

DANIEL LEVIN

The rule of law shall guard the guards

The words of Francisco de Paula Santander, a Colombian military and political leader of the early 19th century, are inscribed high above the Palace of Justice in Bogota: "Weapons have given you independence. Laws will give you freedom." Powerful words by a man who was known as "el hombre de las leyes" (the man of the laws).

But in the two centuries since Santander's sagacity, the rule of law as a categorical social imperative has undergone many transformations, manifested perhaps most vividly in the evolution of legal positivism, which determines the validity of a law not by its merits and morality but by its source of authority. Since the calamitous degeneration of this legal positivism into the Nuremberg Laws of Nazi Germany and their blind and sycophantic application by courts and judges throughout the Third Reich, it has become an established norm of civilized, enlightened society that the authority of good law — law that transcends the mere expression of order — is based not only on the constitutional power to issue and enforce such law, but also on a set of values that embody the indispensable concepts of equality, fairness and liberty.

Ibrahim Mayaki, former prime minister of Niger who today heads the African Union's New Partnership for Africa's Development, once told me

about a remarkable opinion poll in Niger that he had carried out during his time in office. In the poll, citizens across the country were asked to name the one single issue that mattered most to them. He expected the list to be topped by concerns such as poverty, crime, safety and security, health and clean water, drug addiction, or access to education.

To his great surprise, however, the one reply that dominated the poll and obliterated all other issues was the rule of law. This vital concept includes equal access to the law as well as equal and predictable application of the law to all the people, irrespective of wealth and status, and the desire to not have some people as "more equal than others" before the law and the courts. It is most critically connected to the need for justice and impartiality and, most fundamentally, to the principle of fairness.

Niger citizens who so unambiguously expressed their desire for the rule of law are not alone. Numerous polls and surveys worldwide have reached the same conclusion. People certainly understand that society does not provide a level playing field for all, and that some are born or become more privileged than others. But nothing makes a person feel more powerless and abandoned than the lack of protection by the law. It is the helplessness expressed so brilliantly by Franz Kafka exactly 100 years ago in his epochal novel *The Trial*.

Instead of enjoying the protection afforded by the rule of law, its absence or misuse will lead from Kafkaesque senselessness and confusion to the loneliest feeling of despair.

Without fairness and equality, the rule of law too often becomes a euphemism for unadulterated power, as expressed by 19th century Mexican president Benito Juarez, who was known as much for his small stature as for his extraordinary intelligence: "For my friends, grace and justice; for my enemies, the law." Or put in succinct, modern terms: those who are with me get everything; those who are against me get the law.

Possibly the single most threatening challenge to the rule of law is corruption. It is the poison that rots societies from the inside and foils all sustainable social and economic development. Corruption has a highly corrosive effect that prevents prosperity and well-being not only because it squanders and diverts resources from their intended purposes and recipients, but also — and perhaps more dangerously — because it entrenches a sense of cynicism and contempt for legal authority among the population.

In its most insidious form, corruption at the state level — manifested either crudely as primitive theft or more subtly in the form of privatization of profits and nationalization of losses — cements the perception

among the people that the deck will always be stacked against them, so they might as well join the party and abandon all law-abiding principles and codes of decency. After all, if the ones on the top don't play by the rules, why should I?

Economies and societies prosper when laws are clearly defined and consistently applied to all. A stakeholder society, where individuals feel that they are part of something larger than their individual selves, can only develop in an environment that continuously and unequivocally expresses a commitment to the rule of law and public integrity. Indeed, freedom cannot be obtained without freedom from corruption.

Cracking down on corruption requires herculean efforts from top to bottom, from the capital to the regions, from the primary national stage to more anonymous and insidious municipal actors. Reforms must be reforms in substance, not just in form. But when they succeed, we can finally answer the momentous question posed by the Roman poet Juvenal in his Satires: "Quis custodiet ipsos custodes?" (Who will guard the guards themselves?)

The rule of law will, that's who.

The author is a member of the board of the Liechtenstein Foundation for State Governance.

LETTERS

Recipe for China's future success

Comment on "China, white faces and expertise" (China Daily, Sept 17)

China is a vast nation full of talented people. The country has proven its might, growing into the second-largest economy. It is expected to surpass the United States in the near future. It is an amazing feat, but it shows that success does not come easy. To grow further, China would do well to heed the author's advice.

First, China needs foreign talents who can significantly add value to and have a lasting impact on the economy. Therefore, carefully selecting foreign talents to work in China will be key to China's future success.

Second, China should not arbitrarily assume that foreigners always perform better than Chinese people. China has opened its door to many foreigners hoping that their experience and skill would add value to domestic products and services. Most people entering China will soon realize that Chinese wish expatriates to pass on their skills to them and want to work with foreigners on equal terms and treatment. Successful foreigners in China are those who make every effort to blend into Chinese culture, instead of despising it.

Third, China should accord top-level talents special treatment regardless of age, race or origin. I have heard many stories from expatriates working for Chinese companies that their employers seem to assume that all foreigners are equally talented. Such an attitude harms work dynamics and makes talented individuals, foreigners and locals alike, feel like running away from their companies.

SAYALLUCAN, from China Daily website

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MIKE BASTIN

Weakening US stoking HK 'protests'

Although some protesters are still battling police, the "pro-democracy" protests in Hong Kong will eventually fizzle out, as Hong Kong residents' support for the protest is waning. Now it is time to examine the causes, effects and validity of the protests.

The effects of the seemingly "leaderless" campaign of "civil disobedience" and mindless sit-ins are clear: paralysis of key roads and a severe blow to financial activities in Hong Kong over the past few weeks. Such has been the deleterious effect on the economy of the city, a vital and vibrant global financial hub, that many Hong Kong residents across all ages and social backgrounds have confronted the (largely student) protesters to convey the harmful impact of their actions on the lives of ordinary, needy Hong Kong families and their children. This deleterious economic effect, therefore, requires further attention and publicity.

Hong Kong remains one of the key financial centers in the world and still acts as a bridge between the Chinese mainland's economy and the world economy. Hong Kong residents worried about the city's future feel the pro-

tests could dissuade overseas investors and businesses from expanding their operations on the mainland through the city. In fact, they fear that the international business community could opt for other markets and economies to further their expansion plans.

To examine the causes and validity of the "protests", it is important to know what sort of elements instigated and continue to stoke the protests. There is need to study the role of the United States government and some overseas organizations that are said to have acted as "consultants" to the "protesters". Despite the open position taken by the Hong Kong government on the protests, there has been no sign of any openness on the part of the US government-protester alliance.

Do the "protests" once again highlight the immense difficulty the US government continues to have because of the erosion of its power and global influence? You bet they do.

Ignoring the fact that the US secret surveillance saga — exposed by former National Security Agency operative Edward Snowden — continues to grab headlines, Washington and its allies are at it again. In keeping with the US

government's characteristic opaque operations, the "consultants" for the "protests" appear to have been delegated to a little known, media-shy quasi-government organization, which calls itself, rather euphemistically, the National Endowment for Democracy. And it hardly comes as a surprise that the NED is based in Washington and its office is not too far from Capitol Hill.

Despite repeated requests, the US government has neither denied nor explained a series of meetings between NED "leaders" and the students leading the Hong Kong "protests". Media reports, however, suggest such meetings indeed took place in Hong Kong a few months ago.

In fact, Louisa Greve, one of NED's directors, is reported to have set up those meetings. Yet Greve's response to questions on her involvement has been a conspicuous silence.

Even organizationally, the NED has not responded to the many e-mail requests for information on its possible involvement in the Hong Kong protests. No surprises there either — for the NED is funded entirely by the US government.

Even more telling is the official

statement issued by the US government recently on the matter. It reads: "The US categorically rejects accusations that we are manipulating the activities of any person, group or political party in Hong Kong". No mention of NED or Greve.

Instead of meddling in affairs of other countries, especially emerging economies, to destabilize their economic rise, the US government needs to indulge in some genuine self-reflection on its role on the world stage. It should not and cannot play the role of "world policeman" anymore. Instead, it should embrace the new success mantra: cooperation and collaboration with an increasingly large and culturally diverse group of countries.

In short, the US should re-focus its ethnocentric eyes to realize that, although Anglo-Saxon values could still play a key part in today's world order, they no longer dominate the proceedings.

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XIAO LIXIN

Beggars put last straw on camel's back

Beggars are using emaciated camels in Foshan, Guangdong province, to exploit people's compassion to get alms, a person recently wrote in his micro blog. Such scenes, however, are not restricted to Foshan, for since early this year beggars have been using ill-fed camels in several major cities, including Guangzhou and Shenzhen in Guangdong province and Xiamen in Fujian province, to seek alms.

Photographs of such camels, forced to kneel down by their "owner" beggars in an attempt to trigger people's sympathy, have drawn widespread condemnation, especially from netizens.

Many people have even asked whether the beggars deliberately ill-treated the camels or chopped their hooves off to make them look more miserable and thus earn more money. Even if the beggars have not done so, the fact that they are forcing the camels to kneel down on the hard road surface for long hours and not feeding them properly are enough to cause great physical harm to the animals.

Recent years have witnessed more organized begging activities. For example, some organized gangs have forced kidnapped or physically challenged children to beg on the streets

and thus violated the law. Beggars are using many other new means to get alms, lending a professional touch to what used to be the last resort of poor people to feed themselves. As a result, an increasing number of people have become wary of beggars so much so that they even doubt the conditions of even the genuinely needy.

Also, the "inventive" means used by beggars to seek alms have scarred cityscapes and sullied the public environment.

Although beggars started using camels to seek alms several years ago, local authorities have still not taken effective measures to stop the practice. Perhaps the lack of proper regulations against cruelty to animals, both domestic and wild, is to blame for that. For example, if the "beggar camels" are domestic, and thus not under the protection of the existing law, local forestry departments cannot take measures such as temporary seizure to stop such practice.

The authorities, therefore, should realize that only strict supervision and punishment, as opposed to leniency, could end the horrible practice of animal abuse. One after another case of cruelty to animals has been highlighted in the recent past thanks to power of the Internet. But it is not enough to



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condemn such misbehavior only at the moral level. The only animal-related law in China is the Law on the Protection of Wildlife issued in 2004, and it does not include the protection of animals such as cats, dogs and other domestic animals, although many countries have had such laws in place

for years. It is time, therefore, for the legislature to enact an all-comprehensive and effective law against animal abuse.

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Give kids full subway concessions

The Beijing local government has decided to allow children up to 1.3 meters tall — increased from 1.2 meters — to travel free on the subway. This is a welcome move, which will help parents of tens of thousands of children in the city to save some money, says an article of the guanchna.gmw.cn. Excerpts:

From 1975 to 2005, the average height of boys aged six years in China increased from 112.3 centimeters to 118.7 cm and that of girls, from 111.5 cm to 117.7 cm. This shows that, over the past 30 years, Chinese children's average height has increased by 6 cm.

The Beijing local government's move is especially welcome because the last revision on subway fares for children was done in 2005 and the latest move reflects the development of the times.

Local governments in other parts of China also should reconsider allowing children less of 1.3 m tall to travel free on the subway. After all, the benchmark was set years ago.

In 2010, the Ministry of Railways, which was dissolved three years later, announced that children up to 1.2m tall — against the existing 1.10m — could travel free on trains. A year later, the Shanghai local government raised the height from 1.2 m to 1.3 m. Now it is time for the country to comprehensively revise the national standard to suit social realities.

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