

THE NEW MARRIAGE LAW IN THE PEOPLE'S REPUBLIC OF CHINA:  
TRANSLATIONS, DEVELOPMENT, AND EVALUATION

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by

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## CHAPTER I

### INTRODUCTION

The People's Republic of China has introduced many changes in political, economic and social structures since gaining control over the mainland of China in 1949. The Marriage Law promulgated May 1, 1950, was one of the most striking "reforms." Accompanying the passage of the new Marriage Law, much written material was published to reinforce the propaganda campaign for the new Marriage Law. Many of these propaganda materials were especially written for the poorly educated factory workers and peasants in order to encourage more people to understand their new rights and duties in marriage and divorce, and to help them understand the content and the merits of the Law. This research paper was concerned with the propaganda used by the Chinese Communists in promoting their so-called "new Law," and with some results of carrying out this Law.

The purposes of this report were:

To find the content of a propaganda book about the new and current Marriage Law in China;

To investigate patterns and methods in popularizing and promoting the new Marriage Law;

To find reactions of the people to the Marriage Law and to propaganda materials;

To find the origins and history of the marriage and family revolution in China;

To summarize the aim of the Communists' marriage revolution.

The methods of this paper were:

Translation of the book, "The Revolution of Marriage"; analysis of its content and language.

Study of related library materials in both Chinese and English.

## CHAPTER II

### TRANSLATION OF "THE REVOLUTION OF MARRIAGE"

After the promulgation of the new Marriage Law, propaganda materials were published to enforce this Law. Most of these materials were written for the working class and peasants since they were dominated by the traditional marriage system. Strong resistance to the new form of marriage still remained among this group of common people.

"The Revolution of Marriage," published in China, was one of the typical books concerning the new Marriage Law for the poorly educated. In this book, Niu Chih (1951) wrote twelve chapters with simple grammar in Cantonese folk language. This typical propaganda book was chosen for translation into English by the writer to show how the Communists promoted this Law.

#### Section I. The Marriage Revolution

President Mao led the revolution, overthrew the reactionary party, and established New China in 1949. On May 1, 1950, the Central People's Government promulgated the new Marriage Law. This legislation, which contains eight chapters and twenty-seven articles, clearly regulated all the details about marriage. From now on, all Chinese females will get legal protection and will never be confronted by any kind of pressure or persecution.

The basic spirit of the Marriage Law is to abolish the old traditional system of marriage and to erect a new rational system of marriage. The old systems of marriage, such as arranged marriage, bargaining marriage, bigamy and concubinage, the superiority of man over woman, interfering with the remar-

riage of widows, child betrothal<sup>1</sup> and the like, are all to be abolished and forbidden. At the same time, to carry out the new democratic system of marriage is to bring about freedom of marriage, monogamy, equal rights of man and woman, protection for child and woman.

We have never had such a law for thousands of years. It will make our people have a perfect marriage and a happy family, rear a healthy young generation, and establish a prosperous and strong new China. Therefore, the Marriage Law is an advanced, revolutionary, and a great democratic law. But how many benefits and advantages does the marriage law have for the people and for the society? We are going to illustrate it in detail in the following sections.

## Section II. Abolishing the Forced and Arranged Marriage

In traditional Chinese society, children were supposed to be owned by their parents and they should absolutely obey their parents and never fight against their parents' will. Therefore, the marriage of young men and young women stuck to the parents' order and the matchmaker's recommendation. They did not have the right to plan their own marriage. Neither of the young boy's or young girl's parents ever considered whether or not the two could respect each other, help and support each other, get along well with each other, labor jointly to produce for their country, or even whether they could love each other. Their parents just matched their birth dates from a fortune-teller, or from the Buddha in the temple, or at most they tried to ask about each other's family status and to see whether the two families could match or not. Then they made the two

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<sup>1</sup>Child betrothal: Under the arranged custom, some parents make their sons younger than ten years become engaged to girls older than their sons. These girls live with their fiances' families and take care of their fiances like baby-sitters until their fiances grow up and get married to them. These girls come from poor families. Their parents can not support them and they are sent or sold to be the child daughters-in-law.



young persons live together forever without considering that the two young persons had never met before. This is what we called the forced and arranged marriage.

Few couples under such marriage were happy. Most of them felt bitterness just like a mute person tastes a kind of herb medicine called Wang Lien.<sup>2</sup> He could not express its bitter flavor. It was even worse for the woman who was tied by the traditional concept of morality for the female. They believed that a good horse never eats the grass on the way which he has passed by; a nice woman never marries twice. They also believed in "three obediences and four virtues."<sup>3</sup> They had to be tolerant of whatever their husbands did and were unhappy for their whole lives.

But now, the old society has been pulled down. The new Marriage Law specifies that a man and a woman may get married only if they love each other and both of them agree to get married, and their parents or the other people cannot force or arrange the marriage. Only in such a way, the females may be emancipated; the young man and young woman may be happy; and the family life may be perfect.

### Section III. Prohibiting Child Betrothal

In the traditional society, there was a marriage system called child betrothal. Bringing back a little daughter-in-law, the boy's family might not

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<sup>2</sup>Wang Lien: A kind of herb medicine noted for its bitterness.

<sup>3</sup>Three obediences and four virtues: Three obediences, a girl should follow, obey and depend on her father before she gets married; follow, obey and depend on her husband after she gets married; and follow, obey, and depend on her son after her husband dies. Four virtues a girl should pay attention to, her conduct, conversation, appearance, and needle-work.



only save the wedding expenses but also added to their labor power. The little child daughter-in-law had to work hard from morning till night, but she didn't have enough clothes to wear and enough food to eat. When she was young, she had to endure lots of her parents'-in-law maltreatment. When she was older, she had to endure her husband's spanking and scolding. Such a kind of system was not only unreasonable but also cruel.

There was another system called "Tan Long Hsi."<sup>4</sup> The boy's parents brought his fiancée home before he was born. Therefore, there was a peculiar situation; the wife was older than the husband. Usually, an eight- or nine-year-old boy married an eighteen- or nineteen-year-old girl. In such a marriage, they could not love each other. Therefore, there was much bitterness, conflict, quarreling, and hate till the end of their lives. Some of them even committed suicide through hanging or drowning.

Now, the Revolutionary Law has prohibited child betrothal and people are forbidden to buy and sell girls like cattle. The boy's family should let the betrothed girl who has not yet been married, go back to her home if she is willing to go home. The boy's family cannot stop the girl from marrying another person if she wants to pick her own husband. Furthermore, the boy's family can not be refunded by the girl's family for the cost of buying the girl and the expenses of her daily life. But this does not mean that in all such cases the girl should go back to her own parents' home, or marry another. If she is willing to stay with the boy's family, of course it is all right.

In a word, she can make her own decision; other people are not allowed to interfere in her affairs. Then those girls who have been maltreated may get

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<sup>4</sup>Tan Long Hsi: A girl lives in her husband's home before he is born.

freedom and be liberated.

#### Section IV. Forbidding the Bargaining Marriage

In the old society, it took money to get a wife. One could not have a wife if he was poor. When people married their daughters, some parents demanded a certain amount of cash, food, and cloth. Some of them asked for a money gift, or the girl's family asked for a certain amount of gold, silver, jewelry, and some tea, wine, and food. All in all, in the old society, marriage was a sort of trade; the boy's family was the buyer and the girl's family was the seller. The girls were considered to be a kind of goods; they could be bought by whoever had enough money. That is why there were those rich landlords and governmental officers who had "three wives or four concubines,"<sup>5</sup> while poor laborers had to be bachelors all their lives. Still, there were some farmers who not only got into debt but also sold their farm lands in order to get a wife. There is a proverb: "There is only one poor person before one gets married; there are two poor persons after one gets married; there are three poor persons after one has a child." The people not only could not get benefits from such a marriage but also could not earn a living after such a marriage.

Such a marriage, which makes the women to be property, is savage behavior from feudalism. Simultaneously, people never have freedom under such marriage, so that a majority of the couples don't have love between them. They live unhappily and it influences their ability to produce and their laboring power. That is why the new Marriage Law forbids such a bargaining marriage, and forbids anyone to exact money and goods for a marriage. Now no man may buy his

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<sup>5</sup>Three wives or four concubines: The phrase is used as an adjective to describe that a man is rich and happy.

wife and no woman may sell herself as a wife. This assertion can just correspond to our laboring people's expectations, and wishes. Before our Marriage Law was promulgated, many of our brothers could never have a wife throughout their whole lives but now farm land has been distributed to them and they can also get a wife without paying.

#### Section V. Prohibiting Interference with Widow's Remarriage

In the traditional society, there was a common saying: "unchastity is more important than starvation." It means that although no one supports a widow, yet she would rather starve to death than remarry. The remarried widow was called "Fan Tou Puo."<sup>6</sup> Everybody would look down upon her. After a girl got engaged, if her fiance died, she should keep her widowhood and never marry at all. The saying was: "A thorough-bred horse can never be ridden by two men; a nice lady never gets married twice." In some districts, widows were forced to keep their widowhood for their whole life. Some widows who were not willing to do this and fell in love with other men were put in the piggery and drowned in the water.

Everyone knows that a man may marry again after his wife dies but why should a woman keep her widowhood after her husband dies? This is the expression of inequality of man and woman in the traditional society. Such an old system is bloody and inhumane. It is unnatural and cruel to persecute the women.

The Marriage Law stated that if the widow is willing to remarry, nobody can interfere. Since her husband is dead, why do we let the dead one restrain the live one? Furthermore, most widows live in difficulties. They are lonely

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<sup>6</sup>Fan Tou Puo: A derogatory nickname for a widow who remarries.

and helpless. As the proverb said, "when a husband dies it is as if the sky falls down." It illustrates a widow's emotional bitterness. Now, let her marry again if she herself is willing to, then she will be happy and her laboring emotion will be relieved. This is a reasonable and natural thing.

#### Section VI. Prohibiting Early Marriage

In the old society, there was a custom of early marriage. In some districts, a thirteen- or fourteen-year-old boy was forced to marry by his parents. There are many defects in such a marriage: (1) obstruction of both the boy's and the girl's physical development, and causing her to be in danger during delivery of a baby because of her youth; (2) the new born baby is usually weak, sickens easily, and it is difficult for them to raise him; (3) the early marriage is managed and controlled by the parents, because both of the spouses are too young to manage their own marriage. Because of these disadvantages, early marriage is prohibited in the new society. The new Marriage Law stated that a boy can get married after he is twenty years old and a girl has to be eighteen years old. The reasons are: (1) when a boy reaches twenty and a girl reaches eighteen, they are physically mature and their matrimonial life can bring them happiness after they get married; (2) because the parents are physically mature their children will be healthy; (3) after both of the spouses reach adult age, they are able to choose their own mates and to support their own families and keep their houses.

Forbidding early marriage is for our youth's happiness. Not only is it advantageous to the individuals and to the whole family, but also it is helpful to their offspring's health. When we have a healthy second generation, our country will be more strong and prosperous.

## Section VII. Freedom of Divorce

If both of the spouses feel bitter and their marriage can no longer be maintained, they may get a divorce. Although they have to live together they quarrel more and more since they no longer love each other. They cannot pay attention to production and they also disturb the whole family, sometimes even causing an accident. It is better to let them get a divorce and let each one of them choose his beloved mate. Isn't it wonderful to make a broken family become two happy families?

Therefore, the Marriage Law stated: If one of the spouses insists on getting a divorce, it is also permitted but only after the district people's government or people's court fails in bringing a reconciliation.

Anyway, divorce is an inevitable and needful thing; it is not as free as we like whenever we want. If only one of the spouses, "loving the new one and getting tired of the old one; or liking the rich and disliking the poor,"<sup>7</sup> or for his own temporary pout, or for some vicious desires, wants to get a divorce, it is not reasonable and is not permitted by our government.

Therefore, the Marriage Law also provided: If both of the spouses are willing to get a divorce, they have to register in the district people's government. The divorce certificate is given after the people's government has clearly determined that both of them are actually willing to divorce, and problems of their children and possession have been rationally arranged. If one of the spouses wants to get a divorce, first of all, the district people's government or the district people's court will arbitrate between them. They give a

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<sup>7</sup>Loving the new one and getting tired of the old one: It means the husband falls in love with another woman and deserts his wife.

Liking the rich and disliking the poor: It means the wife falls in love with the rich man and deserts the poor husband.



critical education to the one who has the fault, and try to persuade the couple to reunite, to reform their family life cooperatively and to make it to be a democratic and happy family. If the intercession of the district people's government or the district people's court does not work, the case is turned over to report the "Hsien"<sup>8</sup> or the city people's court. There they also try to intercede. When one of the couple persists in getting a divorce while the other insists on refusing it, the court considers their facts, needs and reasons, then permits them to get a divorce or not. Moreover, it also provided: If both of them are willing to be reunited after divorce, they are permitted to get married again. These regulations and limitations are all very rational and needful.

Some people said, "Freedom of marriage is a good thing, but freedom of divorce will make the whole country chaotic." Those who said that must not understand the meaning of freedom of divorce. The aim of freedom of divorce is to make some men and women have a chance to be released from the control of the unhappy marriage in order to maintain the family and to be advantageous to the society.

#### Section VIII. Carrying out Monogamy

In the traditional society, there was polygamy by which a man could have several wives. For instance, many civil officers and officials from the Nationalist Party had three wives or four concubines. In the farm village, it was also very common that the vicious landlords and some local bullies by using their privileges, power and property forced or persuaded the poor tenants to sell their daughters to be their own concubines. A landlord, in the suburb of Kuang Chou City, said, "There are three merits of a concubine: First advantage is

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<sup>8</sup>Hsien: The term for a place larger than "district" but smaller than "province." It has the same meaning as "county" in the U.S.

to do the farm work; second advantage is freedom from paying her; third advantage is to be played with." You see how cruel and inhuman were the exploiting class! Under such marriage, the male took females as his toys to play with and as cattle to be driven to work so that the female was very much maltreated and bitter. Since there was a traditional concept by which people believed that among the three unfilial situations no offspring was the worst one. Therefore, if a man was his father's only son and his paternal uncle or maternal uncle did not have a son he should have two wives.<sup>9</sup> Some people getting a concubine were doing so because of hurrying to get a son, before their wives were pregnant. There were also two sisters getting married with one man. That is why there were lots of quarrels and always lack of peace in the family.

Now the Marriage Law prohibits such polygamy and carries out monogamy. It stated: A man, who gets a concubine, commits a crime, even if his first wife has agreed to it. Those who got concubines before liberation<sup>10</sup> will not be interfered with by the government directly in order to let them support their concubines. But if any one wife or concubine accuses her husband of bigamy (it does not necessarily mean that only the first wife can accuse her husband of bigamy), her husband can continue the husband-wife relations with only one of his wives. He has to let other wives come back and he takes care of their lives. Therefore, the male and the female can be equal and women can be emancipated from the unreasonable marriage system.

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<sup>9</sup>"This custom is called 'Chien Tiao' (lit. 'concurrent ancestral hall') means that the son of one brother or cousin was 'shared' with the other heirless brothers or cousins, in order to provide male descendants for the several families' lineal descent through several concurrent marriages" (from The Marriage Law of The People's Republic of China, 1959, p. 16).

<sup>10</sup>Before liberation: Before the Communist Chinese controlled the mainland China.



## Section IX. Equality of Rights of Husband and Wife

There are some proverbs like "death of a son discontinues the family name; death of a wife is just like a piece of wall falling down." "Taking three meals from husband's family, a wife should be controlled by his family." "Husband as the god, he is always right." "Husband is the head of the family just as a god in his temple." These examples mean that in the traditional society, the status of man and woman was quite different. In a word, the husband was the family head while the wife was subordinate to him. Some husbands could even mistreat their wives or do whatever they liked to their wives. That is why there were many unhappy families and both husbands and wives hated each other as enemies.

In order to get rid of such a wrong situation of inequalities between man and woman, the Marriage Law particularly provided: Husband and wife are the companions of their shared family life; they have entirely equal status in the family. In the daily life, they should love, respect, help, and get along with each other. They should cooperate in nurturing and educating their children, keeping their houses and serving the society. In other words, either one of them may not abuse the other. Both of them should undertake all the responsibilities of the family and consult with each other about all the problems they meet. Each of them should learn the other's excellence or merit, and criticize the other's defects. Whoever behaves incorrectly should examine himself with open-mindedness. They should look after each other whenever they meet problems and disease. Not only the husband and wife relation is democratic but also the relations between parents-in-law and daughter-in-law. Parents-in-law love their daughter-in-law and the daughter-in-law respects her parents-in-law. Then the man, the woman, the old and the young combine together and live in harmony.

Family members have equal rights. Every family member has the freedom of

choosing his vocation, joining the laboring and social activities. Both of the spouses have the right to manage family possessions. Either of them may retain his own family name.<sup>11</sup> No one can control the whole family.

If every one can stick to these principles, there will never be dissension in the family and it will become a happy and rich one.

#### Section X. Protecting Women's Legal Rights

Under the traditional marriage system, a woman suffered from limitless maltreatment and abuse. She had to cook meals, wash clothes, nurture children and do every kind of housework. Although she worked so much yet her husband might often say, "You are supported by me." The wife did not have the right to use family possessions. Now the Marriage Law stated: During divorce, all the family possessions and debts have to be arranged on the basis of different family situations, the wife's and children's rights, and the effective development of production. All the possessions belonging to the wife before marriage should still belong to her. Debts owed by husband should be paid by him and the wife should pay her debts. The debt which is owed by both of them should be paid from the family possessions. If the family possession is not enough to pay the debt, the husband should be responsible for paying the remaining part of it. The Law provided: After divorce, if the wife who has not yet been remarried has difficulties in earning her living, the husband should help her financially. Since in the old society, women had many environmental constraints and limitations, their vocational abilities were less than those of the men. A majority of the women could not earn their own living so that they needed to be taken care of

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<sup>11</sup>His own family name: A wife may retain her family name instead of her husband's last name.

financially more than the men.

The Marriage Law also stated: The husband may not bring a divorce action during his wife's pregnancy. He has to wait until one year after his wife's delivery, if he still insists on getting a divorce. But the wife does not have to wait.

Some people said, "This Marriage Law gives too much protection to women and too much limitation to men," but this is incorrect. These regulations of the Marriage Law are to make the women free, and open the shackles of "the privileges of husband" from the traditional society. When women get real freedom and equality they will be more effective in production for the state. It is quite advantageous to the development of production and the establishment of a new society. Therefore, to protect women's legal rights is also to protect the public rights of the society.

#### Section XI. Protecting Children's Rights

It was very common to look up to the male and look down upon the female in the traditional society. Lots of baby girls were drowned with water or urine as soon as they were born. The unmarried women would go to have an abortion when they were pregnant. If the abortion did not work, the new born babies (illegal children or illegitimate children) would be thrown away or put to death fur-  
tively. After the parents got a divorce, no one educated and nurtured their children. Those children who followed their remarried mothers to other families were looked down upon by the other family members, and they were laughed at and called, "Twao You Ping."<sup>12</sup> The children from the poor families were sold at an

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<sup>12</sup>Twao You Ping: A nickname for the children who stay with their remarried mother.

early age to be the menials who suffered from spanking and scolding. Children abused by their step-mothers were more common at that time. These customs were cruel and unreasonable.

We often hear people say that children are the future subjects of the country. We have to depend on our children if we want to establish a socialistic and communistic country, so that parents should love, protect and value their children.

The Marriage Law stated: First, to protect children's daily life and human rights, parents have the obligation to raise and provide for their children. They are prohibited from drowning or deserting their children. If they do, they commit a crime. Second, to insure children's lives and education, if the parents want to get a divorce, whether the children are given to the fathers or the mothers depends on the benefit to the children. If the wife takes care of the children, the husband has to be responsible for a part or the whole expenses of their daily lives and education. In a word, whether the parents get a divorce or the mothers remarry, they have to be responsible for and take complete care of their children's lives and education. Third, to uphold the equality of the children's human dignity, we should also protect those children whose mothers are not married, and should not despise them. Some people say, "Will it encourage illegal sexual relationships to protect the illegitimate children?" The answer is "No." The illegal child is innocent. It is his parents' fault because they have a child without a marriage ceremony. Every child is one of our country-men, so that we should protect him. Step-mothers should nurture and educate those children who are not born to them, as well as their own children, and should not abuse them. Step-fathers may not abuse the children brought with their wives. Adopted children should be treated as well as our own children. These principles all correspond with the morality of the new society.

Protecting children is one of the basic principles of the Marriage Law. Parents and children of the new society should love and respect each other. The parents bring up their children and the children should also provide for their parents when they grow up. In the past, the reactionary group had a rumor, "Communists deny parent-child relationships." Now, the Marriage Law is like an iron fist; it knocks this rumor into pieces.

#### Section XII. Advocating the Marriage Law

Now, we have already shown that there are many defects of the traditional marriage and many merits of the new democratic marriage. But all of us have just come out of the old society and entered into the new society; there are still, more or less, some traditional concepts in our minds. It is impossible for us to root out the old concepts immediately. Therefore, things still happen such as interfering with free marriage, and persecuting women, so that we want to make propaganda for the new Marriage Law and illustrate it.

If such things still happen as arranged marriage, purchasing and selling women, spanking wives and abusing daughters-in-law, etc., we should talk with the people who do this and persuade and direct them to carry out and advocate the Marriage Law. If our advice is in vain, we may make an appeal to the people's government or people's court. Let the government judge, make the decision, and educate them.

The Marriage Law is advantageous to every one of us and it is more advantageous to the coming generations. If everybody can do it, everybody will have a happy marriage, every family will be merry and cooperative and our country will be strong and prosperous.



## Appendix

Exactly How to Recognize Love. Many people have an inexact concept of free love. When the traditionally minded people see a young man and a young woman get together; they have "much cry and little wool"; they exaggerate and criticize the young couple. When they themselves fall in love, they feel shy and ill at ease. Some people's viewpoint of free love is to be as free as they want to. One falls in love with one person one day and with another next day. Such a kind of love is not serious or careful. Some of them even have marital relations before marriage. Some people are infatuated with their sweethearts or lovers, and put away all that they should do like producing and learning. These incorrect concepts and behavior can break a happy life, and obstruct the execution of the new Marriage Law. Therefore, we have to correct it by understanding:

(1) The young man and woman of the new society should manage their own marriage. Then they have to choose their mates. During this stage, they get together and try to understand each other clearly, and then they can plan their wedding, so that falling in love is quite normal and natural. Each young man and woman has to pass through this loving stage; they should not have "much cry and little wool."

(2) The goal of love is to marry. The marriage relationship should be permanent and eternal, such that we should be careful and serious in it, otherwise it will bring us bitterness and make our families and other people object to us.

(3) When people are in love, they should distinguish whether their mates can do well in producing, working and learning. If both of them can do well on these things, then they can love and help each other to make progress in the People's Republic. It is incorrect to give up production and learning to make

their lives confused and without order because of love.

Real love should be such that both of the mates communicate with, understand, love and help each other, besides encouraging each other to do better in producing, learning and working. Then their lives will be happier and make a good start for their marriage life.

How to Choose Ones Mate. Some young farmers and factory workers find that it is difficult for them to find a mate. They fear that no one will love them. As a matter of fact, work is the most honored thing. A progressive and effective laboring man will not have difficulty in finding a mate.

In the factory and on the farm, combining producing, meeting, and learning, the young man and the young woman have lots of opportunities to meet each other. After they are acquainted with each other, it is easy for them to fall in love, if both have good effective production records, and have advanced concepts. It is not difficult for these young men to get their mates.

Qualities of a good mate should be (1) advanced concepts, (2) effective production, (3) continuous learning of new ideas.

Some people say, "Concepts can not be touched and seen; it is difficult to know whether the other's concept is advanced or not." Actually, it is quite easy; if a person consistently advocates communism or doctrines of the People's Government, he has advanced concepts. For instance, in a factory, he will produce diligently, cooperate with his colleagues, he will win patriotic contests, carry out frugality, keep the national secrets, and prevent enemy subversion. In the farm village, such a man will effectively join the agrarian reform, join the farmer's association, join the local militia to keep guard for his community, have an eye on the landlords, put down the anti-revolutionary group and guard our country. All of this is progressive and honored behavior. We should choose such people to be our mates.



Now, there is a popular slogan which says "everybody loves a laboring hero." There are many benefits in labor. A working-man can make his family rich and guarantee his family life to be happy. A man who does not work is like a parasite; landlords have never labored therefore we should put them down. Young people have to choose working persons to be their mates.

Then, a man can continuously progress in political, cultural and productional technique only by making an effort in learning. Therefore, a good mate has to be a man who works hard to learn.

Simultaneously, age and health of the mate are also very important criteria. If we neglect these criteria, it will influence our future married life. As for being good-looking, it is also a criterion but not important. If a man is only good-looking, but he does not like to labor, to learn, and to make his concepts advanced, no one will love him.

Finally during mate-choosing, we have to evaluate our own qualities besides demanding much from our mates. We should neither demand too much from the mates nor too little. If a person already has a lover or sweetheart, in order to avoid causing traingular trouble, we should not chase after that person.<sup>13</sup>

#### Summary of Book

In a word, the new Marriage Law was on the basis of freedom of marriage for both sexes, equal rights for both men and women, monogamy, and protection of the legal rights of women and children. All the traditional marriage system became illegal under this Law.

In this book, the author selected the defects of the feudal marriage system and praised the merits of the new Marriage Law by comparing the two

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<sup>13</sup>End of translation of "The Revolution of Marriage."

systems using Cantonese folk-language, in order to appeal to workers and farmers.

## CHAPTER III

### PROMOTION OF THE NEW MARRIAGE LAW

#### Some Other Propaganda Materials

Besides the above way of popularizing the Marriage Law, there were other ways to write the propaganda materials, such as groundlessly criticizing the marriage laws of the pre-communist period and those of the capitalist countries. Two such critics were Chang Chih-jang and Teng Ying-chao.

Chang Chih-jang (1959) stated that in the time of the warlords and Kuomintang reaction, although there was legal provision for freedom of marriage, it was not carried out in practice. In general, the ruling class never cared about anything which was of great interest to the people but which was of no interest to itself; and the question of freedom of marriage was no exception. So freedom of marriage existed only on paper. The author also said (Chang, 1959) that although there was legal provision for divorce in the time of the warlords and the Kuomintang reaction, the provision was cluttered up with so many qualifications that it was hardly even applied. In addition, the courts obstructed in many ways the granting of a divorce, with the result that there was no actual freedom of divorce. Chang (1959) went on to point out that the reactionary Kuomintang regime hypocritically prohibited by law the aforementioned polygamous practices, but indirectly permitted them to continue. This author was the vice-president of the Supreme People's Courts.

The vice-chairman of the All-China Democratic Women's Federation, Teng Ying-chao (1959) stated that in the days of the feudal emperors men could divorce their wives on seven grounds; and the Code Book of Six Basic Laws of the Kuomintang reactionary regime was no better in this connection. Teng also said

(1959) that the new Marriage Law was fundamentally different from bourgeois marriage laws which, though containing such high-sounding expressions as freedom of marriage, actually offered no freedom of marriage to the working people. Both in capitalist countries and in the old China under Kuomintang rule, the working people were denied political and economic freedom, and they could not expect to enjoy freedom of marriage. This, he said, accounted for the fundamental difference between Kuomintang laws on marriage and the new Marriage Law.

With such propaganda materials as these in order to carry out the new Marriage Law more effectively, the Chinese Communists tried to make their people believe that the new Marriage Law was not only much better than the pre-communist marriage law but more democratic than those of the capitalist countries.

#### Methods Used in Propaganda

The Chinese Communists tried to use every method to publicize their new Marriage Law to both the literate and the illiterate. Advantage was taken of many different kinds of mass media and public occasions to publicize this Law.

Books, pamphlets, magazines, and newspapers were most commonly used. Folk stories in simple language and pictorial comics were especially written for the less-educated. Stories were recited in the public places by storytellers for the illiterate persons. Some new marriage ideas were inserted in dramas and plays. Many of the traditional operas, praising women's virtue and the feudalistic family system, were revised and all the feudalistic values were exchanged for the new "morality." Wall bulletins and cartoons were stuck on the walls of public places. Reading classes, night schools and marriage counseling were set up for people to study the Marriage Law and to receive instruction concerning on marriage problems. Volunteers of women's associations, youth's

clubs, and the Communist Party organized themselves into propaganda groups to publicize the Marriage Law to their colleagues, neighbors, and family members.

Two strong and effective methods invented by the Chinese Communists to extend the propaganda of the Marriage Law were exhibition of marriage problems and mass trial and verdicts. The former method meant that a living victim under the feudal marriage system told her own miserable story in front of many visitors. The latter method was more complicated but more effective. After the discovery of a person's having been tortured to death, a mass meeting was called. On the stage, the arrested criminal was forced to perform the whole processes of the murder case. As the group's emotion reached the highest tide, the chairman or the director of the meeting asked for a mass verdict, and the penalty, usually death, was carried out right after the verdict was issued by the group. Not only a new moral lesson was given to the group but it made the feudalistic-minded audiences lose their boldness in maltreating their daughters-law or wives, and those who were tortured were encouraged to get a divorce (Yang, 1959).

The Chinese Communists also pushed the people's courts and other public and private organizations to extend their propaganda in order to eliminate resistance to the Marriage Law from rural communities. One government officer said that all the people's courts had to study the propaganda of the Marriage Law as an important and daily duty. They were to cooperate with other agencies in taking advantage of all kinds of meetings, training classes, reading classes, night schools, vacations, holidays, newspapers, broadcasting, mass trials, juries, mass verdicts, information offices, waiting room lectures, exhibition of verdicts, bulletins and cartoons to extend the propaganda at any time or in any place so that every citizen would know about the new Marriage Law. (Marriage In a Communist Society, 1952).

This was a general picture of how the Chinese Communists publicized their Marriage Law for the purpose of carrying out its provisions thoroughly in a short time.



## CHAPTER IV

### INFLUENCES AND DIFFICULTIES IN ADMINISTRATION OF THE NEW LAW

Under the nation-wide and carefully planned propaganda, knowledge of the Marriage Law was quickly spread over the Chinese mainland through the political power of the Communist Government.

The reaction of the people to the Marriage Law was quite different on the basis of their different socioeconomic backgrounds. Before the Communists came, most of the upper and upper middle classes in the urban areas had received modern education and had long been influenced by the modern marriage idea from many kinds of mass media. As a matter of fact, many of these people had already practiced what the new Marriage Law provided, such as freedom of marriage and divorce, equality between husband and wife, and remarriage of widows, during the pre-communist period. The new Marriage Law seemed familiar to them so that it was easy for them to carry it out. But the urban workers and the rural peasants had scarcely been touched by the modern culture. What they knew and practiced still followed the feudalistic marriage system. It was naturally difficult for them to accept this Law in a short period.

#### Influences of the New Law

Since the Marriage Law was promulgated, different reactions produced different results. Some people, especially young men and young women, struggled to manage their marriage according to the new Marriage Law. Several examples indicated that marriage by free choice, divorce, and remarriage of widows increased since the Marriage Law was promulgated.

According to incomplete statistics, (Marriage In a Communist Society, 1952) during the period from January to April, 1951, more than 23,600 couples were



married by free choice in the Central-South Region. Many widows were remarried after many years of widowhood. According to the statistics of 36 villages in Tzeng Chow Special District of Honan Province, 469 widows remarried freely from July to December, 1950. From May to October, 1950, 6,686 couples married by their own choice, and 1,279 couples got a divorce reasonably in Peking.

In twenty-one large and medium-size cities, including Peking, the number of matrimonial suits received was 9,300 from January to April 1950, and 17,763 from May to August of the same year. In other words, there was an increase of 91 per cent in the four months following the promulgation of the Marriage Law in comparison with the preceding four months. In ten county-seat towns in Hopei, Ping-yuan, and other provinces the number of matrimonial suits received was 986 from January to April 1950, and it was 1,982 from May to August of the same year. The increase here was 101 per cent. (Yang, 1959, p. 69)

#### Difficulties in Administration of the New Law

On the other side, some people tried to resist the Marriage Law instead of accepting it. Not only the common people opposed the Marriage Law but also many of the local Communist officials and cadres (officers) held an antagonistic attitude toward this Law even though to enforce it was a part of their responsibilities. Both the common people and the local cadres had a general fear that freedom of marriage and divorce would lead to promiscuous relationships between men and women, and so would cause deterioration in general Chinese morality. Many people tried to stop their wives or children from carrying out the new marriage system by using serious punishment. Many of the district or village cadres even used imprisonment, torturing, and fines in handling the matrimonial cases in order to retain the traditional marriage system. Therefore, after the passage of the new Law, troubles increased as well as free marriage and divorce cases. Some typical problems were as follows:

In a village near the town of Shaohsing in Chekiang Province, a village school teacher, Chang Jui-peng, a member of the Youth Corps, fell in love with a "progressive" girl who was also a member of the Corps. When they became engaged and asked for consent from parents on both sides, they met objection from both of their families and from the villagers. Even the Youth Corps called a membership meeting to launch a "struggle" against them, saying that "our Corps is morally pure, but the relationship of these two is not pure." A decision was made to dismiss the two from Corps membership. Group pressure closed in on them. The man attempted suicide but failed. The girl became mentally ill. Later, the case was brought to the attention of the people's court, which straightened out their trouble, and they were married. (Yang, 1959, p. 38).

In Shitang village of the third subdistrict, Yung-chun county of Kwangsi Province, during the period from May 30 to June 6, 1951, the village head ordered the militia to arrest and cruelly torture ten women, forced them to parade in the streets, and made them the object of "struggle" in mass "struggle meetings." The charge was that these women manifested bad behavior. The case was later discovered by the people's court and the village head was sentenced to four months imprisonment, for the women's "bad behavior" was their attempt to make love to men or to marry for love. (Yang, 1959, p.37).

These two cases indicated the degree of the opposition from the common people and the local cadres as they handled the free marriage cases.

The concept and behavior of looking down upon and even coercing the woman still existed strongly in some judicial organizations of Hsien and in some male cadres of districts and villages (Marriage In a Communist Society, 1952). This was an important obstruction to the new marriage system. They incorrectly thought that society would be chaotic since the woman had freedom in managing her own marriage. The Judicial office of You Yu Hsien, Shansi Province convicted a woman who was seriously stabbed by her husband because of applying for a divorce. The verdict stated "You have been married for three years and though your husband does not behave well, you should gently persuade him to be good. You should not disregard the woman's virtue and lose your reputation. If you were not hurt seriously you should be also given a penalty. Since you are hurt like that, you will not be punished but you should examine yourself!"

In Tso Chuan Hsien of the same province, a woman was killed with a pair of tongs by her husband; the personnel of the local government did not give the killer deserved punishment. In District 2, Shing Hsien, a village cadre inflicted a penalty on a woman who had applied for a divorce; he tried to use a penalty to quell all women who wanted a divorce. Many of the officers in local governments delayed and put away all kinds of divorce cases, applied for by women, by using the incorrect slogan that freedom of marriage gave only benefits to women. They even forced these women to cohabit with their husbands after divorce. Some women applied for a divorce more than ten times, but these cases were delayed by two or three years and still have not been resolved. In District 7, Whei Hsien, Pingyuan Province, a woman applied for a divorce because she could not get along with her husband because of the wide difference in age. The district government did not permit her a divorce and forced her back home where subsequently she was beaten to death by her husband. In Ta Lien City, a woman worker of a ship factory committed suicide by jumping into the sea because the district government did not permit her a divorce and insisted that divorce should be granted only when both husband and wife desired it.

Some district and village women cadres still had strong feudal concepts. Not only did they fail to take the woman's side to overthrow the feudal marriage, but also they persecuted those women who wanted freedom of marriage. In District 2, Fong Chen Hsien, Kiangsi Province, the chairman of the woman representatives bound a woman, applying for a divorce, and shamed her. In An Hua Hsien, Honan Province, five female militia bound a divorced woman and let the village master beat her.

In Lung Nan Village, Hsiang Yang Hsien, Hupeo Province, a widow wanted to remarry but she was suspended and cruelly beaten by the village cadres in the mass meeting. Both the widow and her child were prohibited from crying and the

next day she committed suicide.

The above examples show that the divorce action initiated by women was also opposed by traditional-minded common people and local cadres. Remarriage of widows was also opposed as well as freedom of marriage and divorce.

It was notable that those women who wanted but failed to get a free marriage, or a divorce, or a remarriage were stopped in different ways by the Communist cadres. Under the traditional marriage system, women were greatly restricted. The examples showed that divorce seemed to meet more opposition than remarriage of widows or free marriage. It might be that a divorce action, brought by a woman, not only degenerated the Chinese tradition, by which only the husband could divorce his wife, but also damaged the husband's family. A woman's divorce made her husband lose labor power, and his wife's own possessions which she brought with her as she married. In addition, sometimes he had to pay alimony. Under the traditional discrimination toward the female, local cadres, and even the cadres, took the males' side and sympathized with husbands whose wives wanted a divorce. They tried in every way to prevent these women from getting divorces. Local Communist officials tried to stop the woman divorcers by paying no attention to their appeals, delaying or putting away their divorce cases, forcing them to go back to their husbands, torture or imprisonment, threatening them by a fine or withdrawing alimony.

Failing in getting a divorce, and without the support of their own families, most of these women met more maltreatment or torturing from their husbands or in-laws. When they could no longer stand it, they were forced to run away or commit suicide. Some of them were even killed by their husbands as they tried for a divorce or failed in getting a divorce. When alimony was withdrawn, some women could not support themselves and were forced to be prostitutes.

Under the conflict between those who strongly resisted the Marriage Law and

those who strove for the new marriage system, women were mostly the victims in the traditional male-centered society. It was reported (Marriage In a Communist Society, 1952, p. 56) that in one year after the Marriage Law was promulgated, more than 10,000 women were persecuted to death or forced to commit suicide because of marriage problems in the whole Central-South Region.

Some Communist officials did not know how to handle a divorce properly and fairly. It might be that they did not understand the meaning of the divorce under the new Marriage Law or they feared punishment by their leading organizations if they delayed in dealing with or stopping a divorce case. These cadres indiscriminately granted divorces without considering and examining the real situations of both parties. An ugly face of ones spouse or an incidental quarrel could be the ground for granting a divorce. Some of the cadres even granted a divorce to whoever applied for one. Many of the couples applied for a reunion just after being granted a divorce. Some people took advantage of such a chance to earn alimony and others used the situation to get rid of their spouses when they fell in love with other persons.

It was also found (Marriage In a Communist Society, 1952) that some cadres had an attitude of indiscrimination and lacked seriousness, especially in enforcing Item 2 of Article 17 of the Marriage Law. They misunderstood "...the court shall render a verdict without delay." as "...the court shall render a divorce without delay." or they were irresponsible and indiscreet in dealing with divorce cases. They stressed freedom of divorce while explaining the Marriage Law; or they groundlessly and unreasonably yielded to the party applying for a divorce. For example, the Bureau of Yung Chou ( a military and political organization), in order to blandish these cadres, gave permission for divorces to 21 couples based only on some cadres' one-person applications, without going through the lawful procedure of informing the other party to seek reconciliation.



In Nan Kang, a couple, who loved each other applied for a divorce for only an incidental quarrel, and the court permitted them a divorce. Some people got permission for a divorce one day and applied for reunion the next day. Some men applied for a divorce on the grounds of their wives' ugly faces, rough skin, shortness, illiteracy and the like. Some women applied for a divorce on the grounds of their husbands' poverty and unemployment.

In Hsuan An Hsien, Hupei Province, a man was permitted to get a divorce for quarrelling with his wife, but he regretted this as soon as he went home. He applied for a reunion but was refused by the village cadre and he was even refused a common-law marriage with his wife. According to the April survey by the People's Court of Wu hang City, among 67 cases of divorce, 12% of them got a reunion. A man in Honan let his daughter marry four times and divorce four times within six months in order to extract money by taking advantage of the freedom of marriage and divorce.

The situation of indiscriminate granting of divorce could have been one of the factors in increasing the divorce cases, for it seemed to encourage the people to apply for a divorce. Three out of eight chapters of the new Marriage Law were on the subject of divorce. Just as Yang (1959) said, it received more attention than any other subject in the Marriage Law, so some cadres put greatest emphasis on divorce in their propaganda. Freedom of divorce might be deeply impressed in the people's minds. Many people considered the Marriage Law as a divorce law and the people's courts as the divorce places. Anyway, such an indiscreet attitude in handling divorce cases made the common people misunderstand the real meaning of the term divorce.

From the promulgation of the Marriage Law to the end of 1950 (Marriage In a Communist Society, 1952), matrimonial cases were at the top of all the lawsuits in the Central-South Region; accounting for 67% of all lawsuits in Honan

Province, 66% of all the lawsuits in Hupei Province, and 58.7% of all the lawsuits in Kiangsi Province. From January to May, 1951 the people's courts of the whole Central-South Region received 3,288 cases concerned with the New Law, and 2,597 of them became divorce cases. This was almost 79% of all the marriage cases.

Another fact was that most of the divorce suits were brought by women. It might be because women were still receiving much maltreatment and discrimination in the traditional rural areas. Another factor encouraging women to apply for a divorce was that the Marriage Law seemed to give more benefits and consideration to divorced women than to men.



## CHAPTER V

### HISTORY OF THE FAMILY REVOLUTION IN CHINA

Although the Chinese Communists called their Marriage Law a new marriage law, yet the ideology behind it was neither new nor strange to many of the Chinese people. The ideology of the new Marriage Law was not initiated by the Chinese Communists in China. It originated in Western countries and was transmitted to China by the end of the nineteenth century.

Influenced by Western ideas and industrialization, people began to pay attention to ideas like individualism, equality and freedom. Being politically and economically in communication with Western countries, some people began to be aware that both nationalization and industrialization were incompatible with the traditional family system. Such awareness stimulated some educated young men and young women to reject their traditional social roles and family ideology.

Yang (1959) described the Chinese family revolution as beginning at the end of the nineteenth century. He also divided this revolution into several stages as follows:

#### Kang Yu-wei's Reform Movement in 1898

In 1898, Kang Yu-wei, an official of the Ching Dynasty, first organized a modern reform group. He pointed out that the traditional family system had to be reformed in order to modernize China, but his movement had little effect on the traditional family system because of the lack of the people's support and understanding. Some people were unconsciously influenced by his attitude in doubting Confucian orthodoxy.

### Sun Yat-sen's Republican Revolution in 1911

The Republican Revolution of 1911 was led by Sun Yat-sen, the father of the Republic of China. He persuaded the people to expand "familism and clanism into nationalism." This revolutionary group was organized by most of the young men and several young women. These less traditionally-minded young people brought some of the Western marriage and family ideology to the Republican Government. The Chinese traditional family pattern was continuously changed through the different laws on kinship relations promulgated at this stage by the Republic Government. The formal political control of the traditional family system was reduced under this government. Some subsequent women's movements toward abolishing their traditional social roles were stimulated by these women of the Republican Revolution group. They were also worshiped as heroines by young women later on. This revolution had an important effect on changing the traditional family system.

### The New Culture Movement in 1917

The New Culture Movement in 1917 which later became the May 4th movement in 1919 first publicized the idea of family revolution to the Chinese society. The aim of this movement was to raise women's status in the family and in society. It demanded equality between man and woman, free communication between opposite sexes, marriage by free choice and love, more freedom for young people and a new family institution of Western type. Books, pamphlets and magazines were published to help advocate this new ideology. Another social force stimulated by this movement was an attack on Confucian orthodoxy and the social institutions modeled after it. The slogan of this force was "down with Confucius and company." The kinship values and family system of Confucian orthodoxy began to be doubted,

criticized, and attacked, especially by the modern educated young. Consequently, the family revolution developed as a rebellion of the educated young men and women against the traditional social order. Under the strong demands for equality and freedom and continuous attacks on conformity to traditional systems, many traditional families, mainly among the urban upper and upper middle classes were forced to make some basic changes by the mid-1920's. Family problems were important as well as the political, economic and social problems.

### The Law of Kinship Relations in 1930

The National Government was established in 1926. During the period from 1927 to 1937, the family revolution was speeded up by the new political and social powers. Many modern educated young men became the high ranking officials of the Nationalist Government, such as President Chang Kai-shek of the present Republic of China. Development of modern education and mass media facilities spread the new idea of marriage and family to more urban upper and upper middle classes, to some of the rural well-to-do young generation and some urban workers. The development of women's education and coeducation, and the growth of occupational opportunities for women raised women's social status and gave them economic independence. Urbanization, industrialization, and modern recreational facilities reduced the functions of the traditional family. Marriages of romantic love and nuclear families resulted from increasing social contacts between opposite sexes. At this period, the greatest political success in the family revolution was the promulgation of the Law of Kinship Relations by the Nationalist Government in 1930. The Western ideology on marriage and family was formally introduced in this Law. The new marriage and family system first appeared in Chinese history at that time, but the Nationalist Government did not have an effective general enforcement for this newly promulgated Law of Kinship

Relations. Therefore, this Law reached only modern educated people while a majority of the common people did not know of its existence.

During the period of Japanese invasion from 1937 to 1945, physical separation of family members, caused by warfare and famine, again destroyed the traditional family functions. Regional mobility of urban people into rural areas also helped in disseminating the new idea of marriage and family to the common people.

#### Outline of the Law of Kinship Relations

The Chinese family revolution was not started by the Chinese Communists, but their new Marriage Law was the second important step during the process of this revolution. The troubles in the Chinese mainland, brought about by the promulgation of the new Marriage Law, indicated that the family revolution had not yet completely succeeded and was still continuing.

The first important step of the family revolution process was the promulgation of the Law of Kinship Relations by the Nationalist Government. It was the first new law of marriage and family in Chinese history. Most of its principles were borrowed from European marriage and family laws. This law was based on such democratic ideas as freedom of marriage and divorce, monogamy, and equal rights between husband and wife.

Some important principles (Tai Yen-whei, 1962; and Chang Tze-bang, 1964) illustrate this law.

Marriage could be contracted only after the man had reached 18 years of age and the woman 16 years of age. Marriage was based on the willingness of the two parties. Compulsory and forced marriage was illegal. Marriage contracted under threatening or cheating was illegal. Bigamy was illegal. A marriage should be contracted with more than two witnesses present in order to certify

the complete willingness of both parties. Both husband and wife had equal rights to inheritance of other's property and in possession and management of their own property.

Divorce was to be granted on the basis of complete willingness of both husband and wife. Such a divorce should have a written contract and be signed by more than two witnesses in order to prove the complete willingness of both parties. No one could represent either the husband or the wife in contracting a divorce. Divorce through cheating or threatening was illegal. Either husband or wife might apply for a divorce on the grounds of the other party's bigamy, adultery, maltreatment, desertion, planning murder, or a crime with more than a three-year penalty, and more than three years of lack of correspondence between the two parties and ignorance of either party's whereabouts. Such a divorce should be rendered only after failing in a reconciliation between the two parties by the court. Both husband and wife should retain after divorce the property belonging to him or her prior to the marriage. Either husband or wife should help the other party financially if there was difficulty in maintaining a life. Either husband or wife could remarry after the former marriage ended.

The above principles indicated that all the unreasonable traditional marriage systems, such as the compulsory marriage, child betrothal, concubinage, interference with widow's remarriage and the like, were considered to be illegal by the Law of Kinship Relations.

#### Influences of the Law of Kinship Relations

Lacking general effective propaganda and enforcement, this Law did not have much influence on such a traditional society, especially in most of the rural area which was dominated by the feudalistic marriage and family system. However, this Law influenced many educated people among the upper and upper



middle classes in urban areas. Therefore, the free marriage, divorce, and remarriage of widows increased in numbers among these people after the promulgation of the Law of Kinship Relations. Since not all the educated persons of upper and upper middle classes could give up their traditional concept all at once, the half-traditional and half-new marriage was quite popular in urban areas. Usually, the parents picked out a nice boy or girl for their child and let them meet in some place, such as a city park, a restaurant, a relative or a friend's house. If the two young persons did not hate each other or even liked each other at the first sight, this marriage would be mostly successful. Some modern-minded parents would let the two young persons have a couple of dates after the engagement and before the wedding. If the two young persons disliked each other at their first meeting both of their parents would go to pick out some other nice candidates for them.

Marriage with complete free choice and love could be carried out only by those who had chances to meet the opposite sex and the ability to communicate with them. Many young men and women who did not know how to love though they liked to have romantic love, were aware of their new rights on marriage, and had chances to meet the opposite sex. As for the common people, including urban workers and rural peasants, little change occurred because most of them either ignored the existence of the Law of Kinship Relations or did not understand its content and procedure.

Another fact was that traditional marriages, contracted either before or after the promulgation of the Law of Kinship Relations, would not be interfered with by the Nationalist Government until the cases were brought to the courts by the people themselves. Many traditional marriages were still carried on, and it seemed that people were accustomed to such marriages, so that many victims of the traditional marriages did not take advantage of their new matrimonial rights

to appeal to the court, even after they knew the Law of Kinship Relations. Many wives did not accuse their husbands of adultery or bigamy, though they hated their husbands and were jealous of their husbands' new women. Many concubines did not accuse their parents of selling them, though they worried about the insecurity of being deserted or maltreated because of their illegal roles. Many child-daughters-in-law did not apply for a divorce on the grounds of maltreatment. Many young men and women, hated their spouses under the compulsory marriage but did not appeal to the court. Many young widows did not remarry under the financial difficulties.

Such a situation was formed by the social environment of the traditional society. A remarriage, a divorce and disobedience to the parents or in-laws were considered to be immoral by the victims themselves and the society. They would meet strict criticism after they rejected the social tradition. It was difficult for a divorced woman to support herself because of the limited employment chances. Under the social discrimination against unchastity in the female, it was difficult for a divorced woman or a widow to have a happy remarriage.

This Law of Kinship Relations neither had much influence on the common people nor much resistance from the people, since the Nationalist Government wanted to let the people adapt to this Law by themselves instead of pushing them to adjust to it.

#### Communist Policies

On the contrary, the promulgation of the new Marriage Law, 1950, by the Communists caused much resistance and created much trouble with the Chinese people. Evidently, the Communist Government pushed the people severely in order to make them abolish the traditional marriage and family system and carry out the new marriage and family system in a short period by taking advan-

tage of all kind of opportunities to publicize their new Marriage Law. This policy of the Communist Government was mainly for the purpose of their political interest rather than for the people's happiness. Yang (1959, p. 19) said clearly:

The reason for the Communist policy of reshaping the traditional family seems plain. The Communist regime was bent on building an industrial society on the socialistic pattern, and it is fully aware of the incompatibility between such a society and the kinship-oriented structure. Also important for the political purpose of the regime is the incompatibility between the individual's traditional loyalty to the family and the new requirements of his loyalty to the state and to the Communist Party.

In creating an industrial society, the most valuable resource was the great amount of labor power in such a highly populated country as China. But Chinese society was still dominated by the traditional family system. Familism and loyalty to the family became the main obstruction to the development of industry. Being highly emotionally tied to their families, people had little loyalty to the nation so that they could neither concentrate on production for the Communist Party nor work as effectively as a machine to meet the requirement of the Communist Government. Furthermore, half of the labor power came from women and many of them were suffering from traditional marriages and families. These emotionally disturbed women also could not work as effectively as they might. Therefore, to abolish the traditional family system and establish a new one became the inevitable policy along with development of industry.

#### The New Morality Teachings

To change a person's thinking seemed more difficult than to reform a social institution. The new Marriage Law could not shift the people's center of loyalty, so that some other means had to be used. This other method should not only turn family-centered loyalty into nation-centered loyalty, but should also

solve many other personal and domestic difficulties, such as broken hearts, jealousy of triangular complications, upset of a divorce, class consciousness, and worrying about one's future, which could also reduce the efficiency of production and influence the loyalty to the state. Books and pamphlets on "the new morality teachings" were issued to change the people's center of loyalty and solve their personal and family problems. Some typical new morality teachings by different authors were as follows:

Tso Lin (1951) said that all hopes and future should be based on the revolutionary enterprise. An individual would have a bright future when revolutionary work had a bright future so that one should not concentrate solely on his loved one. Although he did not have a mate at that time, yet as his work and the construction work of the New China reached a certain standard, and as the people's living standards and cultural level was raised, it would not be difficult for him to find a mate. Therefore, he need not worry about it and be pessimistic. He also said that jealousy was produced in the society of the exploiting class; it was a concept by which a person took his mate as his private good. Such a concept of private good was formed on the basis of commercial behavior, parents' order and old religious rituals.

Tin Lin (1951) said that to choose a mate only on the basis of appearance was a concept of the old society by which people took a woman as a toy. She also said that to understand each other included many things; political recognition was very important. Then, what could be used to consolidate, strengthen, and develop love? It was political recognition which could build love on one principle and develop it little by little.

Wang Ting-chang (1951) stated that in other words, love had to be subordinated to politics and work. As for his opinion, there were at least three criteria for judging love: First, the same political background and belief;

second, loving each other; and third, being a benefit to or not obstructing revolutionary work.

Chu Ku-yui (1951) pointed out that it was incorrect to take one's love affair as his whole life or as a private life without relation to revolutionary work.

Chang Yen (1951) recommended that in order not to take your spouse as yours and not to make your marital life deviate from the revolution and social life, one should take his spouse as a revolutionary companion and love, help, and understand him with a comrade love. One should reform each other on the basis of revolutionary principles rather than on the basis of personal interests and demands.

Lucy Jen Huang (1962) quoted a paragraph from the Communist magazine, "Women of China":

The establishment of great socialism requires people to work in different kinds of labor. In a socialist society labor is the career of heroes. No matter whether he is a common laborer or driver, he is a member of the commune. Every one should be proud of his share in the reconstruction of his motherland. There is a difference in the kind of work and not in the superiority and inferiority of work. Whether one is respected or not, it is his attitude toward work, and not the status of his work.

The same author also stated (Huang, 1961, p. 143) that:

Some people have the wrong idea that because of divorce they are being deserted. This is wrong....You must remember the great Organization; the big family of revolution will never forsake you, unless you forsake revolution...

These "new morality teachings" clearly showed that the Communist Government tried to make the people deny all human relations, social customs, and human nature, in order to make them concentrate physically and mentally on working effectively as a machine for the Communist Party.



## CHAPTER VI

### SUMMARY AND CONCLUSIONS

After translation and examination of materials written by the Chinese Communists in support of their "new" Marriage Law, the writer found that they attempted to persuade the people, especially the workers and the farmers, to believe that these laws were based on new and progressive communist ideas and were originated by the leaders of the People's Republic for the expression of benefit and happiness to the laboring class. However, tracing the history of these ideas disclosed that they were actually a part of Western thought and practice and had begun to penetrate into old China as early as 1898, and were expressed by the Law of Kinship Relations of the Nationalistic Government in 1930. These ideas had been accepted by educated urban people but not by the common people.

Therefore, the People's Republic in 1950, wishing to build an industrial economy and to channel the people's interests away from the family system into economic production, promulgated these laws as an instrument to gain their political end. They then prepared propaganda intended to convince the people that if they placed the Party and industrial production first before human emotion, family relations, and choice of mates, accordingly all marriage difficulties would be over and happiness would be their future lot. All in all, the Chinese Communists wanted to persuade their people to ignore all their emotional and family involvements so that they could work for the Party as effectively as possible.

Under the revolution-first policy, all individual interests had to be sacrificed. The problem was that if the people lived only for revolutionary work, could they live happily as persons?

## APPENDIX

## Text of the Marriage Law of the People's Republic of China\*

(Promulgated by the Central People's Government, May 1, 1950)

### General Principles

#### Article 1.

The feudal marriage system which is based on arbitrary and compulsory arrangements and the superiority of man over woman and ignores the children's interests shall be abolished.

The New-Democratic marriage system, which is based on the free choice of partners, on monogamy, on equal rights for both sexes, and on the protection of the lawful interests of women and children, shall be put into effect.

#### Article 2.

Bigamy, concubinage, child betrothal, interference with the remarriage of widows, and the exaction of money or gifts in connection with marriage, shall be prohibited.

### The Marriage Contract

#### Article 3.

Marriage shall be based upon the complete willingness of the two parties. Neither party shall use compulsion and no third party shall be allowed to interfere.

#### Article 4.

A marriage can be contracted only after the man has reached 20 years of age and the woman 18 years of age.

#### Article 5.

No man or woman shall be allowed to marry in any of the following instances:

a) Where the man and woman are lineal relatives by blood or where the man and woman are brother and sister born of the same parents or where the man and woman are half-brother and half-sister. The question of prohibiting marriage between collateral relatives by blood (up to the fifth degree of relationship) is to be determined by custom.

b) Where one party, because of certain physical defects, is sexually impotent.

c) Where one party is suffering from venereal disease, mental disorder,

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\*From: The Marriage Law of the People's Republic of China, Peking: Foreign Language Press, 1959, p. 1-10.

leprosy or any other disease which is regarded by medical science as rendering a person unfit for marriage.

Article 6.

In order to contract a marriage, both the man and the woman shall register in person with the people's government of the district or Hsiang in which they reside. If the marriage is found to be in conformity with the provisions of this Law, the local people's government shall, without delay, issue marriage certificates.

If the marriage is not found to be in conformity with the provisions of this Law, registration shall not be granted.

Rights and Duties of Husband and Wife

Article 7.

Husband and wife are companions living together and shall enjoy equal status in the home.

Article 8.

Husband and wife are in duty bound to love, respect, assist and look after each other, live in harmony, to engage in productive work, to care for the children and to strive jointly for the welfare of the family and for the building up of the new society.

Article 9.

Both husband and wife shall have the right to free choice of occupation and free participation in work or in social activities.

Article 10.

Both husband and wife shall have equal rights in the possession and management of family property.

Article 11.

Both husband and wife shall have the right to use his or her own family name.

Article 12.

Both husband and wife shall have the right to inherit each other's property.

## Relations Between Parents and Children

### Article 13.

Parents have the duty to rear and to educate their children; the children have the duty to support and to assist their parents. Neither the parents nor the children shall maltreat or desert one another.

The foregoing provision also applies to foster-parents and foster-children. Infanticide by drowning and similar criminal acts are strictly prohibited.

### Article 14.

Parents and children shall have the right to inherit one another's property.

### Article 15.

Children born out of wedlock shall enjoy the same right as children born in lawful wedlock. No person shall be allowed to harm them or discriminate against them.

Where the paternity of a child born out of wedlock is legally established by the mother of the child or by other witnesses or by other material evidence, the identified father must bear the whole or part of the cost of maintenance and education of the child until the age of 18.

With the consent of the mother, the natural father may have custody of the child.

With regard to the maintenance of a child born out of wedlock, in case its mother marries, the provisions of Article 22 shall apply.

### Article 16.

Husband or wife shall not maltreat or discriminate against children born of a previous marriage.

## Divorce

### Article 17.

Divorce shall be granted when husband and wife both desire it. In the event of either the husband or the wife alone insisting upon divorce, it may be granted only when mediation by the district people's government and the judicial organ has failed to bring about a reconciliation.

In cases where divorce is desired by both husband and wife, both parties shall register with the district people's government in order to obtain divorce certificates. The district people's government, after establishing that divorce is desired by both parties and that appropriate measures have been taken for the



care of children and property, shall issue the divorce certificates without delay.

When only one party insists on divorce, the district people's government may try to effect a reconciliation. If such mediation fails, it shall, without delay, refer the case to the county or municipal people's court for decision. The district people's government shall not attempt to prevent or to obstruct either party from appealing to the county or municipal people's court. In dealing with a divorce case, the county or municipal people's court must, in the first instance, try to bring about a reconciliation between the parties. In case such mediation fails, the court shall render a verdict without delay.

In the case where, after divorce, both husband and wife desire the resumption of marital relations, they shall apply to the district people's government for a registration of remarriage. The district people's government shall accept such a registration and issue certificates of remarriage.

#### Article 18.

The husband shall not apply for a divorce when his wife is with child. He may apply for divorce only one year after the birth of the child. In the case of a woman applying for divorce, this restriction does not apply.

#### Article 19.

The consent of a member of the revolutionary army on active service who maintains correspondence with his or her family must first be obtained before his or her spouse can apply for divorce.

Divorce may be granted to the spouse of a member of the revolutionary army who does not correspond with his or her family for a subsequent period of two years from the date of the promulgation of this Law. Divorce may also be granted to the spouse of a member of the revolutionary army who had not maintained correspondence with his or her family for over two years prior to the promulgation of this Law and who fails to correspond with his or her family for a further period of one year subsequent to the promulgation of the present Law.

### Maintenance and Education of Children After Divorce

#### Article 20.

The blood ties between parents and children do not end with the divorce of the parents. No matter whether the father or the mother acts as guardian of the children, they still remain the children of both parties.

After divorce, both parents still have the duty to support and educate their children.

After divorce, the guiding principle is to allow the mother to have custody of a baby still being breast-fed. After the weaning of the child, if a dispute arises between the two parties over the guardianship and an agreement

cannot be reached, the people's court shall render a decision in accordance with the interests of the child.

#### Article 21.

If, after divorce, the member is given custody of a child, the father shall be responsible for the whole or the necessary cost of the maintenance and education of the child. Both parties shall reach an agreement regarding the amount and the duration of such maintenance and education. In the case where the two parties fail to reach an agreement, the people's court shall render a decision.

Payment may be in cash, in kind or by tilling land allocated to the child.

Such agreement reached between parents or a decision rendered by the people's court in connection with the maintenance and education of a child shall not prevent the child from requesting either parent to increase the amount decided upon by agreement or by judicial decision.

#### Article 22.

In the case where a divorced woman remarries and her husband is willing to pay the whole or part of the cost of maintaining and educating the child or children by her former husband, the father of the child or children is entitled to have such cost of maintenance and education reduced or to be exempted from bearing such cost in accordance with the circumstances.

### Property and Maintenance After Divorce

#### Article 23.

In case of divorce, the wife shall retain such property as belonged to her prior to her marriage. The disposal of other family properties shall be subject to agreement between the two parties. In cases where agreement cannot be reached, the people's court shall render a decision after taking into consideration the actual state of the family property, the interests of the wife and the child or children, and the principle of benefiting the development of production.

In cases where the property allocated to the wife and her child or children is sufficient for the maintenance and education of the child or children, the husband may be exempted from bearing further maintenance and education costs.

#### Article 24.

After divorce, debts incurred during the period of their married life together shall be paid out of the property jointly acquired by husband and wife during this period. In cases where no such property has been acquired or in cases where such property is insufficient to pay such debts, the husband shall be held responsible for paying these debts. Debts incurred separately by the husband or wife shall be paid off by the party responsible.

## Article 25.

After divorce, if one party has not remarried and has maintenance difficulties, the other party shall render assistance. Both parties shall work out an agreement with regard to the method and duration of such assistance; in case an agreement cannot be reached, the people's court shall render a decision.

## By-Laws

## Article 26.

Persons violating this Law shall be punished in accordance with law. In cases where interference with the freedom of marriage has caused death or injury, the person guilty of such interference shall bear responsibility for the crime before the law.

## Article 27.

This Law shall come into force from the date of its promulgation. In regions inhabited by national minorities, the people's government (or the Military and Administrative Committee) of the Greater Administrative Area or the provincial people's government may enact certain modifications or supplementary articles in conformity with the actual conditions prevailing among national minorities in regard to marriage. But such measures must be submitted to the Government Administration Council for ratification before enforcement.

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THE NEW MARRIAGE LAW IN THE PEOPLE'S REPUBLIC OF CHINA:  
TRANSLATIONS, DEVELOPMENT, AND EVALUATION

by

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AN ABSTRACT OF A MASTER'S REPORT

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The People's Republic of China introduced many changes in political, economic, and social structures, since gaining control over the Chinese mainland in 1949. The new Marriage Law promulgated May 1, 1950, was one of the most striking "reforms." Accompanying the passage of the new Marriage Law, much written material was published to enforce this Law.

The purposes of this report were as follows:

- 1) To find the content of a book of propaganda about the new and current Marriage Law in China;
- 2) To investigate patterns and methods used in popularizing and promoting the new Marriage Law;
- 3) To find reactions of the people to the Marriage Law and to propaganda materials;
- 4) To trace the origins and history of Chinese marriage and family revolution;
- 5) to summarize the final aim of the Communists' marriage revolution.

The methods of this paper were: to translate a propaganda book from Chinese into English; to find its content and language structure; and to study related library materials in both Chinese and English.

From translating the book, "The Revolution of Marriage," and investigating other propaganda materials, the writer found that the new Marriage Law was based on freedom of marriage for both sexes, equal rights for both men and women, monogamy, and protection of the legal rights of women and children, all based on Western practices.

The content of these propaganda materials was to illustrate the new Marriage Law and praise its merits, point out the defects of the Chinese traditional marriages, and groundlessly criticize the marriage laws of the pre-communist China and those of the capitalistic countries in order to enforce this Law.

Simple grammar and folk-language were found to be used in writing the propaganda materials in order to appeal to the poorly-educated common people. All the traditional virtues appearing in the stories, dramas, and opera, were replaced by the new marriage ideas. Books, pamphlets, magazines, newspapers, broadcasting, bulletins, and cartoons were used to popularize the new marriage systems. Various public occasions and situations, such as meetings, training and reading classes, night schools, information offices, and marriage counseling were also used as propaganda places. The most effective ways of popularizing the new Marriage Law were mass trials and exhibition of marriage problems.

Accepted by some young people, the new Marriage Law caused some increase in marriage by free choice, divorce, and remarriage of widows. Much trouble was created under the strong resistance by many common people and some Communist cadres. Trouble was also caused from indiscreet judgments and indiscriminate applications in dealing with the divorce cases by the Communist officers.

In tracing the history of the ideology of the new Marriage Law, the writer found the law to be neither new nor originated by the Chinese Communists. These ideas were a part of Western thought and practice and began to penetrate into China as early as 1898. They were formally expressed by the Law of Kinship Relations of the Nationalistic Government in 1930. These ideas had been accepted by the educated urban people during the pre-communist period.

From the content of the propaganda materials about the new Marriage Law, it was apparent that the Chinese Communists tried to make the people support economic production as effectively as they could for the Party, in order to build an industrial society. The new Marriage Law was used as an instrument by the Communist Government to gain their political end.