

New Chinese property law protects robber barons

Monday 26 March 2007, by [CHENG Eva](#) (Date first published: 22 March 2007).

Beijing's drive since the early 1990s to pursue the restoration of capitalism in China received a boost on March 16, with the introduction of the controversial Property Law. Ironically, the law will take effect on October 1 — exactly 58 years since the founding of the People's Republic of China. The law will safeguard the property of China's burgeoning capitalist class, giving private property the same protection as state-owned assets. This includes the large number of formerly state-owned assets converted to private property in sleazy and underhand deals.

Legislators voted overwhelmingly 2799 to 52 to pass the law, with 37 abstentions. Yet this extent of disapproval is unprecedented given the rubber-stamp nature of the National People's Congress (NPC). Most legislative proposals have traditionally been passed unanimously.

Drafting of the law began in 1993. Since a fourth version of the legislation was released for public discussion in July 2005, there has been vocal opposition to it. After the draft's release, Beijing University law professor Gong Xiantian, a member of a group of pro-socialist intellectuals, penned an open letter against to the NPC, accusing the draft of violating China's constitution (see Links #29 at <http://www.dsp.org.au/links>).

This letter and a related wave of criticism, mostly aired via the internet, are believed to have contributed to the NPC's decision to withdraw the draft shortly before its March 2006 annual session. Three more drafts were produced, but weren't made publicly available in full.

Last December, Gong and his collaborators presented a petition against the draft law signed by 718 people, including many current and former Communist Party officials and military personnel, as well as intellectuals and students. By early March, the number of signatories had grown to around 3000.

The official Xinhua News Agency reported on March 16 that various NPC bodies had reviewed the draft in eight rounds, breaking China's record for scrutiny for any single piece of legislation — clearly indicating that Beijing was feeling under pressure. More than 100 testimony sessions and forums were held on the law, according to Xinhua.

Since the early 1990s, Beijing has increasingly whittled down the state sector on which China's nationalised planned economy was based after the 1949 revolution. At the same time, little has been done to stop the serious erosion of the social gains that the working majority formerly enjoyed. Despite this, the Communist Party publicly claims to be building "socialism with Chinese characteristics" by developing a "socialist" market economy.

Most privatisations of state assets occurred through dubious deals. The beneficiaries were former state enterprise managers, Communist Party officials' relatives or cronies, or foreign capitalists. Enterprises were sold off at knock-down prices in return for kick-backs.

Chinese critics of the country's course said that this appropriated wealth contributes significantly to

what Karl Marx described as “primitive capital accumulation” for China’s fledgling capitalist class.

In a last-ditch attempt to stop the proposed law, a public forum was held at the party school of the Communist Party’s Beijing municipal committee on March 3. Nearly 100 people, mainly opponents of the draft law, attended the meeting, which doubled as the launch of a new book on the debate around the Property Law. Zuo Dapei, a researcher at the Chinese Academy of Social Sciences (CASS), told the forum that the draft was, in essence, a means to appropriate and loot state property and legitimise such ill-gotten wealth.

At the forum, Gong Xiantian highlighted article 111 of the draft, which stipulates that a property transaction would be deemed lawful so long as the acquisition was conducted “in good faith” and met one of four preconditions — including that the buyer didn’t know the transaction wasn’t authorised and the price paid was “fair”. Gong observed that such safeguards would only accelerate the dwindling of China’s state wealth.

Also addressing the forum, former chief of the National Bureau of Statistics Li Chengrui questioned the law’s “good faith” provision for acquisitions. He also asked why efforts to recover appropriated state assets were subject to time limits. He further questioned whether the “equal” treatment proposed for the property owned by individuals, collective units and the state is constitutional, given the primacy that China’s constitution gives to state assets.

The law’s opponents have fundamental problems with this “equal treatment” clause, arguing this is a direct assault on the foundation of China’s economy and property relations since 1949.

Former CASS deputy chief and economist Liu Guoguang told the gathering that if the public interest was to be served, Beijing should deal first with the long-mooted law to stop the continuing loss of state property.

In an August 26, 2005, analysis of the Property Law proposal, Zuo pointed out that Beijing’s move to further protect private property was complementary to the growing campaign spearheaded by a powerful group of pro-capitalist apologists — mainly neoliberal economists in China’s key institutions — to amend the country’s constitution.

Zuo also exposed Beijing’s attempt to broaden support for the Property Law by focusing its marketing effort on the interests of the average homeowner and other small-scale owners of private property, while de-emphasising the benefits for capitalists and the rich. Forced eviction of homeowners in the name of “development” by corrupt officials is a burning issue in China.

P.S.

* From: International News, Green Left Weekly issue #704 28 March 2007.