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Inside and outside: The modernized hierarchy that runs China

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ABSTRACT

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Describes the process through which China has rebuilt and strengthened its bureaucracy since 1978 without moving toward rule of law. Internally, the bureaucracy has become more rule-governed, and new procedures have been introduced, including regular rules for promotion, credentialing, and turnover, including term limits. However, external accountability is absent. The huge difference between "inside" and "outside" may be a unique feature of the Chinese system. *Journal of Comparative Economics* **44** (2) (2016) 404–415. School of Global Policy and Strategy (GPS), University of California, San Diego, USA .

Since 1978, concerted efforts have been made in China to rebuild both the state bureaucracy and the national legal system. However, the dynamics of these two processes are in fact quite different, and their trajectories have diverged dramatically in contemporary China. In China, the rebuilding of the state and Communist Party bureaucratic structure has engaged the full attention of the political leadership since the very beginning of the reform era in 1978. By contrast, the commitment of that leadership to rule of law has been inconsistent at best; sporadically consequential, but more often negligent or even hostile. As a result, the administrative hierarchy has been fundamentally restructured, strengthened and modernized, while the legal and regulatory systems continue to lag. Chinese developments have thus followed a very different trajectory from what we might think of as the base case, in which the development of meritocratic bureaucracies and the creation of a universal legal order proceed in tandem as two compatible and intertwined processes.

This paper focuses on the restructuring of the Chinese hierarchical and bureaucratic system. While a large and sophisticated literature has analyzed and evaluated the Chinese legal system, the literature on the reconstruction of the Chinese hierarchical administrative order is much less well developed. Yet the hierarchical bureaucratic structure is both the basic instrument of governance and the foundation of political control by the Chinese Communist Party (CCP). A top-down effort to revamp the bureaucracy has spanned more than three decades, and produced an outcome quite different from most expectations. The dual Communist Party-government bureaucracy has been strengthened, but has been modernized and combined with education and training. The result has been a far more capable, professional, and rule-bound system, but one that is still strongly authoritarian and hierarchical. Under the Hu Jintao administration (2002–2012), the CCP, on its own terms, achieved substantial success with this project. For the sake of regime survival, a set of rules, norms, and constraints have been imposed on agents within the hierarchy, but the interpretation and enforcement of those rules still remains in the hands of the top CCP leaders. Indeed, while the bureaucracy has become more meritocratic, that should not be taken to mean that it is de-politicized, since political leaders devise institutional rules and procedures to ensure that

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their preferences are followed by their agents lower down the hierarchy. When policy shifts at the top, bureaucrats lower down are expected to promptly pivot and follow the new direction.

One result of these changes is a significant and persistent distinction between the "inside" and "outside" of the hierarchical political system. Chinese commentators frequently make distinctions between inside and outside in discussing their own system, and the distinction is used throughout this paper to highlight the principles on which the current Chinese system operates. "Inside," there is a certain amount of accountability, norms and regulations, and information sharing. "Outside," one cannot be sure of any of those things. The first section of this paper describes the changes made in the "inside," in the core of the hierarchical political system. The Chinese Communist Party has adopted dramatic institutional changes that significantly change the operation of the system. Those changes make the system more resilient and better adapted, but do not make it less authoritarian. In order to view the system as a whole, as an interacting complex of rules and incentives, I outline five constituent characteristics of the current system: four of these are promotion and evaluation criteria which define the system of incentives, while the fifth refers to the provision of education and training in the system. I suggest that this whole complex of institutional changes can be more easily understood if we label it a "counter-reformation." The second section describes the procedures used to manage the promotion process, and uses this to clarify the inside-outside distinction. Elaborate procedural steps are now in place to evaluate candidates according to the promotion criteria described in the previous section, which mandate consultation and accountability. However, the "designers" of this institutional system are careful never to subject the system as a whole, or its top leaders, to external accountability. Accountability is inside the system, never outside. The third section looks briefly at changes in the position of workers and labor unions in the Chinese system. I choose this as a "most difficult" example for my argument: a simple look at the data and institution seems to indicate that Chinese workers are beginning to achieve legal protection. I argue that this reflects the creation of dispute resolute procedures that bring workers into formal organizations that are better integrated with the hierarchical political system. Thus, the improved position of workers reflects the fact that workers are being brought "inside" the system. This reflects and exemplifies the dynamics analyzed elsewhere in the paper.

A final section of the paper provides some general discussion and asks questions about its future evolution. I view the "Chinese Counter-Reformation" as an unprecedented experiment, an attempt to remake an authoritarian system into something more institutionalized, more rational and meritocratic, and more responsive to citizen input, while remaining authoritarian. It is important to take this effort seriously, even if, inevitably, many readers will be skeptical about its pretensions and prospects. An additional motivation for this paper is the effort to understand changes in the Chinese system since the early 2000s. It was plausible, through most of the 1990s, to interpret the bundle of partially consistent institutional changes in China as harbingers of a broad movement towards institutionalization, legal order and perhaps even later democratization. But as the system evolved in the early 2000s, progress in legal liberalization stalled. Modest spaces that had apparently opened up for independent actors slammed shut. For example, "rights lawyers"—who had been tolerated while they supported excluded social groups and refrained from overtly political activities—once again became subject to overt harassment and worse. The belief that China is moving steadily towards "rule of law" is no longer tenable. Yet at the same time, the movement towards increasing institutionalization, binding regulations, and more effective checks and balances *within* the hierarchical and authoritarian system has continued.[1]

1. Inside the system: a Chinese counter-reformation

The Chinese Communist Party has accomplished a dramatic re-structuring of the nation's political institutions. It is essential that we set aside the vague but popular notion that China has carried out "economic reform without political reform." If we accepted the idea that China had no political reform, it would follow that whatever political restructuring has occurred is essentially uninteresting, and this would be a serious mistake. A movement to strengthen, rebuild, and rationalize the hierarchy can be discerned from the very beginning of the reform era (in 1978), and has never been substantially interrupted in the subsequent thirty-five years. During that time, the priorities, orientation and content of the policies of the day have shifted and adapted as circumstances changed, and there have been advances and retreats, but the overall process has retained substantial coherence. Outside observers, however, rarely discuss this process of political change as a coherent whole. It is commonplace for observers to talk about the "economic reform process," since there is a fair amount of common understanding of what the process includes. However, one almost never hears talk of the "political restructuring process," because there is no common agreement about what that involves.

In the broadest possible sense, the political changes the Chinese Communist Party has adopted can be viewed as the adaptation of their authoritarian structure to the needs of a market economy. The Party was profoundly challenged early in the reform era by the erosion of its earlier organization model; by deep splits among Party leaders about the direction of

[1] This paper was written for the Florence conference in October 2011, then edited and partially updated at the end of 2013. It describes China at the end of the Hu Jintao era (2002–2012). After Xi Jinping came to power in late 2012, he took steps that have the potential to significantly change the rules that apply inside the system. Xi Jinping has consolidated power and stressed personal leadership. Xi has also cracked down on corruption and greatly reduced the material perquisites of political position, and is implicitly engaged in changing the criteria for career advancement. In retrospect, the argument in this paper that the system is experienced as stable and predictable by those inside the system may need to be restricted to the Hu Jintao era. Nevertheless, all the institutional features described in this article remain valid. Moreover, if anything, the huge gap between inside and outside is even larger: The institutions and procedures within the system are real and binding but subject to change from the top, while the lack of accountability from the outside is even more absolute under Xi than it was under Hu.