

# CLINTON'S MESSAGE

In Tiananmen Square, the American president should restate the case for the rule of law

BY SIN-MING SHAW

**F**ORTUNE 500 COMPANIES SALIVATE at the thought of China as the world's largest market in the next century. They have labored long and hard in Washington to soften the United States position on human-rights violations in China, and to smooth the passage of legislation granting China most-favored-nation trading status every year.

Yet it's not clear what the new China lobby has got for all its work. Better access to the American market for Chinese firms, and to the Chinese one for Americans, has netted China a bilateral 1997 trade surplus of more than \$40 billion. Successive years of such surpluses with the United States have helped China accumulate the world's second largest exchange reserves of more than \$140 billion.

The oddity here is that although American investors are the strongest advocates of investment in China, they are relatively small players—accounting for a puny 5 percent of the investment total. That figure is dwarfed by the Overseas Chinese; those from Hong Kong and Taiwan alone have contributed 60 percent of all foreign direct investment on the mainland. A large percentage of the investment made by Overseas Chinese has been in real estate; and the bulk of it has gone to Shanghai. And thereby hangs a tale.

The speed with which old Shanghai has transformed itself into a near replica of Manhattan has been awesome, even to the most jaded. The traffic congestion for which the city was once notorious is now mainly a thing of the past; Shanghai is now crisscrossed by modern freeways, served by an expanding subway and linked to Pudong, across the river, by two large suspension bridges. Shanghai is now a cosmopolitan modern city. It is also suffering from a mind-boggling real-estate glut.

Shanghai, in the early 1990s, opened itself to foreign property investors under Mayor Zhu Rongji. Municipal leaders were supposedly "reluctant" to permit property development, capitalist style. They sold land only to "friends" with the caveat that they must hurry with their checkbooks, as supply was "limited." The city had all been built up, so any new buildings meant relocating tenants to the outskirts of Shanghai. Investors were told that moving residents was not as easy as it had been; the Communist Party could no longer issue edicts moving the obedient masses. The masses had to be consulted; complex negotiations had to be conducted.



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**Shanghai surprise:** A real-estate glut

legitimate. He brought his local lawyers to complain to a senior Wuhan official—who laughed them off. Nobody played things by the book; you'd never meet your quota of foreign investment if you did. In a perverse way, this is honest; every party member in China knows the fundamental contradiction between a constitution that is still communist and the reality of an economy's becoming ever more capitalist. The problem, and it is a real one, is that the law is still more of a state instrument than a body of rules that governs the conduct of the state.

The problems of doing business in China are ultimately traced to this glaring lack of the rule of law. Clinton, once a law student and law professor, should know how crucial that is to any civil and free society. In China, the absence of the rule of law has been devastating; it was at the root of the Tiananmen disaster, when the party could claim that the Constitution placed it above the law.

Clinton would do China—and his supporters in the American business community—a huge favor if he impressed upon his hosts the need for a true market economy. But for capitalism to work, China needs a legal system above politics. The sooner China elevates the rule of law above the party, the better off China and its 1.2 billion people will be, and the more America's leading companies will find it a market where they can enhance their shareholders' value. If China fails to enshrine the rule of law, its economy will eventually stagnate, which will destabilize political society.

That is why Clinton should make a call for supremacy of law above the party the centerpiece of his visit to China. If he does so, in Tiananmen Square he will be rightly saluted for promoting that fair and just society for which thousands gave their lives nine years ago—and which can only be guaranteed by fair and just laws.

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Property investors from Hong Kong, Singapore, Indonesia, even Taiwan, loved hearing that line. They had seen their fortunes multiply wherever economic growth was strong and land supply was tightly controlled. Sure, they had to pay a premium to acquire land from which local developers were excluded, but they were happy to do so; the land was still cheap compared with home.

With the property premium paid in advance on every square foot, Shanghai financed the infrastructure that is now dazzling the world. But the investors were not told that practically the entire city was up for sale. In reality, there was no problem relocating tens of thousands of residents. Party edicts were still honored. Since the government did not release any information on new supply, every investor thought he was buying just about the last piece of land sold in the city.

The result? For the last six years, it has been a rare foreign investor who has made money in Shanghai. Vacancy rates in the city now stand at 40 percent and rising. At least 40 skyscrapers are still being built. Rents and real prices are crashing, and are now just a small fraction of those in Hong Kong. China's penchant to milk the outsiders is endemic. One American investor in Wuhan, once touted as China's Chicago, discovered that his Chinese partners, themselves government officials, had forged his signature to make a deal look