAR PLAN FOR DEVELOPMENT OF THE NATIONAL ECONOMY OF THE PEOPLE'S REPUBLIC OF CHINA IN 1953–1957*, at 15–17 (Foreign Languages Press 1956).

<sup>52</sup> XIANFA pmbL, ¶ 2 (1954).

basis for a strong economy and national defen[s]e,”<sup>53</sup> followed by the bold Great Leap Forward (1958–62).<sup>54</sup>

In 1958, the CCP adopted a radical approach to rapid industrialization, aiming to outnumber the U.K. and the U.S. in industrial products in the shortest possible time.<sup>55</sup> That campaign for communism, however, far from improving the quality of industrialization, caused a severe ecological catastrophe and led directly to the Great Famine in 1958–61.<sup>56</sup> The CCP thus adjusted the goal of rapid industrialization, changing its one-sided focus on heavy industry and stressing the importance of light industry and agriculture, and proposed the “high-speed and balanced advance of socialist industrialization.”<sup>57</sup> The Cultural Revolution that followed, while claiming to be “a powerful motive force for the development of the social productive forces,”<sup>58</sup> disrupted the normal economic and social order in China, setting aside the constitutional objective of industrialization. The Constitution of 1975 was thus silent on this issue except to state that industry was the “leading factor” in the

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<sup>53</sup> PROPOSALS OF THE EIGHTH NATIONAL CONGRESS OF THE COMMUNIST PARTY OF CHINA FOR THE SECOND FIVE-YEAR PLAN FOR DEVELOPMENT OF THE NATIONAL ECONOMY, 1958–1962, at 13 (Foreign Languages Press 1956) [hereinafter PROPOSAL FOR THE SECOND FIVE-YEAR PLAN].

<sup>54</sup> Editorial, *Xianqi Nongye Shengchan de Xin Gaochao* (掀起农业生产的新高潮) [A New Upsurge in Agricultural Production], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], NOV. 13, 1957, at 1 (becoming the first to propose a “great leap forward” on the production front).

<sup>55</sup> Editorial, *Wei Shixian Shehui Zhuyi Jianshe de Zongluxian er Fendou* (为实现社会主义建设的总路线而奋斗) [Fight for the Realization of the General Line of Socialist Construction], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], May 25, 1958, at 1. The timeline for outrunning British industrial output changed from fifteen years to seven years and finally to two years in the two months between April and June 1958. See 7 JIANGUO YILAI MAO ZEDONG WENGAO (建国以来毛泽东文稿) [MAO ZEDONG’S MANUSCRIPTS SINCE THE FOUNDING OF THE PRC] 222, 236, 278 (CCP Cent. Res. Off. ed., 1992) [hereinafter MAO ZEDONG’S MANUSCRIPTS].

<sup>56</sup> CARL RISKIN, CHINA’S POLITICAL ECONOMY: THE QUEST FOR DEVELOPMENT SINCE 1949, at 136 (1987).

<sup>57</sup> Po I-Po, *The Socialist Industrialization of China*, 6(41) PEKING REV. 6, 8 (1963), available at <https://www.marxists.org/subject/china/peking-review/1963/PR1963-41.pdf> [<https://perma.cc/YT32-26N6>].

<sup>58</sup> Guanyu Wuchan Jieji Wenhua Dageming de Jueding (关于无产阶级文化大革命的决定) [Decision Concerning the Great Proletarian Cultural Revolution] (promulgated by the CCPCC, Aug. 8, 1966, effective Aug. 8, 1966), art. 14, translated in DECISION OF THE CENTRAL COMMITTEE OF THE CHINESE COMMUNIST PARTY CONCERNING THE GREAT PROLETARIAN CULTURAL REVOLUTION (Foreign Languages Press 1966) [hereinafter Decision on Cultural Revolution].

socialist economy,<sup>59</sup> and it was not until the end of the Cultural Revolution that it was restored to the Constitution of 1978 as one of the four modernizations.<sup>60</sup>

The goal of industrialization, in line with the Marxist dialectic, was divided into two aspects to be accomplished.<sup>61</sup> One was, corresponding to the economic basis, socialist reconstruction, the core requirement of which could be described as “expert.” The other was a socialist revolution, corresponding to the superstructure, with “red” as its vital imperative. “Red” meant ideologically trustworthy, and “expert” referred to technically competent. To achieve rapid industrialization, redness and expertise were both emphasized. For expertise, the communists were fully aware of the indispensability of a literate and technically competent populace to the all-out national construction.<sup>62</sup> Redness, on the other hand, guaranteed loyalty to the communist regime and the total commitment of the population to industrialization.<sup>63</sup> This juxtaposition was aptly described as the debate of “red vs. expert.” The tug-of-war between the two lasted throughout the Mao era, with each holding various degrees of sway over the other at any particular time.<sup>64</sup> Roughly put, the first half of the Mao era was a time that favored expertise, while redness weighed much more since the mid-1960s.<sup>65</sup>

Education, obviously, was vital to imparting both the “red” and “expert” needed for industrialization, and was by all means subordinated to the constitutional goal of industrialization.<sup>66</sup> The aim of the educational policy of the communist regime was, in Mao’s words, to produce more than a sufficient workforce with

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<sup>59</sup> XIANFA art. 10 (1975).

<sup>60</sup> XIANFA pmbl., ¶ 4 (1978).

<sup>61</sup> See XIN REN, TRADITION OF THE LAW AND LAW OF THE TRADITION 53 (1997) (explaining the Marxist dialectics as the economic basis determining the superstructure and Mao’s contribution of highlighting the impact of the superstructure on the economic basis). See also 2 MAO ZEDONG, *On New Democracy* (Jan. 9, 1940), in SELECTED WORKS OF MAO TSE-TUNG 339, 340–42 (1965) (claiming that the form of culture, as other ideological forms, is first determined by the political and economic form, and then influences the latter).

<sup>62</sup> CHINESE EDUCATION UNDER COMMUNISM 32 (Chang-Tu Hu ed., 1962).

<sup>63</sup> THE MAKING OF A MODEL CITIZEN IN COMMUNIST CHINA 8 (Charles Price Ridley et al. eds., 1971).

<sup>64</sup> Louis R. Smerling, *Admissions*, in CHINA’S SCHOOLS IN FLUX 95 (Ronald N. Montaperto & Jay Henderson eds., 1979).

<sup>65</sup> See *infra* Part II.

<sup>66</sup> THE MAKING OF A MODEL CITIZEN IN COMMUNIST CHINA, *supra* note 63, at 24.

socialist consciousness.<sup>67</sup> On the one hand, education made it possible to speed up the process of industrialization by enabling prospective workers to become technically competent. On the other hand, ideological indoctrination increased workers' motivation and productivity, thus facilitating the acceleration of industrialization. Therefore, in order to achieve the constitutional goal, the CCP under Mao revolutionized education, through which a critical mass of people, especially the previously excluded, were empowered to become qualified socialist industrial workers.

## II. CONCEIVING WORKFORCE EQUALITY: EMPOWERING WORKERS THROUGH EDUCATION

In contrast to the quest for equality of “men” that many Western revolutionaries placed foremost in their declarations,<sup>68</sup> the early CCP's understanding of equality, probably influenced in part by Sun Yat-sen,<sup>69</sup> was conceptually vague and explicitly utilitarian. Considering equality in the Western sense as the “decadent and reactionary world outlook of the bourgeoisie,”<sup>70</sup> the CCP under Mao never saw equality as an individual right, but a collective privilege. During the Republican era, what the communists termed “equality” was the claim for the CCP to gain equal status with the KMT,<sup>71</sup> the independence and equality of China relative to foreign countries,<sup>72</sup>

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<sup>67</sup> MAO ZEDONG, *On the Correct Handling of Contradictions Among the People* (Feb. 27, 1957), in *SELECTED WORKS OF MAO TSE-TUNG*, *supra* note 28, at 384, 405.

<sup>68</sup> *E.g.*, THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776); THE DECLARATION OF THE RIGHTS OF MAN AND THE CITIZEN art. 1 (1789) (Fr.).

<sup>69</sup> *See* SUN YAT-SEN, *PRESCRIPTIONS FOR SAVING CHINA* 277 (Julie Lee Wei et al. eds., Julie Lee Wei et al. trans., 1994) (“The bounds of equality and liberty may lie in disputes between our own nation and a foreign nation or disputes between our own party and another party. Here there should be equality and freedom. But we cannot say that within our own country or within our own party everyone must have equality and liberty.”). Mao quoted Sun's Testament and the Manifesto of the First National Congress of the KMT about a hundred times in his speeches.

<sup>70</sup> Editorial, *Sidiao Zichan Jieji Ziyou Pingdeng Boai de Zhexiubu* (撕掉资产阶级“自由、平等、博爱”的遮羞布) [*Tear Aside the Bourgeois Mask of “Liberty, Equality, and Fraternity”*], *RENMIN RIBAO* (人民日报) [PEOPLE'S DAILY], June 4, 1966, at 1.

<sup>71</sup> MAO, *The Question of Independence and Initiative within the United Front* (Nov. 5, 1938), *The Demands on the Kuomintang* (Feb 1, 1940), *supra* note 61, at 215–16, 395–400; MAO, *On Coalition Government* (Apr. 24, 1945), *supra* note 47, at 205, 213 [hereinafter MAO, *On Coalition Government*]; MAO, *On the Chungking Negotiations* (Oct. 17, 1945), *supra* note 40, at 53, 55.

<sup>72</sup> MAO, *On Coalition Government*, *supra* note 71, at 256–58; MAO, *Manifesto of the Chinese People's Liberation Army* (Oct., 1947), *supra* note 40, at 147, 150 [hereinafter

and the equality and autonomy of the minority nationalities relative to the Han Chinese.<sup>73</sup> After coming to power, although equality was enshrined in the constitutions and the agrarian reform partially realized the ideal of “equalization of landownership” and “land to the tiller,”<sup>74</sup> the CCP conceived of equality as only a privilege granted on the basis of group identity—the peasantry, youth, and women.

Those groups, however, did not enjoy equality under the law in all respects without distinction—their equal status was emphasized only to the extent that it served the constitutional goal of industrialization. Women, for example, were constantly being underlined in the 1940s and 1950s as being “on an equal footing” in order to mobilize their participation “in all work useful to the war effort” and productive activity.<sup>75</sup> In other words, equality was a means used by the CCP for the empowerment of more people, especially those who had been unable to engage in production either due to the law or their capacity, to dedicate to industrialization. Moreover, industrialization was so overwhelmingly important in pre-Cultural Revolution Maoist China that the regime would allow it to be achieved at the expense of inequalities for all but the working class. Mao put it bluntly in 1953 that Confucianism preached “policy of benevolence” (*shi renzheng*), but that there would be two kinds of “policies of benevolence.”<sup>76</sup> Industrialization was a greater benevolence and improving the

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MAO, *Manifesto of the PLA*]; MAO, *Cast Away Illusions, Prepare for Struggle* (Aug. 14, 1949), *supra* note 40, at 425, 427–28.

<sup>73</sup> MAO, *Current Problems of Tactics in the Anti-Japanese United Front* (Mar. 11, 1949), *supra* note 61, at 421, 429; MAO, *On Coalition Government*, *supra* note 71, at 255–56; MAO, *Manifesto of the PLA*, *supra* note 72, at 150.

<sup>74</sup> GONGTONG GANGLING, *supra* note 8, arts. 6 & 9; XIANFA arts. 58 & 85 (1954); Tudi Gaige Fa (土地改革法) [Agrarian Reform Law] (promulgated by the Cent. People’s Gov’t, June 28, 1950, effective June 28, 1950), CLI.1.129481 (Lawinfochina); 2 LIU SHAOQI, *Report on the Question of Agrarian Reform (June 14, 1950)*, in *SELECTED WORKS OF LIU SHAOQI* 35, 38–40 (1991).

<sup>75</sup> MAO, *On Coalition Government*, *supra* note 71, at 238; MAO, *Editor’s Notes from Socialist Upsurge in China’s Countryside*, *supra* note 28, at 242, 269 [hereinafter MAO, *Editor’s Notes*]; Guanyu Jiancha Hunyin Fa Zhixing Qingkuang de Zhishi (关于检查婚姻法执行情况的指示) [The Instruction on the Inspection of the Implementation of the Marriage Law] (promulgated by the Gov’t Admin. Council, Sept. 26, 1951, effective Sept. 26, 1951) RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Sept. 29, 1951, at 1 (stating that women, having been given equal rights, “became more active in political activities and various construction projects of the new society”).

<sup>76</sup> MAO, *Our Great Victory in the War to Resist U.S. Aggression and Aid Korea and Our Future Tasks* (Sept. 12, 1953), *supra* note 28, at 115, 119.

peasants' livelihood was a lesser benevolence; prioritizing the latter over the former would "go off the right track,"<sup>77</sup> and equalizing the earnings of the workers and peasants would "spell the destruction of China's industry."<sup>78</sup> That said, in pursuit of industrialization, only those who belonged to groups that had more use, namely the industrial workforce, could enjoy equality; others, however, could not. Equality, therefore, from the constitutional perspective of communist China, was for the workforce and for the making of a larger workforce.

The constitutional objective of industrialization was supreme in education as well. In 1950, Qian Junrui, the then Vice-Minister of Education, proclaimed that education was "to serve production and construction,"<sup>79</sup> and specifically stated that "China's educational policy [wa]s primarily serving the working class and the peasantry, not the people in general."<sup>80</sup> Although the alliance of the workers and peasants constituted 80 to 90% of the total population,<sup>81</sup> that claim arguably showed that the empowerment through education was a privilege only for those who worked for industry and agricultural industry and their offspring.<sup>82</sup> Thus, equal education, in the understanding of the communist leaders who profoundly shaped the constitutional vision, was the education to which the masses of workers and peasants were entitled and which would prepare them to better contribute to industrialization. Equality in education, as such, was conceived as the right of the laboring people, on a group basis, to an equal access to a uniform, production-oriented educational programme. This constitutional conception of educational equality, which was meant to empower the masses of workers and peasants through education in order to produce large numbers of skilled industrial labor, was workforce equality. It virtually permeated the speeches of the Mao-era communist leaders and the education laws, including both the

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<sup>77</sup> *Id.*

<sup>78</sup> MAO, *Criticism of Liang Shu-Ming's Reactionary Ideas (Sept. 16–18, 1953)*, *supra* note 28, at 121, 127.

<sup>79</sup> Chien Chun-ju, Vice-Minister Educ., *The Policy of Educational Construction in Present-Day China*, in *CULTURE AND EDUCATION IN NEW CHINA* 21, 29–35 (1950).

<sup>80</sup> *Id.* at 21.

<sup>81</sup> MAO, *supra* note 40, at 421.

<sup>82</sup> *See* Chien, *supra* note 79, at 28–29 (claiming that workers and peasants and their children were "more entitled to a higher education than others because they [we]re the mainstay of the state and the backbone of construction.").

popularization of education and the combination of education and production.

*A. Popularizing Education for the Masses*

The first step towards educational equality as envisaged by the constitutional actors was to make education, in any form, accessible to the masses of workers and peasants, hence universal education. The regime's ambition to transform China from an agrarian to an industrial nation required massive supplies of workers at a time when the country featured a largely rural and illiterate population. The illiteracy rate in 1949 was as high as 80%, with the remaining literate population including semi-literates who could read only a few hundred Chinese characters.<sup>83</sup> Moreover, the majority of those illiterates were workers and peasants, "the fundamental force of the leading classes of New China."<sup>84</sup> Thereupon, providing the masses of the working people, who had been denied such opportunities, with equal education to enable them to become qualified industrial workers turned out to be the way to achieve rapid industrialization. The constitutional conception of educational equality, which was for the workforce and for the making of a larger workforce, thus dictated education laws for universal mass education, particularly for workers and peasants.

Education in traditional China, although rooted in the Confucian principle of no distinction among the classes and designed as the sole criterion for upward mobility, was in practice available to a small group of the population, primarily the offspring of the gentry and literati.<sup>85</sup> In the first half of the twentieth century, various efforts by authorities in that war-torn country made limited progress in extending education to the less-privileged segments of the population.<sup>86</sup> Arguably, the most far-reaching of those was the Beiyang government's *Decree of School System Reform Plan* in

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<sup>83</sup> 14 THE CAMBRIDGE HISTORY OF CHINA 186 (Roderick MacFarquhar & John K. Fairbank eds., 1987).

<sup>84</sup> Chien, *supra* note 79, at 27–28.

<sup>85</sup> See, e.g., BENJAMIN A. ELMAN, CIVIL EXAMINATIONS AND MERITOCRACY IN LATE IMPERIAL CHINA 126–46 (2013) (arguing that the gentry-merchant elites in late imperial China monopolized the cultural resources to qualify the Civil Examinations and hence the access to the imperial bureaucracy).

<sup>86</sup> ORLEANS, *supra* note 22, at 9.

1922,<sup>87</sup> promoted by the Chinese National Association for the Advancement of Education along American lines.<sup>88</sup> The Chinese school system was accordingly reorganized from a Japanese 7-4 system (seven years in primary school, four years in secondary school) to an American 6-3-3 system (six years in primary school, three years each in junior and senior high schools), which has been used to this day despite several adjustments.<sup>89</sup> A hybrid secondary education system consisting of both general and vocational schools became the new norm.<sup>90</sup> In addition, higher education grew during the Republican period, increasing the number of institutions from 115 in 1912 to 185 in 1946.<sup>91</sup> Years of warfare left those reforms largely on paper. Compulsory education for the population at large was never accomplished.

Having served in James Yen's Mass Education Movement and the Guangzhou Peasants Movement Training Institute, Mao strongly believed that education should meet the needs of the peasants and other lower-class working people.<sup>92</sup> The CCP thus developed the Yan'an model rudimentary education during the Chinese Civil War, which encouraged "people-managed, government-assisted" (*minban guanzhu*) schools and one to three-year primary schools.<sup>93</sup> Mao articulated his belief as education belonging to the broad masses and, accordingly, that written Chinese must be reformed and the spoken language must be "brought closer to that of the people."<sup>94</sup> That commitment to

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<sup>87</sup> PEPPER, *supra* note 21, at 61.

<sup>88</sup> CHINESE EDUCATION UNDER COMMUNISM, *supra* note 62, at 21.

<sup>89</sup> Yang Dongping (杨东平), *Zhongguo Jiaoyu Zhidu he Jiaoyu Zhengce de Bianqian* (中国教育制度和教育政策的变迁) [*The Changes of China's Education System and Education Policy*], CUHK Universities Services Ctr. China Studies, <http://ww2.usc.cuhk.edu.hk/PaperCollection/Details.aspx?id=4118> [<https://perma.cc/H4PC-8W82>].

<sup>90</sup> *Id.*

<sup>91</sup> DI ERCI ZHONGGUO JIAOYU NIANJIAN (第二次中國教育年鑑) [THE SECOND EDUCATIONAL YEARBOOK OF CHINA] 1400 (Ministry of Educ. Yearbook Compilation Comm. ed., 1948).

<sup>92</sup> See, e.g., CHARLES WISHART HAYFORD, *TO THE PEOPLE*, at xiii (1990); Gerald W. Berkley, *The Canton Peasant Movement Training Institute*, 1 *MOD. CHINA* 161, 161–63, 165–66 (1975); 1 MAO ZEDONG, *Report on an Investigation of the Peasant Movement in Hunan (Mar. 1927)*, in *SELECTED WORKS OF MAO TSE-TUNG* 23–56 (1965).

<sup>93</sup> Ronald N. Montaperto, *China's Education in Perspective*, in *CHINA'S SCHOOLS IN FLUX*, *supra* note 64, at 1, 10.

<sup>94</sup> MAO, *supra* note 61, at 381–82.

universal education was then endorsed by the Constitution,<sup>95</sup> according to which the new government made it a priority to open the doors of education to the workers and peasants.<sup>96</sup> Thus, with the administrative rule of the 1951 *Decision on Reforming the School System*, the socialist education reform commenced.<sup>97</sup> The rationale for that reform, as Qian explained, was first to ensure access to education for those of working-class origin, and second to build a workforce capable of engaging in national reconstruction in large numbers.<sup>98</sup>

Embracing that concept of mass-oriented workforce equality, the communist regime devoted a substantial budget to education in the first decade after its establishment to carry out popular education campaigns.<sup>99</sup> Mass education was given considerable importance, ascribed not only to the training of a critical mass of literate and skilled workers needed for socialist reconstruction,<sup>100</sup> but also to its being regarded more than schooling as the indoctrination, propaganda, and agitation that the socialist revolution required.<sup>101</sup> Faced with the elitist liberal education system inherited from the KMT, one of the first tasks of the CCP, which had pledged to sweep away all traditional privileges and inequalities, was to extend education to the masses.<sup>102</sup> Of those, apart from the workers, a particular concern for equality in education during the Mao era was the peasants, an extremely large

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<sup>95</sup> GONGTONG GANGLING, *supra* note 8, art. 47.

<sup>96</sup> *Id.* See also 2 ZHOU ENLAI, *Speech at a National Conference on Higher Education (June 8, 1950)*, in SELECTED WORKS OF ZHOU ENLAI 25, 26 (1989) (interpreting the educational policies in the Common Programme).

<sup>97</sup> Guanyu Gaige Xuezhì de Jueding (关于改革学制的决定) [Decision on Reforming the School System] (promulgated by the Gov't Admin. Council, Oct. 1, 1951, effective Oct. 1, 1951), CLI.2.159995 (Lawinfochina) [hereinafter Decision on Reforming the School System].

<sup>98</sup> Qian Junrui (钱俊瑞), *Gaodeng Jiaoyu Gaige de Guanjian (高等教育改革的关键)* [The Key to the Reform of Higher Education], 4 RENMIN JIAOYU (人民教育) [PEOPLE'S EDUC.] 6, 6 (1951).

<sup>99</sup> See, e.g., Li Xiannian (李先念), Vice Premier & Minister Fin., Report at the Fifth Session of the First National People's Congress (Feb. 1, 1958), in RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Feb. 12, 1958, at 3 (allocating 8.63% of the national budget into education in 1958).

<sup>100</sup> Montaperto, *supra* note 93, at 7.

<sup>101</sup> See Theodore Hsi-en Chen, *Education and Propaganda in Communist China*, 277 ANNALS AM. ACAD. POL. & SOC. SCI. 135 (1951).

<sup>102</sup> See, e.g., MAO, *supra* note 61, at 381–82; Chien, *supra* note 79, at 22–23, 25–26.

group to be engaged in the socialist industrialization.<sup>103</sup> As a means of equipping the working people with knowledge and skills in the service of industrialization, the first batch of education laws in communist China developed a mass education that was popular, short-term, and close to productive life.<sup>104</sup>

First and foremost, the new authorities launched a tremendous campaign to eradicate illiteracy. Highlighting its importance in the communist political program, the CCP established the Chinese Written Language Reform Association only ten days after taking power, which subsequently became a committee directly under the State Council.<sup>105</sup> In the early stages of that campaign, Qi Jianhua, an instructor in the Army, created a “Quick Literacy Method” that reduced the time needed to learn Chinese characters from three years to three hundred hours through phonetic reading symbols.<sup>106</sup> Qi’s method was soon introduced nationwide by the Ministry of Education and the All-China Congress of Trade Unions.<sup>107</sup> More than seven million workers and peasants participated in the “Quick Literacy Method” program in 1953 alone.<sup>108</sup> In 1956, the Central Committee of the CCP (CCPCC) and the State Council jointly issued a high-level decree entitled *Decision*

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<sup>103</sup> MATTHIAS STIEFEL & WILLEM F. WERTHEIM, PRODUCTION, EQUALITY AND PARTICIPATION IN RURAL CHINA 83 (1983).

<sup>104</sup> Xue Lan Rong & Tianjian Shi, *Inequality in Chinese Education*, 10 J. CONTEMP. CHINA 107, 108 (2001). See also RONALD F. PRICE, MARX AND EDUCATION IN RUSSIA AND CHINA 163–219 (1977).

<sup>105</sup> Ministry of Educ. Dep’t of Language & Info. Mgmt., *Xin Zhongguo Chuqi Yuyan Wenzhi Gongzuo Zhongyao Dashi* (《新中国初期语言文字工作重要大事》) [*Important Events in the Language and Written Chinese Work in the Early Years of the New China*], MINISTRY OF EDUC. (July 25, 2006), [http://www.moe.gov.cn/s78/A18/s8357/moe\\_808/tnull\\_14054.html](http://www.moe.gov.cn/s78/A18/s8357/moe_808/tnull_14054.html) [<https://perma.cc/86Z5-XVAG>].

<sup>106</sup> See, e.g., ZHONGGUO JIAOYU NIANJIAN (《中国教育年鉴1949–1981》) [CHINA EDUCATION YEARBOOK 1949–1981] 577 (Zhang Jian ed., 1984) [hereinafter CHINA EDUCATION YEARBOOK 1949–1981]; Nat J. Colletta, *Worker Education: Revolution and Reform*, in EDUCATION AND SOCIAL CHANGE IN THE PEOPLE’S REPUBLIC OF CHINA 134, 138 (John N. Hawkins ed., 1983).

<sup>107</sup> CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 576–77; Guanyu zai Gongren Qunzhong zhong Tuixing Sucheng Shizifa Kaizhan Saochu Wenmang Yundong de Zhishi (《关于在工人群众中推行速成识字法开展扫除文盲运动的指示》) [Instruction on Promoting Illiteracy Campaigns through the ‘Quick Literacy Method’ among the Workers] (promulgated by the All-China Cong. of Trade Unions, Sept. 6, 1952, effective Sept. 6, 1952), RENMIN RIBAO (《人民日报》) [PEOPLE’S DAILY], Sept. 9, 1952, at 1.

<sup>108</sup> CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 577–78.

on *Eradicating Illiteracy*,<sup>109</sup> making it “an extremely important political task.”<sup>110</sup> Since then, the government mandated literacy measures on a larger scale, promoting successively a standard official Chinese Mandarin,<sup>111</sup> the simplification and phoneticization of Chinese characters.<sup>112</sup> Designed to reduce barriers to education “in the interest of the masses,”<sup>113</sup> these projects, despite the backlash,<sup>114</sup> had the firm support of then-Premier Zhou Enlai and other party leaders.<sup>115</sup> Those mass literacy measures were thus continued and turned out to be successful, with the rate of illiteracy and semi-illiteracy declining to 45.6% in 1964, and 28.3% in 1982,<sup>116</sup> significantly improving the educational profile of China’s workforce.

The literacy campaign was the culmination of the view of *equality for the workforce*; in the face of the urgent quest for

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<sup>109</sup> Guanyu Saochu Wenmang de Jueding (关于扫除文盲的决定) [Decision on Eradicating Illiteracy] (promulgated by the CCP Cent. Comm. & the St. Council, Mar. 29, 1956, effective Mar. 29, 1956), CLI.16.161042 (Lawinfochina).

<sup>110</sup> *Id.* ¶ 1.

<sup>111</sup> See, e.g., Guanyu zai Zhongxue Xiaoxue he Geji Shifan Xuexiao Dali Tuiguang Putonghua de Zhishi (关于在中学、小学和各级师范学校大力推广普通话的指示) [Directives on the Promotion of Mandarin in Secondary Schools, Primary Schools, and Normal Schools at All Levels] (promulgated by the Ministry of Educ., Nov. 17, 1955, effective Nov. 17, 1955), CLI.4.183187 (Lawinfochina); Guanyu Tuiguang Putonghua de Zhishi (关于推广普通话的指示) [Directives on Promoting Mandarin] (promulgated by the St. Council, Feb. 20, 1956, effective Feb. 20, 1956), CLI.2.108 (Lawinfochina).

<sup>112</sup> See, e.g., Guanyu Gongbu Hanzi Jianhua Fang’an de Jueyi (关于公布汉字简化方案的决议) [Resolution on Revealing the Simplified Chinese Character Program] (promulgated by the St. Council, Jan. 28, 1956, effective Jan. 28, 1956), CLI.2.104 (Lawinfochina); Guanyu Hanyu Pinyin Fang’an de Jueyi (关于汉语拼音方案的决议) [Resolution on the Scheme for a Chinese Phonetic Alphabet] (promulgated by the Nat’l People’s Cong., Feb. 11, 1958, effective Feb. 11, 1958), CLI.1.10877 (Lawinfochina).

<sup>113</sup> ZHOU, *Current Tasks for the Reform of the Chinese Language* (Jan. 10, 1958), *supra* note 96, at 287, 289.

<sup>114</sup> See, e.g., Harriet C. Mills, *Language Reform in China: Some Recent Developments*, 15 FAR E. Q. 517, 519–20 (1956) (listing some criticisms and fears about the proposed phoneticization and character simplifications).

<sup>115</sup> See, e.g., ZHOU, *supra* note 113, at 287–300; Wu Yuzhang (吴玉章), Director, Chinese Written Language Reform Comm., *Guanyu Dangqian Wenzhi Gaige Gongzuo He Hanyu Pinyin Fangan De Baogao—Yijiu Wuba Nian Er Yue San Ri Zai Diyijie Qanguo Renmin Daibiao Dahui Di Wuci Huiyi Shang (关于当前文字改革工作和汉语拼音方案的报告—一九五八年二月三日在第一届全国人民代表大会第五次会议上)* [Report on Reform Proposals About Current Chinese Characters and Mandarin Pinyin—Report at the Fifth Session of the First National People’s Congress (Feb. 3, 1958)], in RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Feb. 14, 1958, at 2.

<sup>116</sup> CHINA STATISTICAL YEARBOOK 1999, at 4-4 (Nat’l Bureau Stat. ed., 1999), <http://www.stats.gov.cn/english/statisticaldata/yearlydata/YB1999e/d04e.htm> [<https://perma.cc/A9L4-DJ57>].

industrialization, especially since the Great Leap Forward, the regime desired to make the education laws implement its vision of *equality for enhancing the workforce*. To that end, the educational authorities shortened the school year on one hand and increased the number of schools and enrolments on the other. Firstly, following the Yan'an model, the new regime shortened the schooling system in order to deliver its limited educational resources to more people and train more laborers in a shorter cycle. For instance, one of the salient changes in the new school system established by the CCP in 1951 was the reduction in the length of primary schooling from six years under the Nationalists to five years.<sup>117</sup> During the Great Leap Forward campaign, the communist education leaders Lu Dingyi and Yang Xiufeng explicitly blamed the unnecessary years of schooling for hindering the development of education in a “greater, faster, better, and more economical” (*duo kuai hao sheng*) manner.<sup>118</sup> As a result, the education authorities conducted many regional experiments to shorten the school system. For example, arithmetic was added to such lower grades as kindergarten,<sup>119</sup> several elementary school courses in history and science were merged into one,<sup>120</sup> and difficult subjects, such as analytical geometry, were removed from secondary school curricula.<sup>121</sup> Most importantly, this period witnessed a direct reduction in the length of the full-time primary and secondary school to approximately ten years.<sup>122</sup> Lu bluntly explained that this was because it took ten years for a six- or

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<sup>117</sup> Decision on Reforming the School System, *supra* note 97, art. 2.

<sup>118</sup> Lu Ting-Yi, Director, the CCP Propaganda Dep't, *Our School System Must Be Reformed, Speech at the Second Session of the Second National People's Congress (Apr. 9, 1960)*, translated in CHINESE EDUCATION UNDER COMMUNISM, *supra* note 62, at 130, 136–37; Yang Hsiu-Feng, Minister Educ., *Actively Carry Out the Reform of the School System to Bring About Greater, Faster, Better, and More Economical Results in the Development of Education, Speech at the Second Session of the Second National People's Congress (Apr. 9, 1960)*, translated in CHINESE EDUCATION UNDER COMMUNISM, *supra* note 62, at 98, 103.

<sup>119</sup> See Lu, *supra* note 118, at 134–35; Yang, *supra* note 118 **Error! Bookmark not defined.**, at 104–05.

<sup>120</sup> See Yang, *supra* note 118, at 105.

<sup>121</sup> See Lu, *supra* note 118, at 134.

<sup>122</sup> For example, a five-grade unified elementary school system experiment was carried out by fifteen provinces and municipalities, including Hebei, Shanxi, Liaoning, Jilin, Heilongjiang, Gansu, Qinghai, Shanghai, Jiangsu, Anhui, Hubei, Heinan, and Guizhou. A five-grade unified middle school system, or a three-year junior middle school and two-year senior middle school system was carried out by six provinces, including Jilin, Shanxi, Gansu, Jiangxi, Hunan, and Qinghai. And a ten-year unified elementary and middle school system was carried out by Beijing and Henan provinces. See *Id.* at 136–37.

seven-year-old schoolchild to grow into a full-fledged workforce at the age of sixteen or seventeen,<sup>123</sup> suggesting that they saw universal education as a way to turn young students into a workforce as soon as possible.

Secondly, the authorities increased the number of schools and enrolments to expand mass education and, consequently, the size of the labor pool. In the first decade after the establishment of the People's Republic, a significant portion of the annual education budget, which accounted for approximately 7% of the state budget, was earmarked for the expansion of primary and secondary schools.<sup>124</sup> In 1958, in line with the leap forward in agriculture and industry, one of the most important top-level education laws of the Mao era, the *Directives on Educational Work*, set the goal of popularizing primary education throughout the country within three to five years and higher education within fifteen years.<sup>125</sup> Despite the decline in the quality of education that resulted, universal education in the pre-Cultural Revolution Mao era was remarkable for its success in reaching out to the masses, especially those of working-class origin.<sup>126</sup> For example, the proportion of students from working-class families to the total number of secondary school students jumped from 51 to 75% only after the First Five-Year plan.<sup>127</sup> Those radical campaigns were briefly curtailed after 1962, when an apparent redirection was set forth toward “quality education,”<sup>128</sup> but were soon intensified as the Cultural Revolution ramped up.

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<sup>123</sup> *Id.* at 139.

<sup>124</sup> ORLEANS, *supra* note 22, at 14–16.

<sup>125</sup> Guanyu Jiaoyu Gongzuo de Zhishi (关于教育工作的指示) [Directives on Educational Work] (promulgated by the CCP Cent. Comm. & the St. Council, Sept. 19, 1958, effective Sept. 19, 1958), art. 6, CLI.16.162955 (Lawinfochina) [hereinafter Directives on Educational Work].

<sup>126</sup> *See infra* Figure 1.

<sup>127</sup> WEIDA DE SHINIAN (伟大的十年) [TEN GREAT YEARS] 170 (Nat'l Bureau Stat. ed., 1959).

<sup>128</sup> Guanyu Youzhongdain de Banhao Yipi Quanrizhi Zhongxiao Xuexiao de Tongzhi (关于有重点地办好一批全日制中、小学校的通知) [Circular on the Establishment of a Number of Key-point Full-time Primary and Secondary Schools] (promulgated by the Ministry of Educ., Dec. 21, 1962, effective Dec. 21, 1962), in CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 736. *See also* Montaperto, *supra* note 93, at 26–27 (discussing key-point schools that “received the best that China had to offer in terms of staff, facilities, curriculum, able students, and provided the upper levels of the entering university classes”).

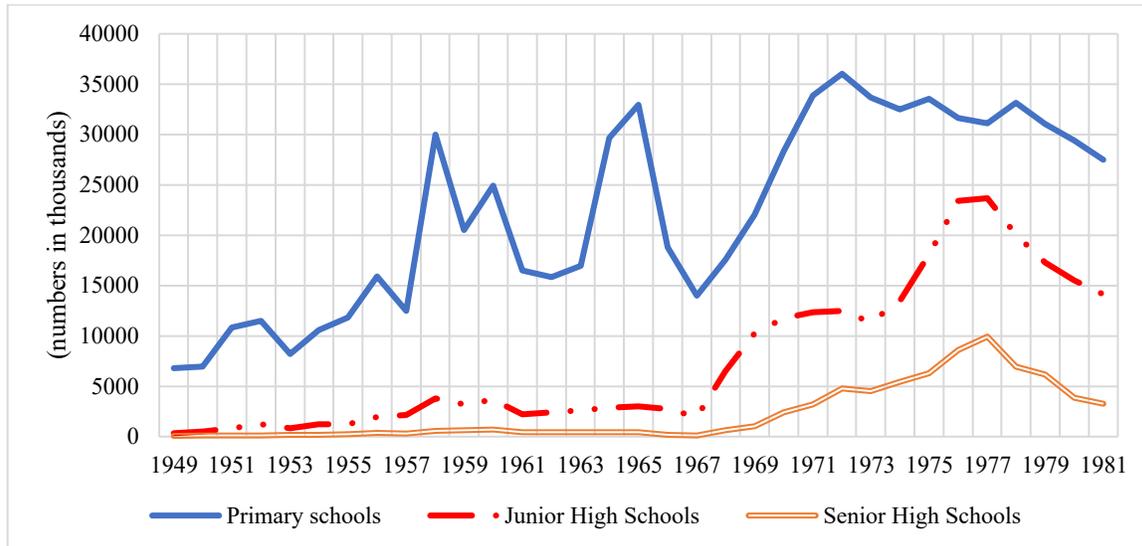


Figure 1 Enrollment in Primary and Secondary Schools, 1949–1981<sup>129</sup>

The Cultural Revolution made education, if at all, accessible to all workers and peasants and only to them, thus instituting an extreme form of educational equality for the workforce in the sense of equality of results. The constant Red vs. Expert debate in the field of education revolved around whether more emphasis should be placed on the training of industrial technicians or extending basic education to the workers and peasants who were most loyal to socialism.<sup>130</sup> The years between the mid-1960s to the late 1970s witnessed the absolute triumph of the “red” and the darkest moment in the history of education in China. On the one hand, law-making and decision-making power in education was usurped by the populist working people. In response to the CCPCC’s call for a radical change in the domination of schools by bourgeois intellectuals, schools at all levels throughout the country set up revolutionary committees to decentralize education management.<sup>131</sup> They brought together representatives of the workers and peasants, revolutionary cadres, and teachers and students in a “three-in-one”

<sup>129</sup> CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 1001 & 1021.

<sup>130</sup> Montaperto, *supra* note 93, at 29.

<sup>131</sup> Decision on Cultural Revolution, *supra* note 58, art. 10.

combination (*sanjiejie*) of local school administration,<sup>132</sup> an effort to realize that “the working class must exercise leadership in everything.”<sup>133</sup>

On the other hand, education, especially higher education, was completely and almost exclusively opened to the working people. The examination system, which had been considered as the primary barrier keeping the working-class out of the university, was among the first to suffer during the Cultural Revolution.<sup>134</sup> Regular college admissions ceased for six years after the authorities’ decision in 1966 to postpone enrollment in higher education for six months that year.<sup>135</sup> In the meantime, however, Peking University and Tsinghua University, hailed as “the new-type socialist universities,” enrolled more than four thousand workers, peasants, and soldiers (WPSs) in 1970 under the principle of voluntarily applying, people recommending, leaders approving, and schools reviewing.<sup>136</sup> By 1971, the authorities had formally abolished the National College Entrance Examination and admitted WPSs on a large scale to universities nationwide until 1976,<sup>137</sup> only about 20%

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<sup>132</sup> See four editorials by Hongqi [Red Flag], Jiefangjun Bao [Liberation Army Daily], and Wenhui Bao [Wenhui News], in ON THE REVOLUTIONARY “THREE-IN-ONE” COMBINATION (Foreign Languages Press 1968).

<sup>133</sup> Yao Wenyuan, Member of the CCP Politburo, *The Working Class Must Exercise Leadership in Everything*, 11(35) PEKING REV 3 (1968), available at <http://www.massline.org/PekingReview/PR1968/PR1968-35-WorkingClassLeadership.pdf> [<https://perma.cc/YE2S-CMXC>].

<sup>134</sup> Mary F. Berry, *Relevance to American Needs*, in CHINA’S SCHOOLS IN FLUX, *supra* note 64, at 156.

<sup>135</sup> *Zhonggong Zhongyang he Guowuyuan Jueding Gaige Gaodeng Xuexiao Zhaokao Banfa* (中共中央和国务院决定改革高等学校招考办法) [*The CCPCC and the State Council Decided to Reform Admissions and Examinations for Higher Education*], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], June 18, 1966, at 1 [hereinafter *Reform Admissions for Higher Education*]; CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 338.

<sup>136</sup> Li Zhihua (李志华), *Dajia Doulai Guanxin Gaoxiao Zhaosheng* (大家都来关心高校招生) [*Everyone Is Concerned with the Selection of Students for Higher Education*], 13 HONGQI (红旗) [RED FLAG] 846, 847 (1970), reprinted in RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Sept. 21, 1970, at 1; *Yiwan Gongnongbing de Yuanwang Shixian le* (亿万工农兵的愿望实现了) [*The Wishes of Workers, Peasants, and Soldiers in Their Hundreds of Millions Have Come True*], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Sept. 21, 1970, at 1, translated in 13(40) PEKING REV. 6–8 (1970), available at <https://www.massline.org/PekingReview/PR1970/PR1970-40.pdf> [<https://perma.cc/CUR7-ZR57>].

<sup>137</sup> *Quanguo Jiaoyu Gongzuo Huiyi Jiyao* (全国教育工作会议纪要) [Minutes of the National Conference on Educational Work] (promulgated by the CCPCC, Aug. 13, 1971, repealed Mar. 19, 1979), <https://ccradb.appspot.com/post/672> [<https://perma.cc/3D7Z-VLLX>]; 13 JIANGUO YILAI MAO ZEDONG WENGAO (建国以来毛泽东文稿) [MAO

of whom had graduated from junior high school or higher.<sup>138</sup> The mismatched education levels of the WPSs caused enormous hardship and calamity for higher education, where obscurantism reigned and Tsinghua University was even dubbed Tsinghua Primary School.<sup>139</sup> Under those open-door education laws (*kaimen banxue*), the selection of students was practically based on class origin and political fitness rather than academic performance.<sup>140</sup> Workers and peasants thus had access to equal education—in the sense of equality of results—which was an extreme and radical illustration of the Maoist concept of workforce equality in education.

Educational equality, in the view of the Maoist communist regime, translated into a right of equal access to industrialization-oriented education for the workforce, i.e., workers and peasants. The right was acquired on the basis of the group identity of the “working people,” and the merit-based selection was undermined and abolished time and again.<sup>141</sup> As a result, mass education was of low quality and homogenous in content. Moreover, such education was designed to train as many socialist-conscious industrial laborers as possible in a timely manner, and was therefore universal and only at the entry level necessary for industrial production. Thus, equality meant the same treatment and, by implication, the same results. It was through laws that reformed the language, expanded basic education, and opened the doors to higher education that the communist regime’s vision of equality for the workforce and for the empowerment of the workforce became most evident. The

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ZEDONG’S MANUSCRIPTS SINCE THE FOUNDING OF THE PRC] 239–40 (CCP Cent. Res. Off. ed., 1998); Guanyu 1977 Nian Gaodeng Xuexiao Zhaosheng Gongzuo de Yijian (关于一九七七年高等学校招生工作的意见) [Opinions on the Works of College Admissions in 1977] (promulgated by the St. Council, Oct. 12, 1977, effective Oct. 12, 1977) (on file with the National Archives Administration of China).

<sup>138</sup> ZHONGHUA RENMIN GONGHEGUO ZHONGYAO JIAOYU WENXIAN 1949–1975 (中华人民共和国重要教育文献:1949–1975) [IMPORTANT EDUCATIONAL DOCUMENTS OF THE PEOPLE’S REPUBLIC OF CHINA: 1949–1975] 1484 (Dongchang He ed., 1998); QINGHUA DAXUE JIUSHI NIAN (清华大学九十年) [NINETY YEARS OF TSINGHUA UNIVERSITY] 279 (Tsinghua Univ. History Research Office ed., 2001).

<sup>139</sup> Editorial, *Gaohao Daxue Zhaosheng shi Quanguo Renmin de Xiwang* (搞好大学招生是全国人民的希望) [A Good University Admission System Is the Hope of the Entire Nation], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Oct. 21, 1977, at 1 (reviewed and approved by Deng Xiaoping).

<sup>140</sup> Montaperto, *supra* note 93, at 32.

<sup>141</sup> See *supra* text accompanying notes 135–140.

popularization of mass education was a primary means by which the government put into practice the concept of workforce equality.

*B. Combining Education with Industrial Production*

Another unprecedented educational equality law of the new regime, enacted a little later than the movement for universal education, furthered the mandate to “combine education and productive labor.” This mantra was articulated in 1958 by Lu Dingyi, the then supreme leader of education, encouraged by the success of the First Five-Year Plan (1953–57).<sup>142</sup> Mao soon personally commented on Lu’s article for endorsement, thus making that catchphrase replace universal education as the centerpiece of the Mao-era education law since the Great Leap Forward.<sup>143</sup> Education and labor were thus combined to mobilize even larger participation in industrial production and to produce a better educated workforce of maximum use for the ambitious Second Five-Year Plan (1958–62).

Lu, however, was not in fact the inventor of that initiative. His proposal was promptly adopted not only because it was the next task for the CCP explicitly indicated in the *Communist Manifesto*,<sup>144</sup> but also because it was a variation of Mao’s pre-founding programme of “integrating labor power and armed strength.”<sup>145</sup> It was also in Mao’s exposition of such programmes that his philosophy of equality unfolded. Nowhere was this more evident than in his advocacy of “help[ing] the youth and women to organize in order to participate on an equal footing in all work useful to the war effort and to social progress.”<sup>146</sup> In other words, Maoist equality was a means to an end: in times of war, those who had previously been excluded from participation in that work were given the prerequisites and status to engage equally in fighting and production. After the establishment of the People’s Republic and especially after the First Five-Year Plan, the end of industrialization

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<sup>142</sup> LU TING-YI, *EDUCATION MUST BE COMBINED WITH PRODUCTIVE LABOUR* (Foreign Languages Press 1958).

<sup>143</sup> MAO ZEDONG’S MANUSCRIPTS, *supra* note 55, at 338–42.

<sup>144</sup> LU, *supra* note 142, at 22–23. *See also* MARX & ENGELS, *supra* note 33, at 27; RONALD F. PRICE, *MARX AND EDUCATION IN RUSSIA AND CHINA* 11–75 (1977).

<sup>145</sup> MAO, *Production is Also Possible in the Guerrilla Zones (Jan. 31, 1945)*, *supra* note 47, at 197, 199.

<sup>146</sup> MAO, *On Coalition Government*, *supra* note 71, at 205, 238.

led Mao to see equality as a means of empowering a larger population to become an active industrial workforce.<sup>147</sup> To that end, Mao went further to make a particularly blunt claim that genuine equality could “only be realized in the process of the socialist transformation of society as a whole.”<sup>148</sup> Thus, genuine equality in education could only be achieved in the process of the socialist transformation of education, i.e., in the integration of education and production.

In line with this Maoist view of workforce equality, the communist leaders saw education as fostering socialist consciousness and eliminating the difference between mental and manual labor.<sup>149</sup> In Mao’s own words, the objective was to “enable everyone who receive[d] an education to develop morally, intellectually, and physically, and become a worker with both socialist consciousness and culture.”<sup>150</sup> Thus, the *Directives on Educational Work* in 1958 established that education was to be at the political service of the proletariat and that it was to be combined with productive labor.<sup>151</sup> According to the law, all schools should include productive labor as part of the official curriculum;<sup>152</sup> the functions of schools should be partially interchangeable with those of factories and farms;<sup>153</sup> and governments and units at all levels should establish schools of various forms, including half-work half-study and spare-time schools.<sup>154</sup> In other words, through such education programs, all those who belonged to the constitutionally recognized “people” became equal industrial laborers:<sup>155</sup> Students

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<sup>147</sup> ZHOU, *The Implementation of the First Five-Year Plan and the Fundamental Tasks of the Second Five-Year Plan* (Sept. 16, 1956), *supra* note 96, at 217.

<sup>148</sup> MAO, *Editor’s Notes*, *supra* note 75, at 263.

<sup>149</sup> Lu, *supra* note 118, at 132.

<sup>150</sup> MAO, *supra* note 67, at 405. This very sentence was then written into the Constitution of 1978. XIANFA art. 13 (1978).

<sup>151</sup> Directives on Educational Work, *supra* note 125, art. 3, § 1. This very sentence was then incorporated into both the Constitutions of 1975 and 1978. XIANFA art. 12 (1975); XIANFA art. 13 (1978).

<sup>152</sup> Directives on Educational Work, *supra* note 125, art. 3, § 3.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* art. 4.

<sup>155</sup> The Common Program put it explicitly that *people*, rather than *citizens*, had the right to vote and to be elected, and that the political rights of landowners and capitalists were deprived. GONGTONG GANGLING, *supra* note 8, arts. 4 & 7. The Constitution of 1954 also deprived “feudal landlords and bureaucrat-capitalists of political rights for a specific period of time according to law.” XIANFA art. 19, §2 (1954). So per the constitutions, landowners and capitalists were certainly not belong to *people*. Mao saw *people* as

were asked to participate in extracurricular industrial labor, while workers were able to receive an education without interfering with their routine production work.

Of those educational law measures, the most characteristic of the Mao era was the part-time education for workers and peasants through various types of schools. The first to be promoted nationally and the first to fade away were the short-term middle schools for workers and peasants (SMSWP). Drawing on the Yan'an model and the Soviet experience,<sup>156</sup> such schools provided a short-term quick-fix secondary education for a select group of workers and peasants to enable them to pursue higher education.<sup>157</sup> That approach, however, was not as effective for intermediate technical and specific expertise training as it was for literacy. The authorities soon realized that the goals of those schools were unrealistic and indiscriminate and that the education for workers and peasants should be provided on a part-time basis.<sup>158</sup> As a result, some schools were transformed into regular secondary schools,<sup>159</sup> and others were closed down by the education authorities in the mid-1950s.<sup>160</sup> The official closure of the SMSWP was a rare and remarkable legal curb on the propensity for equality of results in Mao-era educational equality laws. Since the Great Leap Forward,

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including the working class, the peasantry, the urban petty bourgeoisie, and the national bourgeoisie. MAO, *supra* note 40, at 421.

<sup>156</sup> Filippov (菲力波夫) & Li Jingyong (李敬永), *Sulian Gongren Sucheng Zhongxue: Zai Diyici Quanguo Gongnong Jiaoyu Huiyi shang de Jingyan Jieshao* (苏联工人速成中学：在第一次全国工农教育会议上的经验介绍) [*Workers' Short-Term Middle Schools in the Soviet Union: Experience Introduced at the First National Conference on Workers' and Peasants' Education*], 2 RENMIN JIAOYU (人民教育) [PEOPLE'S EDUC.] 14 (1950).

<sup>157</sup> Guanyu Juban Gongnong Sucheng Zhongxue he Gongnong Ganbu Wenhua Buxi Xuexiao de Zhishi (关于举办工农速成中学和工农干部文化补习学校的指示) [Directives on Organizing Short-Term Middle Schools for Workers and Peasants and Tutoring Schools for Workers' and Peasants' Cadres] (promulgated by the Gov't Admin. Council, Dec. 14, 1950, effective Dec. 14, 1950), in 2 RENMIN JIAOYU (人民教育) [PEOPLE'S EDUC.] 65 (1951); Gongnong Sucheng Zhongxue Zanxing Shishi Banfa (工农速成中学暂行实施办法) [Interim Regulation on the Implementation of Workers' and Peasants' Short-Term Middle Schools] (promulgated by the Ministry of Educ., Feb. 10, 1951, effective Feb. 10, 1951), in 2 RENMIN JIAOYU (人民教育) [PEOPLE'S EDUC.] 72 (1951).

<sup>158</sup> Guanyu Gongnong Sucheng Zhongxue Tingzhi Zhaosheng de Tongzhi (关于工农速成中学停止招生的通知) [Circular on the Suspension of the Enrollment of Workers' and Peasants' Short-Term Middle Schools] (promulgated by the Ministry of Educ. & the Ministry of Higher Educ., July 12, 1955, effective July 12, 1955), art.1, § 1, CLI.4.183267 (Lawinfochina) [hereinafter Circular on Suspension].

<sup>159</sup> *Id.* art. 1, § 2.

<sup>160</sup> *Id.*

an aggressive view of equality as sameness in terms of outcomes had dominated education law.

It was against that background that the *Directives on Educational Works* were promulgated by both the CCPCC and the State Council in 1958, establishing the two other types of schools for workforce equality to replace the SMSWP: the half-work half-study schools and the spare-time schools.<sup>161</sup> The second type, half-work half-study schools, advocated by Liu Shaoqi, the then communist leader second only to Mao, were the most emblematic form of combining education with productive labor.<sup>162</sup> Those schools enrolled both fully employed workers and students from lower-level schools, and then provided training for them in classrooms and factories, respectively.<sup>163</sup> The students attended classes in regular middle schools and trained in factory plants for vocational and technical skills, ideally on a half-day basis, and sometimes on a half-week or half-month basis.<sup>164</sup> In exchange, the regular workers went to school to receive scientific and cultural education while the students were at work.<sup>165</sup> The half-work half-study schools were the most vivid illustration of the Maoist concept of workforce equality—the education law provided workers with not only equal access to secondary education, but also equal education with students; it not only promoted the existing labor force through education, but also directly transformed the youth into an industrial workforce.

The third type, the spare-time schools, was the most flexible and longest-lived form of education for the workforce. Those schools were designed, since the early days of the People's Republic, to raise the technical level of industrial and agricultural production and the political consciousness of the workers, especially

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<sup>161</sup> Directives on Educational Work, *supra* note 125, art. 4, § 1, cl. 2.

<sup>162</sup> 2 LIU SHAOQI, *China Should Have Two Educational Systems and Two Labour Systems* (May 30, 1958), in SELECTED WORKS OF LIU SHAOQI 302 (1991).

<sup>163</sup> *Id.*

<sup>164</sup> Liu Shaoqi (刘少奇), *Banhao Bangong Bandu Xuexiao* (办好半工半读学校) [Run Half-Work Half-Study Schools Well] (Nov. 6, 1965), RENMIN WANG (人民网) [PEOPLE NET], <http://cpc.people.com.cn/GB/69112/73583/73601/74120/5039379.html> [perma.cc/QP5W-2Y5R] (last visited Sept. 13, 2020). See also Guanyu Zhongdeng Jiaoyu Jiegou Gaige de Baogao (关于中等教育结构改革的报告) [Report on the Structural Reform of Secondary Education] (promulgated by the St. Council, Oct. 7, 1980, effective Oct. 7, 1980), CLI.2.813 (Lawinfochina).

<sup>165</sup> CHINESE EDUCATION UNDER COMMUNISM, *supra* note 62, at 39.

the peasants.<sup>166</sup> Since the schools were predominantly sponsored and organized by such production units as agricultural cooperatives, industrial plants, mines, and other enterprises, productive labor took precedence over education.<sup>167</sup> The units often provided work-related cultural and technical training during the workers' or peasants' breaks.<sup>168</sup> The spare-time schools were supposed to combine education and production, as time and resources permitted, according to local conditions. Education laws, however, revealed a tendency to be dictated by a radical view of equality of results since the *Directives on Educational Works*, which eagerly envisioned a future where, "as the technology of industrial and agricultural production improve[d], and as industrial and agricultural production develop[ed], the hours of labor would be shortened, and there would be no distinction between spare-time schools and half-work half-study schools."<sup>169</sup> In 1960, the State Council created a Commission on Spare-time Education out of the importance it attached to the spare-time schools.<sup>170</sup>

In addition to the three forms of schooling for the workforce, the Mao-era education laws, combining education and production, brought about a functional exchange between educational institutions and production units. The *Directives on Educational Works* stipulated that the direction of the subsequent educational reform should be "schools to run plants and farms, and factories and agricultural cooperatives to run schools."<sup>171</sup> This was a more radical way of integrating education and production than the half-work half-study schools, as the run applied to all schools and

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<sup>166</sup> Guanyu Dongxue Zhuanwei Changnian Nongmin Yeyu Xuexiao de Zhishi (关于冬学转为常年农民业余学校的指示) [Directives on the Transformation of Winter Schools into Permanent Peasants' Spare-Time Schools] (promulgated by the Ministry of Educ., Feb. 28, 1951, effective Feb. 28, 1951), in 2 RENMIN JIAOYU (人民教育) [PEOPLE'S EDUC.] 71 (1951); Guanyu Jiaqiang Nongmin Yeyu Wenhua Jiaoyu de Zhishi (关于加强农民业余文化教育的指示) [Directives on Strengthening Peasants' Spare-Time Cultural Education] (promulgated by the St. Council, June 2, 1955, effective June 2, 1955), CLI.2.160715 (Lawinfochina).

<sup>167</sup> THE MAKING OF A MODEL CITIZEN IN COMMUNIST CHINA, *supra* note 63, at 27; CHINESE EDUCATION UNDER COMMUNISM, *supra* note 62, at 38.

<sup>168</sup> *Id.*

<sup>169</sup> Directives on Educational Work, *supra* note 125, art. 4, § 1, cl. 2.

<sup>170</sup> Guanyu Jianli Yeyu Jiaoyu Weiyuanhui de Tongzhi (关于建立业余教育委员会的通知) [Circular on Establishing Spare-Time Education Committee] (promulgated by the CCP Cent. Comm. & the St. Council, Jan. 16, 1960, effective Jan. 16, 1960), in RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Feb. 23, 1960, at 1.

<sup>171</sup> Directives on Educational Work, *supra* note 125, art. 3, § 3.

production units throughout the country. On the one hand, schools should, either independently or in cooperation with production units, run factories and farms in which students were obligated to work.<sup>172</sup> At all levels of schooling, not only should there be a significant proportion of vocational training and labor participation in the curriculum,<sup>173</sup> but also graduates should be urged to engage in productive labor instead of pursuing further education.<sup>174</sup> There were general education schools affiliated “themselves to factories, worksites, gardens, and other places of work to establish a permanent labor system,”<sup>175</sup> not to mention vocational education schools that were designed to send laborers directly to workplaces.<sup>176</sup> The same rule applied, if not more so, to higher educational institutions. For example, “according to an extremely incomplete survey, more than 3720 factories ha[d] been built by 115 colleges and universities nationwide by the end of July 1958.”<sup>177</sup> On the other hand, the factories and agricultural cooperatives should establish both technical schools to train the needed workforce and general schools to “raise the cultural level of all personnel.”<sup>178</sup> Those educational and research bodies in the people’s communes and factories were hailed by the then communist leaders in charge of productive labor as one of the keys to accelerate industrial and

<sup>172</sup> *Id.*

<sup>173</sup> Guanyu Chuji Zhongxue Zengshe Nongye Jichu Zhishi Ke de Tongzhi (关于初级中学增设农业基础知识课的通知) [Circular on Adding Basic Agricultural Courses into Junior High Schools] (promulgated by the Ministry of Educ., Mar. 7, 1957, effective Mar. 7, 1957), CLI.4.183153 (Lawinfochina); Guanyu Gaijin Zhongdeng Zhuanye Jiaoyu de Jueding (关于改进中等专业教育的决定) [Decision on Improving Secondary Vocational Education] (promulgated by the Cent. Gov’t Admin Council, Sept. 26, 1954, effective Sept. 26, 1954), art. 2, § 4, CLI.2.160360 (Lawinfochina) [hereinafter Decision on Vocational Education] (“The time for teaching internship and production practice in secondary specialized schools should be 25 to 35% of the time of theoretical teaching.”).

<sup>174</sup> Guanyu Zhengdun he Gaijin Xiaoxue Jiaoyu de Zhishi (关于整顿和改进小学教育的指示) [Directives on Rectifying and Improving Primary Education] (promulgated by the Gov’t Admin. Council, Dec. 11, 1953, effective Dec. 11, 1953), CLI.2.160289 (Lawinfochina).

<sup>175</sup> ORLEANS, *supra* note 22, at 20.

<sup>176</sup> Decision on Vocational Education, *supra* note 173. See also Calvin M. Frazier & Wilson Riles, *Work and Study, in CHINA’S SCHOOLS IN FLUX, supra* note 64, at 117.

<sup>177</sup> Commentary, *Dazhong Xuexiao Ban Gongchang Huakai Biandi (大中学校办工厂花开遍地)* [Colleges and Universities Run Factories Everywhere], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Aug. 21, 1958, at 7.

<sup>178</sup> Directives on Educational Work, *supra* note 125, art. 3, § 3. See also Zhang Jichun (张际春), *Gengkuai Genghao de Fazhan Woguo de Jiaoyu Shiye (更快更好地发展我国的教育事业)* [To Develop the Educational Work of Our Country Faster and Better], 3(3) HONGQI (红旗) [RED FLAG] 10, 15 (1960).

agricultural development.<sup>179</sup> As such, by making every school a factory and every factory a school,<sup>180</sup> education and labor were integrated to facilitate industrialization and achieve what Mao called genuine equality.

Mao-era education laws consistently served the constitutional vision of industrialization, and hence the concept of educational equality remained the empowerment of the workforce. Not surprisingly, therefore, Maoist education was not focused on liberal arts, but rather building skills for the masses that directly benefited industrial production.<sup>181</sup> Over time, the Maoist view of workforce equality increasingly insisted on education not differentiating between mental and manual labor. The emphasis on labor in education increased after 1958 and reached its peak during the Cultural Revolution. By that time, although the policy of combining education and productive labor remained nominally in place, labor was prioritized over education in practice.

In the context of the Great Leap Forward in 1958, the communist leaders, spearheaded by Lu, began to emphasize the socialist nature of education under the proletarian dictatorship, and to criticize harshly the capitalist view that “education should be led by experts” and “mental and manual work are separate.”<sup>182</sup> As a result, the *Directives on Educational Works*, while laying out that education was for the political service of the proletariat and to be combined with productive labor, explicitly professed to eliminate the difference between mental and manual labor.<sup>183</sup> Those statements were then reiterated and exaggerated during the Cultural

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<sup>179</sup> Tan Chen-Lin, *Speeding Up Mechanism of China's Agriculture*, 3(39) PEKING REV. 6, 9 (1960), available at <https://www.massline.org/PekingReview/PR1960/PR1960-39.pdf> [perma.cc/SF2B-MFPE]; Chen Zhengren (陈正人), *Jiasu Nongye de Jishu Gaizao (加速农业的技术改造)* [Speeding Up the Mechanical Transformation of Agriculture], 3(4) HONGQI (红旗) [RED FLAG] 4, 9 (1960).

<sup>180</sup> GAMBERG, *supra* note 21, at 87–120 & 249–88; Colletta, *supra* note 106, at 138 & 143.

<sup>181</sup> See e.g., Immanuel C. Y. Hsu, *The Reorganisation of Higher Education in Communist China, 1949–61*, 19 CHINA Q. 128, 138–45 (1964) (discussing the reorganization of universities in the early 1950s was a reversal of the American-style liberal education of the Republican era). See also *Quanguo Gaodeng Xuexiao Yuanxi Tiaozheng Jiben Wancheng (全国高等学校院系调整基本完成)* [The Reorganization of the Faculties and Departments of Colleges and Universities Was Basically Completed Nationwide], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Sept. 24, 1952, at 1.

<sup>182</sup> LU, *supra* note 142, at 4 & 24–27.

<sup>183</sup> *Directives on Educational Work*, *supra* note 125, art. 3, § 1.

Revolution.<sup>184</sup> The non-differentiation of mental and manual labor not only addressed the Marxist-Leninist egalitarian aspiration, but also reversed the traditional Chinese Confucian principle that those “who labor with their brains govern others; those who labor with their brawn are governed by others.”<sup>185</sup> To that end, the communist regime prepared the proletariat with literacy, technical skills, and socialist consciousness through the aforementioned education laws on one hand, and downplayed and demeaned the intellectuals on the other.<sup>186</sup> In 1968, at Mao’s behest, the education-labor nexus focused even more on labor, leaving education, especially liberal arts education, virtually despised.<sup>187</sup> The elimination of the difference between mental and manual labor was further exaggerated and abused during the Cultural Revolution, resulting in poor quality education, years of suspensions, and the persecution of countless well-educated intellectuals.<sup>188</sup> Ironically, educational equality was achieved in the sense that the working people had equal access to the same inferior education.

To sum up, the concept of workforce equality found its most vivid expression in education laws combining education and productive labor. If the laws of universal education were to promote equality by granting opportunities for rudimentary education to the masses of working people, then the combination of

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<sup>184</sup> Decision on Cultural Revolution, *supra* note 58, art. 10; XIANFA art. 12 (1975); XIANFA art. 13 (1978).

<sup>185</sup> MENGZI, TENG WEN GONG I, Ch. 4.

<sup>186</sup> Decision on Cultural Revolution, *supra* note 58, art. 10, § 2; art. 11, § 2; art. 12; Editorial, *Guanyu Zhishi Fenzi Zaijiaoyu Wenti* (关于知识分子再教育问题) [On the Re-Education of Intellectuals], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Step. 12, 1968, at 1 & 11(3) HONGQI (红旗) [RED FLAG] 2 (1968), translated in ON THE RE-EDUCATION OF INTELLECTUALS (Foreign Languages Press 1968).

<sup>187</sup> Mao Zedong (毛泽东), *Dui Cong Shanghai Jichuang Chang Kan Peiyang Gongcheng Jishu Renyuan de Daolu de Pishi* (对《从上海机床厂看培养工程技术人员的道路》的批示) [Comments on “Take the Road of the Shanghai Machine Tools Plant in Training Technicians from Among the Workers”], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], July 22, 1968, at 1, translated in TAKE THE ROAD OF THE SHANGHAI MACHINE TOOLS PLANT IN TRAINING TECHNICIANS FROM AMONG THE WORKERS 2 (Foreign Languages Press 1968) (“It is still necessary to have universities; here I refer mainly to colleges of science and engineering. However, it is essential to shorten the length of schooling, revolutionize education, put proletarian politics in command . . .”).

<sup>188</sup> The increased importance of labor was also evident in the change in constitutional phraseology from “citizens have the right to work” in the 1975 Constitution to “those who do not work shall not be fed,” and “labor is the honorable duty of all citizens capable of working” in the 1978 Constitution. Compare XIANFA art. 27, § 2 (1975) with XIANFA art. 10, § 2 (1978).

education and labor, especially in its later stages, was to empower the manual laborers and overpower the mental laborers, thereby reaching equality in results. With the constitutional vision of industrialization, the goal of education in Mao-era China was to produce socialist-conscious workers who were able to develop morally, intellectually, and physically.<sup>189</sup> To that end, part-time schools of all kinds, which focused primarily on *education*, were explored to enhance the educational opportunities for workers and peasants and their “all-round development.”<sup>190</sup> The education laws for students and intellectuals, who were not, or not yet, part of the industrial workforce, meanwhile, placed more emphasis on *labor* in order to transform them into workers. The integration and juxtaposition of education and productive labor were designed to empower and enlarge the industrial workforce for the Second Five-Year Plan. However, due to its lopsided emphasis on manual labor and political consciousness after the Great Leap Forward and especially during the Cultural Revolution, that educational equality law catalyzed the homogenization of the better-educated and the less-educated for equal results.

### III. WHITHER EQUALITY: BRIDGING THE GAP BETWEEN EDUCATION AND EMPLOYMENT

Under the constitutional concept of workforce equality, Mao-era education laws undoubtedly changed the educational landscape in China dramatically. The basic cultural and technical training associated with industrialization reached a large population of working people, and productive labor made up a significant portion of the curriculum at all levels of education.<sup>191</sup> As a result, the workforce’s empowerment and expansion contributed significantly to achieving the industrialization of Mao-era China.<sup>192</sup> The Maoist concept of educational equality, in this sense, fulfilled its role as a secondary constitutional value serving the constitutional objective. It was, however, far less successful in delivering on the CCP’s commitment to breaking down the urban-rural, industrial-

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<sup>189</sup> XIANFA art. 13 (1978); MAO, *supra* note 67, at 405.

<sup>190</sup> LU, *supra* note 142, at 14–18.

<sup>191</sup> *See supra* Part II.

<sup>192</sup> *See infra* text accompanying notes 196–201

agricultural, and mental-manual divides.<sup>193</sup> Moreover, the Maoist equal education laws created new problems of a mismatch between employment and education: jobs in factories requiring entry-level knowledge and skills were in short supply as the number of newly educated people increased.<sup>194</sup> In response, the authorities enacted laws and policies of planning in order to bridge the gap between education and employment.<sup>195</sup>

China's rapid, albeit flawed, industrialization during the Mao era was highly impressive, and the massive and empowered workforce deserves much of the credit. In less than three decades, China's economic structure shifted rapidly away from agriculture to industry, with the contribution of industrial output to gross national product growing from 20.9% in 1952 to 47.1% in 1977, while the share of agriculture fell from 50.5% to 29.4%.<sup>196</sup> During that period, industrial output increased at an average annual rate of 11.6%,<sup>197</sup> as fast as a country has ever industrialized in modern world history.<sup>198</sup> That remarkable achievement would not have been possible without a burgeoning, diligent, and dedicated working class. Under the Maoist egalitarianism, large numbers of peasants and women who had been excluded from education and employment joined the industrial workforce. For example, 70% of the 2.45 million people newly hired in 1954 had been peasants,<sup>199</sup> and female workers also grew from 7.5% to 18.8% of the workforce over the first decade of socialist China.<sup>200</sup> From 1952–1978, the number of industrial workers equipped by Maoist egalitarian education programs surged from 15.28 million, accounting for 7.4% of total employment, to 69.45 million, or 17.3%.<sup>201</sup> The empowered workforce's crucial role for industrialization was particularly

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<sup>193</sup> See *infra* pp. 27–28.

<sup>194</sup> See *infra* pp. 28–29.

<sup>195</sup> See *infra* pp. 29–32.

<sup>196</sup> CHINA STATISTICAL YEARBOOK 1999, *supra* note 116, at 3-1 (providing data from which percentages were derived).

<sup>197</sup> *Id.*

<sup>198</sup> MEISNER, *supra* note 19, at 415–19.

<sup>199</sup> John P. Emerson, *Manpower Training and Utilization of Specialized Cadres, 1949–1968*, in *THE CITY IN COMMUNIST CHINA* 189, 190 (John W. Lewis ed., 1971).

<sup>200</sup> John P. Emerson, *Employment in Mainland China: Problems and Prospects*, in *AN ECONOMIC PROFILE OF MAINLAND CHINA* 403, 433 (the Cong. J. Econ. Comm. ed., 1967).

<sup>201</sup> CHINA STATISTICAL YEARBOOK 1999, *supra* note 116, at 5-2 (providing figures not including those who were employed in transportation and telecommunications work closely linked with industry).

striking given Mao-era China's technological backwardness and hard labor-demanding industrial revolution.

Education laws under the concept of workforce equality, however, did not work well in breaking down the divides they sought to eliminate.<sup>202</sup> First, although the Maoist equal education programs brought education to traditionally disadvantaged groups, urban residents and brain-workers benefited far more from the new educational opportunities than rural and manual-labor populations.<sup>203</sup> Before the Cultural Revolution, and especially in the 1950s, the examination and selection system for formal education, particularly at secondary and higher levels, was meritocratic, thus favoring the children of socially advantaged bureaucrats and intellectual elite over those of workers and peasants.<sup>204</sup> Second, the constitutional objective of industrialization, focusing on heavy industry, was inherently contradictory to the goal of eliminating the industrial-agricultural differences. Massive fiscal and social resources in the Mao era flowed with great priority to towns where factories were concentrated.<sup>205</sup> Behind the rapidly growing industrial figures was the agonizingly slow development of the countryside and the feeding of industry by agricultural surplus that might otherwise have been used to raise peasants' living standards.<sup>206</sup> Aiming to expand the industrial workforce, informal forms of education, such as half-work half-study and spare-time schools, had factories as the primary workplaces and workers as the primary training targets.<sup>207</sup> Even with the education laws during the Cultural Revolution, which most embodied the Maoist ideal of equality of results, the proliferation of rural schools translated neither into many economic gains nor into a fundamental change in the urban-rural and industrial-agricultural

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<sup>202</sup> Directives on Educational Work, *supra* note 125, art. 3, § 1.

<sup>203</sup> MEISNER, *supra* note 19, at 125.

<sup>204</sup> *Id.* at 125–26; Yuxiao Wu, *Cultural Capital, the State, and Educational Inequality in China, 1949–1996*, 51 SOC. PERSP. 201, 214–21 (2008).

<sup>205</sup> NICHOLAS R. LARDY, AGRICULTURE IN CHINA'S MODERN ECONOMIC DEVELOPMENT 129–30 (1983) (revealing that agriculture's investment share during 1953–1978 was 12%, "only one-fifth that of industry").

<sup>206</sup> MEISNER, *supra* note 19, at 416, 418–20 ("While the income of state employees, including regular factory workers, rose significantly during the late Mao period, the income of peasants, who made up 75% of the laboring population, increased little, if at all, after 1957.").

<sup>207</sup> *See supra* pp. 22–24.

relationship.<sup>208</sup> Last, compared to the stagnation, if not the widening, of the rural-urban and industrial-agricultural division, expanding labor-integrated education moderated the mental-manual labor divide. Those increased educational provisions were, however, attributable to the subsequent imbalance between employment and education.

The inability of the job market to accommodate the output of schools is a common issue in most modern states. The salience of that problem in Mao-era China could be attributed, in addition to the population boom and increased supply of mass-education graduates, to rapid industrialization and rural-urban migration.<sup>209</sup> On the one hand, the mechanization of agriculture and industry raised per capita productivity, thus inevitably leading to a reduction in employment if production was not expanded.<sup>210</sup> The rapid industrialization of traditional labor-intensive industries, therefore, resulted in substantial unemployment in densely populated areas, such as Central China.<sup>211</sup> On the other hand, the mass migration of job seekers from rural to urban areas exacerbated educated underemployment, if not unemployment. In general, the better-educated rural youth were, the more likely they were to migrate toward towns and cities due to the large disparities between rural and urban incomes, opportunities, and living standards.<sup>212</sup> That urban-rural disparity was more pronounced in times when mental labors earned higher rewards than manual ones, as it was before the Great Leap Forward.<sup>213</sup> Therefore, the post-1958 equal education laws, which vowed to eliminate the differences between urban and rural areas and between mental and manual labor, addressed the problem of urban unemployment more or less by discouraging migration.<sup>214</sup>

In order to bridge the gap between education and employment, the authorities launched aggressive planning programs and laws that regulated employment, education, and population.

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<sup>208</sup> MEISNER, *supra* note 19, at 363.

<sup>209</sup> See PEPPER, *supra* note 21, at 16.

<sup>210</sup> See STIEFEL & WERTHEIM, *supra* note 103, at 22–23.

<sup>211</sup> *Id.* at 11–12.

<sup>212</sup> PAUL BAIROCH, URBAN UNEMPLOYMENT IN DEVELOPING COUNTRIES 33–43 (1973); Michael P. Todaro, *The Influence of Education on Migration and Fertility*, in THE EDUCATION DILEMMA 180–82 (John Simmons ed., 1980); PEPPER, *supra* note 21, at 16–17.

<sup>213</sup> See PEPPER, *supra* note 21, at 17.

<sup>214</sup> Directives on Educational Work, *supra* note 125, art. 3, § 1.

First and foremost was a unified assignment program (*tongbao tongfen*, UAP) of direct nationwide coordination of the supply of college graduates with the type and number of jobs available.<sup>215</sup> In a highly centralized, planned economy, the state drew up detailed enrollment quotas for each program offered by each educational institution, which was obligated to enroll students according to those plans.<sup>216</sup> Similarly, the jobs of graduates were assigned by the state to each position in each unit of the national economy according to the state's needs and graduates' specialties.<sup>217</sup> The UAP was established by the Government Administration Council in 1950, when seven thousand college graduates from East, South, and Southwest China were motivated to relocate to the northeastern industrial zones.<sup>218</sup> A year later, the *Decision on Reforming the School System* formalized UAP in law,<sup>219</sup> thus vesting the power to assign jobs to higher education graduates, especially those in

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<sup>215</sup> See PEPPER, *supra* note 21, at 17–18.

<sup>216</sup> Guanyu Baozheng Wancheng Jinnian Gaodeng Xuexiao Zhaosheng Jihua de Zhishi (关于保证完成今年高等学校招生计划的指示) [Directives on Ensuring Completion of This Year's Higher Education Enrollment Plan] (promulgated by the St. Council, Apr. 3, 1956, effective Apr. 3, 1956), CLI.2.161046 (Lawinfochina). See also ORLEANS, *supra* note 22, at 94.

<sup>217</sup> See Guanyu 1957 Nian Shuqi Quanguo Gaodeng Xuexiao Biyesheng Tongchou Fenpei Gongzuo de Zhishi (关于1957年暑期全国高等学校毕业生统筹分配工作的指示) [Directives on the Overall Assignment of Graduates from Colleges and Universities in the Summer of 1957] (promulgated by the St. Council, July 31, 1957, effective July 31, 1957), CLI.2.161552 (Lawinfochina) (detailing the 1957 plan as: "There were a total of 56,820 college graduates in the current year . . . The basic assignment is as follows: (1) A total of 9,702 were assigned to the Chinese Academy of Sciences and higher education institutions, accounting for 17.08% of the graduates. Among them are 3,411 engineering graduates, accounting for 18.9% of total engineering graduates. (2) A total of 13,190 were allocated to the central industrial sector, accounting for 23.21% of the graduates. There are 10,524 engineering graduates, accounting for 58.3% of total engineering graduates. (3) A total of 4,519 were allocated to the sectors of transportation, post and telecommunications, agriculture, forestry, water conservancy, finance, education and culture, accounting for 7.95% of the graduates. (4) A total of 1,284 were assigned to the People's Liberation Army system, accounting for 2.26% of the graduates. (5) A total of 28,125 were allocated to various provinces, autonomous regions and municipalities directly under the Central Government, accounting for 49.5% of the graduates.").

<sup>218</sup> Guanyu Fenpei Quanguo Gongsili Gaodeng Xuexiao Bennian Shujia Biyesheng Gongzuo de Tongling (关于分配全国公私立高等学校本年暑假毕业生工作的通令) [General Order on the Proper Allocation of Graduates from Public and Private Universities Across the Country This Summer] (promulgated by the Gov't Admin. Council, June 22, 1950, effective June 22, 1950), in CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 348.

<sup>219</sup> Decision on Reforming the School System, *supra* note 97, art. 4, § 6.

engineering, exclusively in the central government.<sup>220</sup> Regarded as both employment-oriented enrollment and graduate supply-oriented recruitment, UAP aimed to reduce the mismatch between specialty and occupation through central planning. A large number of graduates, however, turned out to be assigned to jobs they were not trained for, as UAP was inherently inefficient and failed to provide an effective solution to the imbalance between education and employment.<sup>221</sup> Moreover, by targeting only higher education, the UAP did not address the problems of significant numbers of low and middle level education achievers and thus was greatly impacted by the outcome-oriented view of workforce equality after 1958. Plans for university majors and enrollment ratios were modified to comply with radical industrialization planning, and college enrollment and job assignments were practically disrupted during the Cultural Revolution until 1977.<sup>222</sup>

The second and most notable policy was the mobilization of urban educated youth to go to the countryside (*shangshan xiaxiang*, EYGC). Unemployment in the cities was based on the disproportionate growth of the urban population due to immigration and high birth rates. Therefore, there were two strategies to deal with the problem: restricting townward migration and reducing the birth rate. The former was undoubtedly more immediate. Despite the deliberate curbing of the migration stream,<sup>223</sup> however, the urban population in China surged from around fifty-eight million in 1949 to one hundred million in 1957,<sup>224</sup> with 45% of the increase coming from rural migrants.<sup>225</sup> Conventionally, the problem of the excessive workforce should be solved, first and foremost, through

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<sup>220</sup> CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 348–49.

<sup>221</sup> See, e.g., Editorial, *Zhenxi Rencai Tuodang Fenpei* (珍惜人才, 妥当分配) [Valuing Talents and Assigning Them Appropriately], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Aug. 2, 1956, at 1.

<sup>222</sup> CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 349–50; ZHONGHUA RENMIN GONGHEGUO ZHONGYAO JIAOYU WENXIAN: 1976–1990 (中华人民共和国重要教育文献: 1976–1990) [IMPORTANT EDUCATIONAL DOCUMENTS OF THE PEOPLE'S REPUBLIC OF CHINA: 1976–1990] 1579 (He Dongchang ed., 1998).

<sup>223</sup> See, e.g., Guanyu Quanzhi Nongmin Mangmu Liuru Chengshi de Zhishi (关于劝止农民盲目流入城市的指示) [Directives on Dissuading Peasants from Blindly Entering the City] (promulgated by the Gov't Admin. Council, Apr. 17, 1953, effective Apr. 17, 1953), CLI.2.160268 (Lawinfochina).

<sup>224</sup> ZHONGGUO RENKOU (中国人口) [POPULATION OF CHINA] 272 (Yuan Yongxi ed., 1991).

<sup>225</sup> XIN ZHONGGUO RENKOU WUSHI NIAN (新中国人口五十年) [THE POPULATION OF NEW CHINA IN FIFTY YEARS] 1173 (Lu Yu ed., 2004).

accelerated urban industrial development.<sup>226</sup> In 1960, however, the false bubble of prosperity caused by the Great Leap Forward burst, and depression followed, resulting in large-scale abandonment of unfinished projects and employment shrinking.<sup>227</sup> Some CCP leaders began to recognize the huge disparity between urban and rural areas, and between industry and agriculture.<sup>228</sup> To correct the overemphasis on industry in the 1950s, agricultural modernization was elevated to a much higher priority, with the wording of the Constitution changed to “agriculture as the foundation of the national economy, with industry as the leading factor.”<sup>229</sup>

The educational equality law also sought to eliminate the urban-rural difference alongside the mental-manual labor difference.<sup>230</sup> In order to promote rural industrialization,<sup>231</sup> between 1962 and 1966, more than one million urban youths responded to the central government’s call to settle in the countryside to strengthen the rural workforce.<sup>232</sup> After the Cultural Revolution began, many schools were closed,<sup>233</sup> college enrollment was suspended,<sup>234</sup> and factories stopped hiring, thus making a large number of idle urban college and high school students an urgent social problem to be solved. It was against this backdrop that Mao announced in 1968 an official directive for “urban educated youth to go to the countryside to be reeducated by the poor peasants.”<sup>235</sup> As a result, tens of millions of the youth were sent to the rural areas over the next decade, relieving the pressure of urban employment and resulting in a phenomenon of reverse urbanization rarely seen in

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<sup>226</sup> See STIEFEL & WERTHEIM, *supra* note 103, at 14.

<sup>227</sup> BERNSTEIN, *supra* note 21, at 35.

<sup>228</sup> BO YIBO (薄一波), RUOGAN ZHONGDA JUECE YU SHIJIAN DE HUIGU (若干重大决策与事件的回顾) [REVIEW OF SEVERAL MAJOR DECISIONS AND EVENTS] 1050–60 (1993).

<sup>229</sup> XIANFA art. 10 (1975); XIANFA art. 11, § 2 (1978).

<sup>230</sup> Directives on Educational Work, *supra* note 125, art. 3, § 1.

<sup>231</sup> Colletta, *supra* note 106, at 144.

<sup>232</sup> JIEFANG RIBAO [LIBERATION DAILY] (Apr. 23, 1965), *cited by* BERNSTEIN, *supra* note 21, at 35; STIEFEL & WERTHEIM, *supra* note 103, at 15.

<sup>233</sup> Guanyu Nongcun Wuchan Jieji Wenhua Da Geming de Zhishi (关于农村无产阶级文化大革命的指示 (草案)) [Directives on the Great Proletarian Cultural Revolution in the Countryside (Tentative)] (promulgated by the CCPCC, Dec. 15, 1966, effective Dec. 15, 1966), *in* 18(1) SHANXI PEOPLE’S GOV’T GAZ. 5 (1967), art. 9 (“Secondary schools should be closed for the revolution.”).

<sup>234</sup> Reform Admissions for Higher Education, *supra* note 135; CHINA EDUCATION YEARBOOK 1949–1981, *supra* note 106, at 338.

<sup>235</sup> Mao Zhuxi Yulu (毛主席语录) [*Quotations from Chairman Mao*], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Dec. 22, 1968, at 1.

the post-war world.<sup>236</sup> In the regime's propaganda to mobilize the youth, "we also have two hands, so we will not eat the cities' food for free" was a striking and popular catchword, implying the movement's imperative to divert excess urban labor.<sup>237</sup>

Moreover, as with the law combining education with productive labor, EYGC also had a workforce equality implication. For one thing, it increased the rural labor force by sending young people to the countryside.<sup>238</sup> For another, as the official rationale given by the CCP, EYGC was to narrow three major differences through alleged re-education: the urban-rural difference, the industrial-agricultural difference, and the difference between mental and manual labor.<sup>239</sup> In some cases, those young people, most of whom had a lower secondary education, contributed to the modernization of the rural sector and to the technical training of peasants.<sup>240</sup> The EYGC movement, however, deprived numerous youth of the opportunity to further their education, leaving a lost generation and a knowledge gap that the post-Mao reforms struggled to remedy.<sup>241</sup>

In contrast to the direct control of labor mobility, family planning was a more indirect and long-term policy response to high unemployment. In the 1950s, some policymakers had already recognized the need to regulate the population and included "appropriately promote birth control" in the Second Five-Year Plan.<sup>242</sup> Birth control, however, was seen as a political conspiracy

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<sup>236</sup> BERNSTEIN, *supra* note 21, at 32, 39–40 (estimating that the number was 5.4 million during 1968–70, 2.65 million in 1971–73, and about 2 million per year in 1974 and 1975).

<sup>237</sup> Editorial, *Women ye You Liangzhishou Buzai Chengshi li Chixianfan (我们也有两只手, 不在城市里吃闲饭)* ["We Also Have Two Hands, So We Will Not Eat the Cities' Food for Free"], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Dec. 22, 1968, at 1.

<sup>238</sup> See STIEFEL & WERTHEIM, *supra* note 103, at 14–15.

<sup>239</sup> Editorial, *Jianchi Zhishi Qingnian Shangshan Xiaxiang de Zhengque Fangxiang (坚持知识青年上山下乡的正确方向)* [Insisting on the Right Direction for Educated Youth to Go to the Countryside], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], July 9, 1967, at 2.

<sup>240</sup> Frazier & Riles, *supra* note 176, at 118; STIEFEL & WERTHEIM, *supra* note 103, at 14–15.

<sup>241</sup> See, e.g., MICHEL BONNIN, *THE LOST GENERATION: THE RUSTICATION OF CHINA'S EDUCATED YOUTH (1968–1980)* (Krystyna Horko trans., 2013). See also 3 WORLD BANK, *CHINA: SOCIALIST ECONOMIC DEVELOPMENT* 134 (1983) (estimating that there were "2 million middle-level technicians and 1 million college and university graduates who would otherwise have been graduated during the late 1960s and early 1970s").

<sup>242</sup> See Shao Zili (邵力子), Member, the Standing Comm. Nat'l People's Cong., *Wodui Jiayu Wenti de Yidian Yijian (我对节育问题的一点意见)* [My Comments on Birth Control], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], June 26, 1956, at 2; Ma Yinchu

of the Rightists, and was discredited after 1958.<sup>243</sup> The Fourth Five-Year Plan (1971-1975) set, for the first time, the goal of reducing the rate of population growth, marking the official launch of the family planning policy.<sup>244</sup> As a result, by state coercion, China's population growth rate fell from 2.747% in 1971 to 1.254% in 1980, below the world average of 1.749% at the time.<sup>245</sup> In Post-Mao China, both Constitutions established family planning as a basic state policy,<sup>246</sup> and the Marriage Law stipulated that “[b]oth husband and wife shall have the duty to practise family planning.”<sup>247</sup> The National People's Congress, meanwhile, created a new specialized agency, the National Family Planning Commission.<sup>248</sup> Family planning then became a national legal mandate, which accounted for 150 million fewer children over the next two decades.<sup>249</sup> Thus, although its effects were not as evident in the Mao era, family planning alleviated the tensions associated with unemployment to the extent that it reduced the number of job

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(马寅初), Member, the Standing Comm. Nat'l People's Cong., *Xin Renkou Lun* (新人口论) [*New Population Theory*], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], July 5, 1957, at 11; Chou En-Lai, *Report on the Proposals for the Second Five-Year Plan for Development of the National Economy* (Sept. 16, 1956), in PROPOSAL FOR THE SECOND FIVE-YEAR PLAN, *supra* note 53, at 39, 98.

<sup>243</sup> Li Pu (李普), *Buxu Youpai Liyong Renkou Wenti Jinxing Zhengzhi Yinmou* (不许右派利用人口问题进行政治阴谋) [*The Rightists Are Not Allowed to Use the Population Issue for Political Conspiracy*], RENMIN RIBAO (人民日报) [PEOPLE'S DAILY], Oct. 14, 1957, at 7. See also John S. Aird, *Population Policy and Demographic Prospects in the People's Republic of China*, in PEOPLE'S REPUBLIC OF CHINA 220, 302-04 (the Cong. J. Econ. Comm. ed., 1972).

<sup>244</sup> Wang Feng et al., *Population, Policy, and Politics: How Will History Judge China's One-Child Policy?*, 38 POPULATION & DEV. REV. 115, 117 (2012).

<sup>245</sup> WORLD BANK OPEN DATA, <https://data.worldbank.org/indicator/SP.POP.GROW> [<https://perma.cc/U3QU-3LPJ>].

<sup>246</sup> XIANFA art. 53, §3 (1978) (“The State promotes and implements family planning.”); XIANFA art. 25 (1982) (“The state implements family planning so that population growth is compatible with economic and social development plans.”).

<sup>247</sup> Hunyin Fa (婚姻法) [Marriage Law] (promulgated by the Nat'l People's Cong., Sept. 1, 1980, effective Jan. 1, 1981), CLI.1.797(EN) (Lawinfochina), art. 12.

<sup>248</sup> Guanyu Sheli Guojia Jihua Shengyu Weiyuanhui de Jueyi (关于设立国家计划生育委员会的决议) [Decision on Establishing the National Family Planning Commission] (promulgated by the Standing Comm. of the Nat'l People's Cong., Mar. 6, 1981, effective Mar. 6, 1981), CLI.1.176730 (Lawinfochina).

<sup>249</sup> Xue Dong (薛冬) & Li Wei (李薇), *Shixing Jihua Shengyu Woguo 20 Nian Zhishao Shaosheng 2.5 Yige Haizi* (实行计划生育我国20年少生2.5亿个孩子) [*China Has 250 Million Fewer Children for the 20 Years implementing The Family Planning Policy*], GUANGMING RIBAO (光明日报) [GUANGMING DAILY], Sept. 22, 2000, at A3.

seekers and lowered their wage demands by reducing the number of their family members.<sup>250</sup>

In summary, the Mao-era educational equality laws set out to provide equal mass education for the working people. By creating an enlarged and empowered industrial workforce, the Maoist egalitarianism facilitated socialist China's industrial transformation. A surge in educational supply, however, resulted in a mismatch between it and the accommodating job market, posing new problems. In an attempt to bridge that gap between employment and education, the government initiated several changes in the laws on education, employment, and population, with much success but also many grievances. Although they alleviated the imbalance, those policies, like the equal education laws to which they responded, struggled to reduce the disparities between town and countryside and between industry/workers and agriculture/peasants.

### CONCLUSION

Winding up from a hundred years' social disturbance, political instability, and intellectual anarchy, post-war China was desperate to realize national independence and to get rid of poverty. Since the establishment of the People's Republic in 1949, China had, in trial and error, attempted to build an industrialized socialist state for three decades until the Constitution of 1982 declared a reform era. Facing challenges near and far, the nascent communist regime under Mao set rapid industrialization as its constitutional goal, which included both socialist reconstruction and socialist revolution. Mao-era China's transition from an agricultural to an industrial country required a large supply of workers at a time when illiteracy rates were extremely high. Providing equal education to those who had been denied access to education in order to make them qualified industrial workers, therefore, became the very point of achieving rapid industrialization. It is in this sense that equality in education took on an empowering connotation in the constitutional vision. It means that the historical actors who were

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<sup>250</sup> See ZHOU, *Problems of Policy for Economic Development* (Nov. 10, 1956), *supra* note 96, at 233 (explaining the reason for birth control was that "we cannot make everybody employed in a short period of time, and the increase in wages cannot afford a large family population of employees").

crucial in shaping constitutional conceptualizations held a workforce-oriented idea of equality of results, which sought to empower the masses to become an equal, if not homogenous, workforce through education.

That conception of empowerment-as-equality was evidently revealed in the educational revolution of the Maoist regime, particularly in two education laws: One was universal education aimed at including all in education programs; the other was the combination of education and productive labor whereby students were transformed into laborers and workers were trained to become a competent socialist workforce. Through various education programs, the authorities included the masses of workers and peasants in the socialist education program, equipping them with the knowledge and skills needed for socialist reconstruction and the socialist consciousness required for the socialist revolution. Moreover, calling on combining education with productive labor, the regime endeavored to conduct literacy education and technical training to the working-class and directly transform students into laborers working in factories and farms. As such, the Maoist equal education laws for the traditionally disadvantaged sought to empower the masses to become the desired workforce for pursuing industrialization. The Maoist vision for educational equality was, in other words, empowerment. In the process of putting that concept of equality-as-empowerment into practice, intellectuals and other mental laborers were trained as industrial or agricultural workers, thus achieving the constitutional vision of workforce equality.

The Maoist concept of educational equality was successful in fueling industrialization, yet in a sense, it also sowed the seeds of its own demise. Under the goal of industrialization, the economic disparities between industry and agriculture and between urban and rural areas would inevitably exist, if not widen. During the Mao era, the countryside was economically exploited by the cities.<sup>251</sup> By the late 1970s, most peasants were probably economically worse off than they had been in the 1950s and even the 1930s.<sup>252</sup> Similarly, Maoist educational equality laws served primarily to transform the

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<sup>251</sup> MEISNER, *supra* note 19, at 363.

<sup>252</sup> YANG JISHENG (杨继绳), *ZHONGGUO GAIGE NIANDAI DE ZHENGZHI DOUZHENG* (中国改革年代的政治斗争) [POLITICAL CONFLICTS DURING CHINA'S REFORM] 40 (2004) (“two-thirds of peasants in 1978 had an income lower than that in the 1950s, and one-third had an income even lower than that in the 1930s before the Japanese invasion of China.”).

masses into a more trained industrial workforce, leaving the countryside and peasantry somewhat neglected. Most of the vigorous rural egalitarian education programs were also of poor quality, ending in many cases at literacy. Moreover, the unprecedented large scale of education supply created a huge gap between education and employment. Laws and policies that attempted to bridge the gap were only palliative and did not address the root causes of the problem: the disparities between urban and rural areas and between workers and peasants. Worse, some, such as the planned college specialties that were exclusively industry-related, the dual urban-rural household system that restricted migration,<sup>253</sup> and the dual urban-rural family planning quota,<sup>254</sup> even exacerbated the divisions and disparities. Despite the Constitutions' reiteration that "the alliance of workers and peasants is the basis of the dictatorship of proletariat,"<sup>255</sup> it is clear that in the Mao era, when industrialization was the constitutional goal, industry and industrial workers were the main protagonists. The peasants and the rural sector, on the other hand, were *de facto* marginalized in the Maoist economic structure.

The rusticated youth were also an educationally and economically marginalized group. The Maoist regime sacrificed the opportunity for millions of young people to continue their education in exchange for relief from urban employment pressures. And when they finally managed to return to the cities, many of the youth found it still difficult to get hired in factories and even harder to get into universities. As a result, most of them became what the authorities called "to-be-employed youth" (*daiye qingnian*) and "socially idle laborers," and hence marginalized by the planned economy of the late Mao era.<sup>256</sup> It was, however, precisely in those two

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<sup>253</sup> Tiejun Cheng & Mark Selden, *The Origins and Consequences of China's Hukou System*, 139 CHINA Q. 644 (1994).

<sup>254</sup> According to the Law on Legislation, provincial people's congresses formulate local population regulations. In general, rural couples in each province are allowed to have a second child if their first child is a girl. See Lifa Fa (立法法) [Law on Legislation] (promulgated by the Standing Comm. Nat'l People's Cong., Mar. 15, 2000, effective July 1, 2000), CLI.1.26942(EN) (Lawinfochina), art. 8; Hu Huiting, *Family Planning Law and China's Birth Control Situation*, CHINA (Oct. 18, 2002), <http://www.china.org.cn/english/2002/Oct/46138.htm> [<https://perma.cc/5FP5-TAK2>].

<sup>255</sup> XIANFA art. 1 (1954); XIANFA art. 1 (1975); XIANFA art. 1 (1978); XIANFA art. 1 (1982).

<sup>256</sup> See, e.g., Anpai An Zhengce Liucheng de Daiye Qingnian he Qita Shehui Xiansan Laodongli Jiuye (安排按政策留城的待业青年和其他社会闲散劳动力就业) [Arranging

marginalized groups that the post-Mao reforms found their outlet. The desperate peasants who privately negotiated a family smallholding system led to the de-collectivization reform, which was the prelude to the market-oriented reforms.<sup>257</sup> The mounting employment pressure and the risk of large-scale social unrest caused by the unemployed youth made the government “open the door to employment” and gradually liberalize the individual economy,<sup>258</sup> which also became the vanguard of the market transformation.<sup>259</sup> The Maoist equality-as-empowerment ideal, by overemphasizing industrial labor to the point of overlooking if not exacerbating the peasants’ hardships, and by producing a population with an education that exceeded the available employment opportunities, ironically created the conditions for a new wave of reforms and a new constitutional conception of educational equality. It was the peasants and unemployed youth who were most deprived by the Maoist workforce egalitarianism that became the forerunners of post-Mao market-oriented reforms. It was in those marginalized groups that the seeds of reform quietly sprouted.

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*for the Employment of To-Be-Employed Youths and Other Socially Idle Laborers Who Had Stayed in the City Per Policy*], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], Feb. 28, 1979, at 2.

<sup>257</sup> Guanyu Jinyibu Jiaqiang he Wanshan Nongye Shengchan Zerenzhi (关于进一步加强和完善农业生产责任制的几个问题) [Several Questions About Further Strengthening and Improving the Responsibility System for Agricultural Production] (promulgated by the CCP Cent. Comm., Sept. 27, 1980, effective Sept. 27, 1980), in 20(6) SHANXI PEOPLE’S GOV’T GAZ. 1 (1981).

<sup>258</sup> Xue Muqiao Tongzhi Jiu Chengzhen Laodong Jiuye Wenti Fabiao Tanhua (薛暮桥同志就城镇劳动就业问题发表谈话) [Comrade Xue Muqiao Delivers a Speech on Urban Labor and Employment], RENMIN RIBAO (人民日报) [PEOPLE’S DAILY], July 20, 1979, at 2.

<sup>259</sup> See Guanyu Chengzhen Feinongye Geti Jingji Ruogan Zhengcexing Guiding (关于城镇非农业个体经济若干政策性规定) [Policy Provisions on Urban Non-Agricultural Individual Economy] (promulgated by the St. Council, July 7, 1981, effective July 7, 1981), CLI.2.1029 (Lawinfochina); Guanyu Guangkai Menlu Gaohuo Jingji Jiejue Chengzhen Jiuye Wenti de Ruogan Jueding (关于广开门路, 搞活经济, 解决城镇就业问题的若干决定) [Decisions on Opening Doors, Revitalizing the Economy, and Solving Urban Employment Problems] (promulgated by the Central Comm. of the CCP & the St. Council, Oct. 17, 1981, effective Oct. 17, 1981), CLI.16.1099 (Lawinfochina).