

Modern China

<http://mcx.sagepub.com>

Chinese Constitutional Currents

Lynn T. White, III

Modern China 2010; 36; 100 originally published online Nov 15, 2009;
DOI: 10.1177/0097700409350854

The online version of this article can be found at:
<http://mcx.sagepub.com/cgi/content/abstract/36/1/100>

Published by:



<http://www.sagepublications.com>

Additional services and information for *Modern China* can be found at:

Email Alerts: <http://mcx.sagepub.com/cgi/alerts>

Subscriptions: <http://mcx.sagepub.com/subscriptions>

Reprints: <http://www.sagepub.com/journalsReprints.nav>

Permissions: <http://www.sagepub.com/journalsPermissions.nav>

Citations <http://mcx.sagepub.com/cgi/content/refs/36/1/100>

Chinese Constitutional Currents

Modern China
36(1) 100–114
© 2010 SAGE Publications
Reprints and permission: <http://www.sagepub.com/journalsPermissions.nav>
DOI: 10.1177/0097700409350854
<http://mc.sagepub.com>



Lynn T. White III¹

Abstract

The Chinese constitution in action is far more flexible than the written state charter might suggest. Jiang Shigong and Xueguang Zhou best capture China's actual constitutional patterns of power, appointment, jurisdiction, and amendment when they treat China as complex, evolving, and large.

Keywords

constitution, legalism, behavioral, unitary, Chinese characteristics

Constitutions, broadly conceived, describe structures of influence. They relate collectives to individuals and shape discourses. They indicate which leaders have legitimacy to rule, for example, in time periods, when providing succession or appointment norms. They show how the spatial parts of a polity relate to each other. They allow for amendment and change. These uses of constitutions can generate headings under which to organize comments on the articles by Jiang Shigong and Xueguang Zhou.

Patterns of Power

Both Jiang and Zhou explore what might be called China's "behavioral" state constitution, that is, the observable patterns of action by state cadres, rather than just legal prescriptions concerning the ways officials are supposed to act. Jiang is more interested in national-level politics, while Zhou stresses the paradox that central monitoring gives local cadres incentives to collude with each

¹Princeton University, Princeton, NJ, USA

Corresponding Author:

Lynn T. White III, Department of Politics, Princeton University, Princeton, NJ 08544-1012, USA
Email: lynn@princeton.edu

other against central policies. For most of his article, Zhou treats this dilemma as an organizational pathology, even though it serves the interests of local people. Yet if the constitutional irregularities that he finds could be eliminated, governance in many Chinese collectivities might be less successful. Central authorities have an interest in claiming they know everything needed to solve grassroots problems—but they must also realize that they lack complete information on such a vast country.

Jiang wants “to understand the political significance of the formalist character of the written constitution” so as to get at “the living constitution and the unwritten constitution displayed in real political life in China.” This realist goal is worthy, although it soon runs into two relatively minor problems. Our planet’s only three countries that have “unwritten” constitutions (Britain, New Zealand, and Israel) actually have these norms written in diverse laws and court decisions, albeit not in single documents. Mere writing does not make constitutions exact. The U.S. charter contains many vague provisions, some of which are clearly ambiguous by intention, and the difference between “unwritten” and written constitutions is easy to overstate.¹

This difference is not identical to the more important distinction between laws and behavior. A living constitution tells what people do, not just what they say they should do. Jiang seeks a paradigm that will adhere to “national cultural traditions” (rather than one that just duplicates “Western constitutional norms”). Two of the strongest such traditions in China are respect for stability and respect for the state. What about change, though, and what about influences in traditional nonstate networks such as families?

A behavioral constitution shows how power is used, but power is not specific to states alone. It also covers influence in nonstate networks such as lineages, corporations, spiritual congregations, and other semigovernment organizations.² These interact with the state, which itself has many parts and layers. Jiang might hope that a constitution for China will follow traditions that allow such breadth, although other national (*guojia*, not *minzu*) traditions are more centralist. Zhou discusses these issues in terms of incentives for collusion among local governments.

Constitutions allocate power; so to proceed further, we need a definition of power. Robert Dahl (1963: 40) offers a suggestion: “A influences B to the extent he gets B to do something that B would not otherwise do.” This definition appropriately avoids limiting the public or nonpublic contexts in which these algebraic folk behave. Yet knowing the intentions of either can be difficult. Follower B’s consciousness is crucial, whether or not B’s awareness comes from leader A’s open expression. Such information may be conveyed through many channels: public or tacit, national or local, deliberative or quasi-coercive.

Some such interactions begin in open exercises of power if official policies are announced and then followed. But they can also arise as unintended results of such policies (White, 1989). They may emerge from the parallel influences of many local leaders who act similarly because of analogous local situations that they face (Zhou, 1996). So Dahl's definition of power automatically takes us beyond the state, but it is just a start.

To explore contextual influences on behavior apart from primary legitimated leaders' wishes, we need also to consider additional factors. One type is structural (and often "constitutional"): What issues may, or may not, be legally or traditionally considered for decision? When a formal or informal constitution prohibits raising certain issues that are nonetheless of interest to some citizens, then "conflicts conflict." Those questions are displaced by struggles that the behavioral constitution allows (Schattschneider, 1975). Examples of hindered issues have ranged widely: against labor organization or slavery abolition in the histories of many countries, against secessions, against ethnic mobilization in states as small as Singapore or as large as China. This structural "second face of power," as Peter Bachrach and Morton Baratz (1962) and John Gaventa (1980) call it, becomes particularly obvious when arthritis in leadership or dangers of instability exclude dissidents from public space and decision-making tables (see also Wang Shaoguang, 2008: 83; Shirk, 1993: ch. 7).

A "third face of power," beyond political commands or structures, becomes effective when actors do not readily conceive possibilities of action that could be live for them if only they knew as much. Authors as different as Machiavelli ([1532] 1955) and Gramsci (1971), or Foucault (1977) and Friere (1972), have written about this kind of power from various viewpoints. According to the classic sociologist of political consciousness, Karl Mannheim (1936: 54), "We begin to treat our adversary's views as ideologies only when we no longer consider them as calculated lies and when we sense in his total behavior an unreliability which we regard as a function of the social situation in which he finds himself." James Scott (1985: 40, 286) points out that politically restricted consciousness is not "false," but it is hesitant, containing "a number of diverse and even contradictory currents," so that "power-laden situations are nearly always inauthentic; the exercise of power nearly always drives a portion of the full transcript underground." Political awareness is incompletely reported. People have external reasons not to act on everything they think, and to think less about apparently unfeasible options.

Timur Kuran (1992), writing about the fall of Communist parties in Eastern Europe, says that individuals avoid unsafe actions against governments, until/unless they feel that large numbers of compatriots want to act similarly, raising their own safety if they join the movement. A "cascade" of change occurs at

that “tipping point.” Since it is impossible to gather full information about citizens’ self-repressed views (although governments try!), Kuran says that such important constitutional shifts will predictably be unpredictable.

These types of power can all be considered in a full account of the ways in which politics is actually constituted anywhere. The challenge of gathering enough relevant information is immense. So conclusions need to be balanced if they merely confirm any partial viewpoint (e.g., comparative or Chinese, statist or civil). Jiang Shigong says that “the fundamental law of China [i.e., of the Chinese state] is the leadership of the CCP with multi-party cooperation.” Uncooperative parties become illegal on China’s mainland, but Jiang’s several-times-repeated wording about minor parties is interesting as regards Hong Kong, and its relevance to Taiwan might be intended and useful. In any case, Jiang’s discussion of Chinese Communist Party (CCP) leadership as the heart of the state constitution could have been followed by a description of how the party works. Instead, he moves to a more theoretical point: he likens the relationship of the CCP and National People’s Congress (NPC) to the medieval European notion that a monarch has “two bodies.” The party is the king representing “absolute” values, while the NPC confirms sovereignty in a legal process. One might ask rhetorically whether this form is either modern or Chinese. But a far more practical question concerns the extent to which it serves China.

Jiang sees “a unique interactive connection between the party and the state,” which are “checking and balancing each other.” He says it is right that the NPC should “rubber stamp” decisions by the CCP, since the latter represents “the will of the people.” This could invoke either Rousseau or Mencius, although neither of them is wholly clear on ways to determine a social or celestial general will. Practical resolution of this, for China, can be evidenced in changes during People’s Republic of China (PRC) history. These show an actual multiplicity of Chinese legal traditions: relative constitutionalism by 1954, absolutism by 1975, then back to more constitutionalism under the 1982 document (albeit always with party primacy). These are just the state’s documents. The PRC behavioral constitution, as Jiang suggests, has been more ideally monist than have the patterns of power in most modern countries; but whatever Chinese ideals may be, practices have varied according to the desires of operative Chinese leaders at their distinct times. Zhou also shows that cadres at different administrative levels act on their conflicting interests, and they often can do so if their actions are not publicized.

Jiang proposes a Chinese ideal of unity, with one leader concurrently at the top of the legitimating party, the administering state, and the stabilizing military. Yet this makes the whole government ideally one patron-client

network. The Chinese “trinity,” as Jiang calls it, is like its theological referent a unity. Perhaps it can be seen as sacrosanct because, if presented as nationally authentic, it is the very opposite of a separation among state powers. Yet many revolutionaries, ranging from Simon Bolivar to Sun Yat-sen, have seen more advantages in institutional divisions among government functions (not necessarily just the three legislative, executive, and judicial kinds of authority that Montesquieu suggested, but also audit and examination branches such as have been institutionalized in places as diverse as Costa Rica and Taiwan).

An ethic of Chinese identity might perhaps justify the unified state form, but an ethic of results, “rooted not in ideology but in the desire to solve real problems” as Jiang says in a different mood, could justify less unity in the trinity (see Weber, 1946). This is an empirical question about the effects of constitutions on concrete situations. It is subject to interpretation. But one leader’s word or “thought” does not necessarily solve all problems optimally. The habit of relying on a single leader (imperial or Maoist or Dengist or later) does not always bring the consequences that even the leader expects.³

Appointment Administration

A constitution sets procedures by which officials are chosen, regardless of degrees of formality. The CCP still preserves Leninist appointments (or vettings of nominees when elections are held) for posts in all important institutions including the state. The selectors cannot efficiently survey or sanction their appointees if they are more than a single administrative level above the posts to which they appoint cadres. (When a two-levels-up norm was tried in the early 1980s, it did not work and was abandoned; Landry, 2008.)

So party practice, not just the written party charter, is constitutional. In 2002, for example, the Sixteenth Central Committee of the CCP included two deputies from each military region. A more equal number of deputies also came from each province than in previous Central Committees. These norms were new, although they were not mandated in the party constitution. Also unwritten (at least in public documents) was the practice of promoting many leaders who had done successful economic work in provinces (Li and White, 2006; with a comparison in Bialer, 1980). Engineers have been running China in Hu Jintao’s “fourth generation” of Chinese leadership, though no document requires this.

The most important new norm for high Beijing politics is the concept of leadership generations. Third-generation Jiang Zemin and fourth-generation Hu Jintao were both explicitly blessed by second-generation Deng Xiaoping as future top leaders of China. Hu took the party headship (and state presidency

and then chair of the Central Military Commission) several years after Deng's death. Each generation, under this behavioral constitution, currently gets two five-year terms at the top. Its members then retire. This is now a firmly legitimated succession rule, although it is not a law.

Another norm is that the future top leader is chosen long in advance. Fifth-generation Xi Jinping, an "elitist" in part because his father was a vice premier and Politburo member, is scheduled for election to Hu Jintao's present posts by an Eighteenth Central Committee in 2012. These events have not yet occurred—but they are predictable almost as surely as the guess that Barack Obama will run for reelection in that same year, but not in 2016.

It is also quasi-constitutional that, currently, both the conservative-inland and liberal-coastal "tendencies of articulation" in policy should be represented in the president and premier (the quoted term comes from Skilling, 1971). Hu Jintao may be somewhat more conservative than his premier, Wen Jiabao, though they both are nationalists who only sometimes want to appear as cosmopolitans. Xi Jinping might well turn out to be more globalist than his probable-premier-in-waiting Li Yuanchao (Li Cheng, 2008).

The party's normative flexibility also emerges in differences between the fifth generation, not in top power yet, and the current leaders who chose its members. Technocracy is still the rule, but the fourth generation is at least half composed of engineers, while the fifth is perhaps just one-fifth engineers. The portion of economic managers in the fifth generation is clearly up, and the number of lawyers and social analysts is also up (to three tenths, from just one tenth of the fourth generation, according to the best available estimates by Li Cheng, 2008: 37). The portion of leaders whose education was in military academies is only one tenth in the current top group, and it is scheduled to go below one twentieth. The old leaders have not chosen new leaders exactly like themselves.

Comparable changes have arguably occurred in other countries, for example, because of mass elections in times of economic crisis. Democratic procedures, whatever stabilities or instabilities they promote, make for somewhat transparent decisions about leadership. It is very difficult to know how long China's *de facto* succession norms, as described above, may endure. For the nonce, however, there is scant popular protest about this crucial aspect of the PRC's behavioral constitution.

The reason for this nonchalance, despite the documented unpopularity of many local leaders (Wang Zhengxu, 2005), may lie in PRC formal flexibility. In China or elsewhere, state and nonstate power networks are distinguishable but overlapping. They could not conflict or cooperate, especially at intermediate levels, if they did not penetrate each other.

Spatial Structure

The PRC contains 33 province-level jurisdictions, 15 deputy-provincial cities, 333 prefecture-level units (mostly cities now), 2,859 counties and districts, and 40,813 townships and town-level units (Chung, 2009). Xueguang Zhou's article shows that China's many administrative layers, when combined with its centralist norm, create collusion against central policies. "Policy uniformity foreshadows . . . delegation, discretion, and flexibility in implementation." Such suppleness is sometimes intended (Jiang Shigong refers to Mao's 1956 speech as intending it, although the links between what that Chairman said and what he did were always plastic to a fault). Flexibility rises because leaders have limited resources or else legitimate goals whose inconsistencies they did not foresee. But collusive "flexibility by special interests" is the type that brings questions about fairness. What individuals or groups does the flexibility serve?

Zhou offers an unexcelled discussion of what might be called Chinese Thatcherism (after Margaret Thatcher, who avidly imported corporate notions of accountability into political governance). As growth from markets reduces the Chinese state's ability to command the economy, high officials attempt more controls over lower cadres. Policies that start as suggestions in leaders' speeches (e.g., the one-child policy) become quantified as specific, measurable targets for local leaders. "Joint responsibility" means that all officials in a jurisdiction (not just the cadres in the relevant functional department) are held accountable to fulfill targets. The "one item veto" norm means that failure on any single major target area is deemed to invalidate successes in others. So leaders in any locality, often at proximate administrative levels above and below, stand or fall together. If they want honor, or records that justify promotions, they collude to hide all shortcomings.

Zhou treats this syndrome in classic organizational terms, following and citing Weber and Michels. The same phenomenon could also be treated with explicit reference to local politics, by asking "who gets what?" (Lasswell's question) or "who does what to whom?" (*kto kogo*, Lenin's question). Sometimes fiscally colluding leaders are the beneficiaries. Far more often, cadres collude to serve the interests of their local constituents. They are both "agents and victims" (as Siu, 1989, calls them), "kapitans" (Skinner, 1968), or "hinge leaders" (Evans, 2003). Philip Huang (2008: 11) describes "Janus-faced" leaders and quasi-officials who are "at once representatives of society and agents of the state." They sometimes shield local constituents from state coercion. At other times, they became "abusers of local society who exploited their state connections for personal gain." Zhou is right to say that "poor

incentive design induces behaviors inconsistent with organizational goals.” But the state is not the only Chinese organization that has goals. Nor is it the only type of Chinese agent that gives incentives to other sizes of collectivity.

China’s behavioral constitution allows inconsistent policies over space. Zhou claims that “uniformity in policy-making is . . . at the very core of the authoritarian state.” To the extent this is true, it is so in theory but not practice. The Chinese state’s ideals have long been centralist, but its activity remains somewhat minimalist even in the present era (Huang, 2008). Part of this may be obscured by the national name, *Zhongguo* (literally, “central state”), which is often conceived as naturally centralized. Yet as Zheng Yongnian (2007) and others have shown, the PRC is a *de facto* quasi-federation.

Hong Kong is part of the PRC, for example, but just a single one of China’s myriad national laws applies there (the “Basic Law,” a local subsovereign constitution). This law legitimates practices that differ sharply from those elsewhere in China (tycoon-run functional constituencies in a legislature that also includes very lively “uncooperative” parties, and other differences). This, as Jiang says, is “more power and autonomy than a federal system grants a state.” Hong Kong is called a “Special Administrative Region,” but it might more accurately be dubbed a Special Constitutional Region. The PRC is already a hyperfederation.

Nor do the regular provinces of the PRC all relate to the central polity in identical ways. Heilongjiang or Gansu has naturally closer relations with the ministries of Petroleum or Defense than do, for example, Anhui or Hebei. Tianjin and Chongqing are both province-level “directly ruled municipalities,” but Tianjin’s proximity to Beijing and Chongqing’s distance create differences in central attempts to monitor them. These differences scarcely begin to approach the formally identical case of Shanghai, whose wealth has helped some “local” leaders become state president or premier. Nor does it cover cases such as Guangzhou, Xiamen, or Wenzhou, which are geographically far from the center of China’s polity and are deemed rightfully separate in some policy habits. People there can also speak languages that northern Chinese do not understand. Province-level “autonomous” regions for minorities are independent only with respect to policies that do not endanger their integration with the rest of China. If China were a uniformly unitary state, it would be less governable.

Few Chinese realize the extent of variation that exists in conjoint states (a term that might be used because PRC politicians are so allergic to the word “federation” that they seldom consider federal varieties). Few Chinese realize that the constitutions of some such states (e.g., the late, great USSR) explicitly allowed secession of the constituent parts—but others (e.g., the United States) have no explicit clause about separation, either tolerating or

forbidding it.⁴ Yet others (e.g., India's constitution) contain emergency provisions whose sure effect is to illegalize succession.

Nothing logically prohibits a federal constitution from disallowing secessions. A future Chinese constitution could deny any option of a province leaving a conjoint PRC, perhaps also affirming that the content of a local constitution can be established and interpreted locally. The only requirement of a federation is that some specified powers be allocated to the larger size of polity, while some go to the smaller sizes or to individuals. Which powers go to which? That just depends on what the constitution says.

It is also possible to include, in a conjoint state's charter, prohibitions against the amendment of specific clauses. (The U.S. constitution has a single such provision, forbidding amendment of each state's "equal suffrage in the Senate.") India's document provides for central powers in New Delhi, with other powers specified for the states, and it also has a list of concurrent functions that either the central or state governments may perform. China's present constitution establishes a unitary state, but the PRC is so large that in practice the localities often have appropriately diverging local policies.

China Changes

Jiang Shigong is concerned that, in the current decade, "people have tried to understand China's constitution from a judicial perspective. . . . They have started to Americanize their understanding. . . . American ideology [has] replaced Marxist ideology." Some Americans might hope so, but this one disbelieves any interpretation that separates thinking from the context of the thinkers. What Jiang likes about Leninism is its unification of legitimacy from the party, legalism from the state, and force from the military. This is indeed a theoretical constraint on a division of power such as may seem American. A question of greater interest might be: What form best serves modern China? Jiang understandably hopes that such a structure will be both legitimate in Chinese terms and effective in processing information from the many diverse places in this huge nation, "to solve real problems." Central organization can solve only some. By decisions of its own elites, China will modernize constitutionally in a Chinese fashion.

Jiang claims that "non-Western countries have felt forced to deviate from their national cultural traditions." He says they "have been compelled to enact a written constitution in line with the Western standards; otherwise they will not be recognized by the Western-led international community (most prominently the United Nations) and succeed at their nation-building." But in 1954, when the PRC set its first constitution, it was not compelled to do so—or to make that

constitution fit any particular form. It is possible to admire independent-minded patriotism, while doubting the historicity of this claimed compulsion.

For example, India also has proud traditions. When India became free of Britain, it adopted a federal constitution that provides special powers for the central government in times of local emergency. Did Britain force that form on India? Did other federations of which Nehru and his fellow Indian founders were aware (such as the USSR or the United States) compel it? Or instead, did these nationalist Indian leaders not fear to think comparatively about forms they considered useful over the long term for their own country? Despite dire predictions (Harrison, 1960) that India would fly apart during its early years, it did not do so. This case may be particularly interesting because India is closest to China in population, and the former colonial power, Britain, lacks a “written” constitution and is not a federation.

All constitutions evolve through time. Western “formalism” may be less inflexible than what Jiang suggests. The U.S. Constitution, for instance, begins with the words “We the People.” At first, however, it established a system in which freeholders (no poor, no slaves) who were male (no women) could vote directly for just half of one third of the government, the House of Representatives. (Senators were elected by state legislatures, the president was chosen by an electoral college, and judges were all appointed.) Later struggles, after this constitution was drafted, included many more people in “the People” (Schattschneider, 1975: 113–14). Such evolution takes time. Many Western liberals (who are rightly criticized in Peerenboom, 2002) forget that slowness when they consider China.

Such evolutions also may take violent conflict. Chinese such as Jiang Shigong are naturally more aware of this in China’s context than in the West’s. Yet as Justice Holmes (a Civil War veteran) famously wrote,

When I think . . . of the law, I see a princess mightier than she who once wrought at Bayeux, eternally weaving into her web dim figures of the ever-lengthening past—figures too dim to be noticed by the idle, too symbolic to be interpreted except by her pupils, but to the discerning eye disclosing every painful step and every world-shaking contest by which mankind has worked and fought its way from savage isolation to organic social life. (Holmes, [1885] 1955: 63)

Thomas More, reporting his trip to *Utopia*, held a jaundiced view of “constitutions” as inherently oppressive, “a conspiracy of the rich, who on pretence of managing the public only pursue their private ends . . . considered as the representative of the whole people” (More, 1901 [orig. 1516, before his

king beheaded him]). Another revolutionary idealist, in Shakespeare's *Henry VI*, was more direct: "The first thing we do is kill all the lawyers." The *Merchant of Venice* had no practical use for the "pound of flesh" he was clearly owed under legal contract, so Portia as judge delivered a sentence for "mercy." Or as Max Weber (1946: 125–26) warned, "Whoever wants to engage in politics [or law] at all . . . lets himself in for the diabolic forces lurking in all violence." Many Chinese intellectuals, from Mencius onward, have likewise stressed that legitimate governance is more benign than legal. Chinese and Western traditions both contain legalistic/orderly and humanitarian/flexible strains. It is mere caricature to portray any culture as self-consistent.

Chinese remember their experiences proudly, and their national constitution is based on this history. They willingly perceive faults in foreign legal systems, when imports may lead to problems. Nearly four decades ago, Victor Li (then a Stanford law professor who had previous experience with legal deficiencies in downtown Detroit) wrote mordantly, "There is no question that the United States is a society based on law. . . . To have so many laws is not unlike having too few laws or even no laws at all" (1973: 145). Legal complexity is a modern pattern that can threaten substantive justice.

Zhou points to China's "multiplying rules and regulations." The constitution and the much-deliberated NPC laws are prestigious. Myriad other legal norms emerge more frequently, however, as directives from the State Council, its ministries, provinces, prefectures, or counties and their departments, as well as local people's congresses. This variety of regional or temporary rules creates inconsistent practical effects. That may be entirely appropriate to a country of China's complexity. It becomes a modern constitutional pattern that makes "the law" hard to know and follow.

Globalization also affects the constitution, to the extent Chinese elites find they benefit from it. Profitable trade and court-enforced legal contracts have enriched PRC businesses and nonmainland outsiders, including foreigners and entrepreneurs in places such as Hong Kong (see Guthrie, 2006). China's elites do not all agree when evaluating this phenomenon. It can be praised as scientific development, or else damned as corrosive "peaceful evolution" (*heping yanbian*). Legal rationality strengthens China's economy while fostering new procedures in the state. Globalization, when China's leaders allow it because they see the growth it brings, amends the behavioral constitution.

Jiang Shigong does not "question nationalist knowledge" (to use a phrase of Wang Hui, 2008: 136). Jiang expresses a "hope to make a real contribution to tianxia, to human civilization," without mentioning any of the respects in which China has already done so. In the field of government, civil service exams are a major example. China contributes to civilization in part because it

is so much of humankind. Intellectuals may worry unnecessarily about the continuing future vitality of the most populous nation on this planet.

Only in his last paragraph does Xueguang Zhou go beyond his account of organizational malady to propose an “alternative interpretation of the collusion phenomenon.” He suggests a classic sociological seam between norms and situations: “the coexistence of a symbolically strong state and effective governance at the local level.” This is reminiscent of Jiang’s “desire to solve real problems” while retaining a strong commitment to national identity. Their approaches are nicely circumspect when they treat modern China as complex, changing, and large.

Declaration of Conflicting Interests

The author declared no potential conflicts of interests with respect to the authorship and/or publication of this article.

Funding

The author received no financial support for the research and/or authorship of this article.

Notes

1. “The enumeration in the [U.S.] Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people,” according to Amendment IX of that charter. The pun on “certain” (some? definite?) is literary. So is the semantic weakness of “disparage” that strengthens the sentence’s meaning. The “others” are unspecified. So the state is constitutionally told that it should not be arrogant. Also, the reasons to avoid what Jiang (in a slightly Daoist vein) calls “formalistic” writing vary sharply among countries. Secular and religious Israelis, for example, have deep disagreements about what their constitution would say, if they tried to write one; but such problems are minimal in the United Kingdom or New Zealand.
2. For a fine-grained treatment of the state’s links to nonstate power networks, see Kang and Han (2008). Wang Shaoguang (2008) treats parallel issues in terms of narrow or broad groups that initiate policies, on one hand, and the extent of needed resources and mobilization for implementation, on the other.
3. A controversial example is the 1989 decision to clear student petitioners from Tiananmen Square. According to Zhao Ziyang (2009), Li Peng and others gave information to the then-top patron, Deng Xiaoping, that provoked Deng to describe the students’ motives harshly in private comments—which then became public, determining later events. Even if Zhao’s history is biased, the single-person leadership principle can run into a problem: once a supremo’s words are published, they are hard to revoke whether or not later experience proves them to

be beneficial. A less controversial example is Deng's honest admission that he had not expected the start of the quick rural industrialization with which he is widely credited (quoted from Deng in White, 2009: vii).

4. The U.S. constitution was amended importantly after the Civil War (slavery became unconstitutional, an "equal protection of the laws" clause was added, along with other changes), but no amendment was passed against possible future secessions. U.S. states can rewrite their constitutions, and occasionally they do. Georgia did this in 1983, after the civil rights movement; Montana produced a long document with a beautiful preamble in 1972; New Jersey did in 1947. These local constitutions are not federal laws; nobody in the national capital passes, approves, or repeals them.

References

- BACHRACH, PETER and MORTON BARATZ (1962) "Two faces of power." *Amer. Political Science Rev.* 56, 4 (Dec.): 947–52.
- BIALER, SEWERYN (1980) *Stalin's Successors: Leadership, Stability and Change in the Soviet Union*. New York: Cambridge Univ. Press.
- CHUNG JAE HO (2009) "The evolving hierarchy of China's local administration." Ch. 1 in Chung Jae Ho and Lam Tao-chiu (eds.), *China's Local Administration: Traditions and Changes in the Sub-national Hierarchy*. New York: Routledge.
- DAHL, ROBERT A. (1963) *Modern Political Analysis*. Englewood Cliffs, NJ: Prentice Hall.
- EVANS, GRANT (2003) *Laos: The Land in Between*. London: Allen & Unwin.
- FOUCAULT, MICHEL (1977) *Discipline and Punish*. New York: Vintage.
- FRIERE, PAOLO (1972) *Pedagogy of the Oppressed*. London: Penguin.
- GAVENTA, JOHN (1980) *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley*. Urbana: Univ. of Illinois Press.
- GRAMSCI, ANTONIO (1971) *Selections from the Prison Notebooks*. New York: Lawrence & Wishart.
- GUTHRIE, DOUG (2006) *China and Globalization*. New York: Routledge.
- HARRISON, SELIG S. (1960) *India: The Most Dangerous Decades*. Princeton, NJ: Princeton Univ. Press.
- HOLMES, OLIVER WENDELL, JR. ([1885] 1955) "The law," address to Suffolk Bar Assoc. dinner, February 5, 1885; in Julius J. Marke (ed.), *The Holmes Reader*. Dobbs Ferry, NY: Oceana; and in Susan Haack, "On legal pragmatism: where does the path of the law lead us?" <http://cas.umkc.edu/econ/Seminars/Pragmatism/notes/haack.doc>.
- HUANG, PHILIP C.C. (2008) "Centralized minimalism: semiformal governance by quasi officials and dispute resolution in China." *Modern China* 34, 1 (Jan.): 9–35.
- KANG XIAOGUANG and HAN HENG (2008) "Graduated controls: the state-society relationship in contemporary China." *Modern China* 34, 1 (Jan.): 36–55.

- KURAN, TIMUR (1992) "Now out of never: the element of surprise in the East European revolution." Pp. 7–48 in Nancy Bermeo (ed.), *Liberalization and Democratization*. Baltimore: Johns Hopkins Univ. Press.
- LANDRY, PIERRE F. (2008) *Decentralized Authoritarianism in China*. New York: Cambridge Univ. Press.
- LI CHENG (2008) "China's fifth generation." Pp. 15–53 in *Emerging Leaders in East Asia: The Next Generation of Political Leadership in China, Japan, South Korea, and Taiwan*. Washington: National Bureau of Asian Research.
- LI CHENG and LYNN WHITE (2006) "The sixteenth central committee of the Chinese Communist Party: emerging patterns of power sharing." Pp. 81–118 in Lowell Dittmer and Guoli Liu (eds.), *China's Deep Reform*. Lanham, MD: Rowman & Littlefield.
- LI, VICTOR H. (1973) "Law and penology: systems of reform and correction." Pp. 144–56 in Michel Oksenberg (ed.), *China's Developmental Experience*. New York: Praeger.
- MACHIARELLI, NICCOLO ([1532] 1955) *The Prince*. New York: Mentor.
- MANNHEIM, KARL (1936) *Ideology and Utopia*. London: Routledge.
- MORE, THOMAS (1901) *Ideal Commonwealths*. New York: Collier. <http://oregonstate.edu/instruct/phl302/texts/more/utopia-contents.html>.
- PEERENBOOM, RANDALL (2002) *China's Long March toward Rule of Law*. New York: Cambridge Univ. Press.
- SCHATTSCHEIDER, E. E. (1975) *The Semi-Sovereign People*. Hinsdale: Dreyden.
- SCOTT, JAMES C. (1985) *Weapons of the Weak*. New Haven, CT: Yale Univ. Press
- SHIRK, SUSAN L. (1993) *The Political Logic of Economic Reform in China*. Berkeley: Univ. of California Press.
- SIU, HELEN F. (1989) *Agents and Victims in South China*. New Haven, CT: Yale Univ. Press.
- SKILLING, H. GORDON (1971) *Interest Groups in Soviet Politics*. Princeton, NJ: Princeton Univ. Press.
- SKINNER, G. WILLIAM (1968) "Overseas Chinese leadership: paradigm for a paradox." Pp. 191–203 in Gehan Wijeyewardene (ed.), *Leadership and Authority*. Singapore: Univ. of Malaya Press.
- WANG HUI (2008) "The liberation of the object and the interrogation of modernity: rethinking the rise of modern Chinese thought." *Modern China* 34, 1 (Jan.): 114–40.
- WANG SHAOGUANG (2008) "Changing models of China's policy agenda setting." *Modern China* 34, 1 (Jan.): 56–87.
- WANG ZHENGXU (2005) "Political trust in China." Pp. 113–40 in Lynn White (ed.), *Legitimacy: Ambiguities of Political Success or Failure in East and Southeast Asia*. Singapore: World Scientific.
- WEBER, MAX (1946) "Politics as a vocation," Pp. 125–26 in *From Max Weber: Essays in Sociology*. New York: Oxford Univ. Press.

- WHITE, LYNN T. III (1989) *Policies of Chaos: Administrative Causes of Violence in the Cultural Revolution*. Princeton, NJ: Princeton Univ. Press.
- (2009) *Political Booms: Local Money and Power in Taiwan, East China, Thailand, and the Philippines*. Singapore: World Scientific.
- ZHAO ZIYANG (2009) *Prisoner of the State*. New York: Simon & Schuster.
- ZHENG YONGNIAN (2007) "China's de facto federalism." Pp. 213–41 in He Baogang, Brian Galligan, and Takashi Inoguchi (eds.), *Federalism in Asia*. London: Cheltenham.
- ZHOU, KATE XIAO (1996) *How the Farmers Changed China*. Boulder, CO: Westview.

Biography

Lynn T. White III teaches in Princeton's Woodrow Wilson School, Politics Department, and East Asian Studies Program. His 2009 book is *Political Booms: Local Money and Power in Taiwan, East China, Thailand, and the Philippines*, and his important earlier books are *Careers in Shanghai* about the 1950s, *Policies of Chaos* about the 1960s, and *Unstately Power* about reforms that began in the early 1970s and made China rich in the following two decades.