Must We Choose Our Leaders? Human Rights and Political Participation in China

Stephen C. Angle, Wesleyan University

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Wesleyan University

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Is political participation a human right? If so, in what form and to what degree? One answer to these questions is that everyone has the human right to participate in universal, free, and fair elections for the country’s leaders — as well as the rights to organize political parties, to run for election, to express political views, and so on. This answer is suggested by Article 21 of the Universal Declaration of Human Rights,¹ and explicitly supported by the influential American philosopher Alan Gewirth [Gewirth 1978, p. 309]. If we are persuaded to accept this answer, then there looks to be a vast gulf between Chinese reality and the human right to political participation. The thesis of this essay is that Chinese citizens are not so far from enjoying their human right to political participation as this scenario implies. I argue for this conclusion from two directions. First, I dispute Gewirth’s answer to the question of what manner of participation is required by human rights, and show that other forms of participation can also satisfy his rigorous premises. Second, I survey contemporary Chinese political theory and political reality in order to see how much participation is officially or unofficially countenanced, and how much is really taking place. My conclusion is not that Chinese now enjoy the full human right of political participation, but rather that by combining a more nuanced view of what such a human right might be, with a richer and more charitable view of China, we can lay the groundwork for a more interesting and more productive cross-cultural dialogue on the universal demands of human rights.

¹ Article 21 reads as follows: “1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right of equal access to the public service of his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret ballot or by equivalent free voting procedures.” I say that the view mentioned in the text is only “suggested” by this language for two reasons: first, the article does not make it explicit that the elections must be for the state’s leaders, nor that they must be truly competitive (i.e., with multiple candidates); second, explicit endorsement of a multi-party system was considered, but rejected, for inclusion in the UDHR, on which see [Morsink 1999, p. 61].
Before going further, let me dwell for a moment on the “we” in my title. I ask whether “we must” choose our leaders because this “must” is a question of human rights. All theorists of human rights, including past and present Chinese thinkers, agree that human rights apply to all humans. They may disagree on what the rights are, how they should be prioritized, or even what the concept of “rights” itself means, but all accept the universal scope of human rights. Of course, the word “we” also suggests a group whose members might vary depending on who is sitting around the table. I mean my reflections here to be variously relevant to conversations among Chinese, to international conversations, and not least to conversations in Western democracies about what sorts of political participation human rights require for us.

1.1. Gewirth’s Method of Consent

With the publication of *Reason and Morality* in 1978, Alan Gewirth established a new benchmark for comprehensive, rigorous, and universal human rights doctrines. In a nutshell, his theory is that we all must recognize certain needs that we have, simply on the basis of our desire to take action — any action — in our world. Actions are voluntary, done for reasons, and look at least in part to our futures. We thus need some degree of freedom from constraints, and we need some amount of well-being, in order to be able to “act” at all. From these recognized needs, Gewirth derives rights that we must claim as “prospective, purposive agents,” and then goes on to show that we must grant these same rights to all others. Although he strives to show that a great number of human rights can be grounded through this structure, at the core of his argument are the “generic rights” to freedom and well-being, and what he calls the Principle of Generic Consistency (PGC): “Act in accord with the generic rights of your recipients as well as yourself” [Gewirth 1978, p. 135].
My goal here is not a thorough critique of Gewirth’s argument, which has been extensively discussed by many others. I will instead focus on one alleged implication of the PGC, namely, that it requires states to be organized in accord with a particular constitutional structure, one in which the government is “regularly subjected to an egalitarian electoral process that passes judgment on it and may transfer its authority to other hands” [309]. Gewirth believes, that is, that the PGC mandates the right to a certain type of political participation — voting in competitive elections for their leaders — on the part of all citizens. I aim to show that this is too specific and so, in at least some historical, social, economic, and cultural circumstances, incorrect about the implications of the PGC.

My discussion will revolve around two tensions in Gewirth’s account. On the one hand there is a tension between moral necessity and actual human behavior. Gewirth wants to give us a moral justification of rights and institutions in the actual world, so he needs to somehow accommodate the fallibilities of actual humans in his design of institutions to protect human rights. On the other hand there is a tension between his two generic rights: the more freedom I have, the less your well-being is protected, since I can (in principle) use my freedom to harm you. Gewirth certainly recognizes this tension, but his solution, especially when combined with his views on the first tension, ends up being narrow and inflexible.

The question that the relevant portion of Gewirth’s argument aims to answer is: How much say should one have in choosing the nature of the political system one inhabits, as well as its laws and leaders? Since freedom is one of our generic human rights, Gewirth wants to answer this question in a way that maximizes the amount of free say we can have. He argues, therefore, that all political arrangements are subject to the “method of consent.” At the same time, though, he recognizes that there are important limits on this freedom. We cannot be free to consent, or not, to the very existence of the state, nor to its basic criminal laws: the

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2. One useful place to begin is [Beyleveld 1991], an exhaustive effort to explicate Gewirth’s arguments, locate and categorize objections to the arguments, and respond to them all. See also the essays in [Regis 1984], along with Gewirth’s reply.
fundamental order provided by the former, and the protection provided by the latter, are essential preconditions for any actions. The PGC thus requires that we agree to them. Gewirth calls this “rational consent,” as opposed to “optional,” “variable,” or “empirical” consent [306]. States and criminal laws (of appropriate types) are legitimate without anyone having to actually consent to them.

What of the myriad other laws on which the functioning of our society depends? And what about the officials who are empowered to implement these laws? Gewirth realizes that if these, too, are made to depend on “rational consent,” rather than actual — albeit perhaps unreliable — consent, we will have little if any freedom remaining to us in the public realm. He says that “for determining these officials and these laws, ... the PGC requires that the voluntary consent of the persons subject to them must be invoked as fully as possible” [306]. How can this be assured? His solution is to interpose one more rationally necessary stage in between actual consent and our laws. We must have a constitution that spells out the right kind of procedures for participation and consent, and it must do so in a way that maximizes freedom.

One more aspect of the argument needs to be spelled out before I can begin my critique, namely the precise nature of the “consensual decision procedures” allegedly required by the PGC. Gewirth says that “among the actions ... that the PGC requires be left equally free for each person include the objects of the civil liberties, especially the actions of speaking, publishing, and assembling and associating with others” [308]. These civil liberties underwrite a procedure of free elections, which is the primary form of consent envisioned in the system. As he says, civil liberties “function in the political process to help determine who shall govern the state” [308].

Much of this is fine. It is easy to see that the PGC must insist on equal civil liberties, and so this way of spelling out how the PGC constrains a state’s constitution makes sense. I can even accept the phrasing that Gewirth employs a few lines further on: “each person has an equal right to participate freely and actively in the political process and to be protected by the state in that participation” [308]. The nature of this political process is made more explicit, though, in
the quote at the end of my previous paragraph: the political process aims at determining “who shall govern the state.” But why is this the proper end of the political process? Should it not be aimed at determining what the laws are? Barring further argument, it is natural to think that the laws, rather than the officials, are what principally affect citizens’ freedom and well-being. Why, then, does the PGC not require a constitutional structure that allows for maximal influence by citizens on the laws, to the extent consistent with protecting basic freedom and well-being?

The problem, in other words, is that Gewirth seems to be claiming that the PGC instructs us to design a constitution that pays primary attention to citizens’ influence on the selection of officials, while it seems more natural to think that the PGC should direct us to focus on the laws themselves. Why does Gewirth focus on officials? Two possible answers present themselves. First, it is possible that Gewirth might agree that laws matter more than officials, but also believe that for the vast majority of modern states, representative democracy will do the best job of allowing citizens to influence the laws. Exactly what the PGC requires would thus be an empirical matter, perhaps requiring substantial attention to background features of the context in order to determine how the constitution should be structured. The other possible answer is that Gewirth means what he says: the PGC conceptually requires that constitutional design focus on electing officials, not on allowing influence over laws. After all, he argues as follows: “Government by consent means that the particular holders of political authority are not independent variables so far as their authority is concerned but are dependent on the votes of the electorate, consisting of all adult, noncriminal members of society” [309]. It seems quite reasonable to ask that political authority not be an “independent variable,” but we should note the possibility of alternative dependencies. Political authority could rest on some measure of expertise, or on claims to scientific correctness, or on selection by a narrower electorate, or on some particular life experiences, or on a host of other things. We need a reason for taking the vote of the entire electorate described by Gewirth as the best source of dependency, and it does not seem to me that Gewirth provides us with one here. Indeed, I worry that Gewirth puts too much emphasis on political freedom (consent) itself, instead of on the more basic, or
broader, freedoms themselves (say, to live as one wants). The “method of consent” may fetishize “consent” rather than seeing it as primarily a means to an end.

None of this is to say that representative democracy is never the best way to design a constitution that meets the demands of the PGC. I have given no reasons so far that tell for or against choosing such a constitution in a specific context. My goal instead has been to decouple representative democracy from the train of conceptual reasoning powered by the PGC. It is substantially an empirical matter whether, in a particular context, representative democracy fits with the PGC. Let me now turn to some reasons Gewirth gives for answering this empirical question in the affirmative.

1.2. The Empirical Success of Competitive Democracy

Gewirth recognizes the possibility that democratic procedures may sometimes fail to protect some people’s rights to basic well-being. He writes: “Only when it is clear, on the grounds of the most adequate available empirical evidence, that the most pressing rights of basic well-being cannot otherwise be assured, is a departure from the method of consent justified” [322]. This might make it sound like Gewirth has anticipated my criticism, and sees that the justification of representative democracy is an empirical matter. But things are not so simple. Instead, he argues that the necessary existence of two kinds of consent — one rational, the other optional and empirical — leaves room for contingent failures by democratic procedures that are justified by rational consent, but operate according to empirical consent. This does not mean that the democratic procedures themselves are only empirically justified; they continue to have a “rational basis” [322]. We must first attempt to redress any failures, therefore, using “the procedures of the method of consent” itself. “When and only when such use proves fruitless, civil disobedience may be justified” [322]. In other words, according to Gewirth, even persistent failures of democratic procedure to meet the requirements of the PGC will not undermine the justification of those procedures themselves: at most, it allows for a
temporary suspension of the rules. He adds that “in such cases the aim must be to establish or reestablish, at the earliest possible time, the method [of consent] as the dominant procedure” [322].

In short, Gewirth continues to see his method of consent as rationally privileged over any other mode of participation, since even failures of the method do not suggest to him that alternative modes of participation might be institutionalized. A partial explanation for his commitment to representative democracy is his confidence that it will, for the most part, succeed in supporting our rights to well-being. He treats this topic briefly in Reason and Morality, and at greater length in his more recent The Community of Rights [Gewirth 1996]. In the latter book he elaborates on some of the challenges that representative democracies face. Recall that at the center of the question of political participation lie civil liberties, which Gewirth characterizes as including “speaking, publishing, and assembling and associating with others ... to help determine who shall govern the state” [Gewirth 1978, 308]. A major problem is that in a society characterized by significant economic inequality, the civil liberties of the poor, even if nominally protected, are unlikely to be effective in achieving political aims. It is not enough to speak: one needs television commercials and the like [Gewirth 1996, 338-40]. In an unequal society, therefore, competitive pressures favoring different interests will also be unequal; results will favor the wealthy.

Gewirth responds to this challenge by proposing proposes that “the government should affirmatively intervene to remove not only occurrent but also dispositional or institutional obstacles to poor persons' exercising their civil liberties in the democratic process with an effectiveness equal to that of the affluent” [1996, 341]. This might mean making television time and newspaper space freely available to groups of the poor, among other things. As Gewirth acknowledges, though, this solution seems just to push the problem back one step, for what guarantee is there that democratic procedures will lead a society to endorse such “affirmative intervention”? 
We are offered several grounds for hope. We should be hopeful because of the “public moral education” that the method of consent fosters in a democracy [1978, 321], because of the many groups of “reasonable selves” already found in democracies like the United States, and because of the role that judicial action can play [1996, 345]. These are good reasons, and relevant ones. But they may not convince us yet that representative democracy can provide the best means of political participation in all contexts, for two reasons. First, whatever one thinks of the degree to which these sorts of reasons have successfully led, in countries like the United States, to the kinds of affirmative intervention Gewirth envisions, it seems clear that they could well fail to do so: at best, their success is a contingent matter. Indeed, it is all too easy to think of different, less constructive lessons that one might draw from the facts of electoral politics, and judicial activism can clearly cut in more than one direction. Second, it is striking that the reasons Gewirth can offer depend on institutions which themselves are both difficult achievements and independent of representative democracy itself, namely a stable civil society and an independent judicial system. Without those two institutions in place, the case for a democracy coming to adequately support the civil liberties of its poor citizens seems very weak.

Here is what I propose we take away from this discussion of Gewirth. Let us grant him the PGC, and with it the result that “each person has an equal right to participate freely and actively in the political process and to be protected by the state in that participation” [1978, 308]. We should also agree with Gewirth that guaranteeing civil liberties (the freedoms to speak, publish, assemble, and associate) will be an important part of the protection that the state provides. In spelling out what sort of participation is required, though, I depart from Gewirth, who focuses too narrowly on consent and elections. Instead, I suggest that we should

3. Gewirth mentions the American Civil Liberties Union, Common Cause, and others [1996, p. 343]. The idea of the reasonable self builds on his comment that rational and empirical consent “do not inhabit different worlds, like Kant’s phenomena and noumena. Rather, the rationality that is dispositionally present in every prospective purposive agent and that leads him to accept the PGC ... will also tend to lead him to uphold the redistributive justice of the supportive state” [1978, p. 322].
see the PGC as requiring a constitutional structure that allows for maximal influence by citizens on the laws, to the extent consistent with protecting basic freedom and well-being. In large countries with well-developed civil societies and independent judicial systems, we might be willing to grant to Gewirth that competitive, representative democracy would be the best such constitutional structure, though even in this case, there are reasons for doubt. In countries without these institutions, it is even less clear that competitive democracy will best provide what our human right to political participation demands: equal, free, protected, and maximally effective roles in determining the laws, to the extent compatible with protecting other freedoms and well-being.

2. Democratic Centralism

It is popular today to describe Chinese society and politics as “transitional”: a complicated and unstable point on the road from dictatorship to democracy. The most sanguine observers see multi-party democracy emerging within a decade; more sober analysts think the transitional state could carry on much longer than that. Almost all of them, though, see multi-party, representative democracy as the ultimate end goal. If Gewirth is right, then one important reason for insisting on that goal is that only such a political system can satisfy our human right to participation. So far, I have argued that Gewirth’s case for this conclusion rests not, as he thinks, on a conceptual argument, but on an empirical argument that must be sensitive to differences of social and other types of context. This leaves open the possibility that some other forms of political system might serve as well, or better, in particular contexts as guarantees for our rights to political participation.

The obvious political system to ask about in China is “democratic centralism,” the principle around which China’s socialist society, under the leadership of the Chinese Communist
Party (CCP), is organized. In a 1938 CCP party document, Wang Ming gives a relatively complete definition of democratic centralism as it had come to be understood in China:

The minority obeys the majority; party members have complete freedom to discuss and criticize before any issue is decided; after it is decided, everyone must implement the decision of the organization no matter what their view; the subordinate must implement the resolutions and directives of the superior; if they have different views about the resolutions and directives of the superior, they may present their views to the superior, but they must still implement these resolutions and directives before they are changed by the superior. [Saich 1996, 806]

We might view this as a dialectical combination of democracy and centralism, suggesting an ongoing dynamism or flexibility in the relation between the two poles. Less sympathetically, we might just say that, as the quotation from Wang Ming reveals, there is the potential for considerable tension between the two poles: what, exactly, is the relation between the democratic principle articulated at the beginning of the quote, and the suggestion at the end that “the superior” will decide when resolutions can be changed? Is it always clear when an issue has been decided, after which it is only able to be discussed in a much more limited way? Issues like these came to the fore in disputes surrounding the CCP member and author Wang Shiwei in 1942. During a party rectification campaign, Wang published essays criticizing inequalities that he felt were being perpetuated even in CCP-controlled areas of China. Wang himself then became a target of criticism from party leaders, accusing him of “extreme democratic tendencies.” As we will see in more detail below, a crucial issue that democratic centralism must face is whether, and in what ways, it can be institutionalized in a more consistent and predictable fashion.

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4 This paragraph and the next draw on material in [Angle 2005].


6 See the fascinating documentation of this issue in [Saich 1996, 1103-1132]. One cadre recorded that initially, most did not see the error of Wang’s essays; only after two months of studying rectification documents did the fundamental error become clear. Writes the cadre: “How necessary is thought reform! How important were the rectification documents!” [Ibid., 115].
Another matter is the scope of democratic centralism. In most formulations it applies solely to the party, but what democratic or participatory role does this leave to the majority of Chinese people who are not party members? One possible direction here is to appeal to the idea of the mass line. Saich writes that the mass line “had its roots in Lenin’s idea of ‘democratic centralism’ but Mao Zedong added the important feature that the process should not only apply to the party but to society as a whole [Saich 1989, 39]. According to Mao:

In all the practical work of our Party, all correct leadership is necessarily 'from the masses, to the masses.' This means: take the ideas of the masses (scattered and unsystematic ideas) and centralize (jizhongqilai) them (through study turn them into concentrated and systematic ideas), then go to the masses and propagate and explain them until the masses embrace them as their own, hold fast to them and translate them into action, and test the correctness of these ideas in such action. [Mao 1969 (1943), 316; translation slightly altered]

Blecher has argued that in rural areas, at least, implementation of this policy was widespread and led to significant, active participation on the part of common people in local decision-making. The notion that the masses' scattered ideas need to be “centralized” marks a verbal tie to democratic centralism, though there is little clarity about methods, much less any institutionalized guarantee that the process will take place in a consistent fashion. Still, the idea of the mass line is undergoing a revival in Chinese political thinking, stimulated by Jiang Zemin's doctrine that the CCP is responsible for “Three Representations”: the party must represent the most advanced productive forces, the most advanced culture, and the fundamental interests of the broad masses of the Chinese people. As Fewsmith notes, in its generality and complexity, this formulation seems to leave room for the possibility that the CCP is the party of all the people, rather than just the working classes.7

Let me sum up the theory of democratic centralism. Democratic centralism is a principle of political organization and decision-making which, as “democratic,” accords equal weight to

7. [Fewsmith 2001, 229-30]. Jiang's doctrine has drawn both praise and criticism within China. For example, one recent article argues that the “Three Representatives” must uphold the mass line, as that had been intended by Mao: see [Yu 2002].
the views of all participants [Tong 2000].\textsuperscript{8} As “centralism,” though, it demands a single outcome from the decision-making process and that this outcome will be followed by all. Such a political system does not logically require a single party — much less socialism — but it is clear that the emphasis on a single outcome, and on the disciplined adherence to that outcome, fits well with the idea of single party exercising its leadership over a society. Indeed, it fits well with the idea of a “vanguard” party, that is, a party with an ideological platform it sees as representing the overall interests of the people of the society.\textsuperscript{9}

3.1. The Current Situation

My next step is to ask whether democratic centralism, as it is currently realized in China, is adequate to provide for Chinese citizens’ human right to political participation. Drawing on my discussion of Gewirth, we might take this to be the question of whether democratic centralism can be arranged so as to provide (1) robust, stable institutions in which people participate freely and equally, such that (2) they are able to have some significant effect on outcomes, (3) as supported by institutions — presumably a legal system — that (4) protect the people’s civil liberties.

With this idea of political participation in mind, my answer is that current democratic centralism in China does not protect the right to political participation for two reasons. First, in theory democratic centralism demands significant participation in the early stages of policy formation. Current evidence suggests, though, that citizens engage in relatively little front-end participation. We will see that there is more participation of different kinds than might be

\textsuperscript{8} [Wang 1994, 97f] argues for an ultimately unhelpful distinction between “political” principles and “organizational” ones; it is unhelpful in part because it leads him to conclude, on the one hand, that all organizational principles are “centralisms,” while on the other hand not making salient the distinction between democratic centralism and liberal democratic decision-making procedures.

\textsuperscript{9} For more discussion of democratic centralism, including recent developments and further references to the literature, see [Angle 2005].
expected, but front-end participation is particularly important, and it is inadequate. Second, the rule of law is a crucial requirement for participation. While law has taken on an increasing prominence in Chinese society over the last twenty years, as yet it is not adequate to protect the specific political freedoms that Gewirth emphasized, nor more generally to support the right to participation.

1. Front-end participation. Political participation is about directly or indirectly influencing policy.10 The theories of both democratic centralism and mass line depend on a process whereby numerous, often divergent inputs are synthesized, coordinated, or centralized into a single policy output, which is then subject to two types of further processing: (1) tailoring to local conditions, and/or (2) complaint or appeal. There are thus three main stages: input, policy formulation, and adjustment. Wide-spread participation is only possible in the first and third stages. In fact, as democratic centralist theory explicitly recognizes, the first stage is the most important. Too much flexibility in the final stage would undermine the whole idea of centralism. Tailoring to local conditions, that is, cannot mean doing whatever local people want, since what content would be left for the “central policy”? Similarly, while complaint and appeal are important steps, they cannot be allowed to dominate the overall process without surrendering the goals of centralism to arbitrary matters like who happens to complain the loudest. If people cannot successfully articulate their diverse perspectives during the first stage of the process, then neither democratic centralism nor the mass line seem likely to succeed.11

As I noted above, there is some evidence that at least in rural areas, mass line theory was put into practice in rural areas years ago [Blecher 1979]. One of the main scholars who has argued for the significance of grass-roots political participation in the 1960s and early 1970s, though, has also shown that such participation declined precipitously thereafter. Blecher

10 This section draws liberally on material in [Angle 2005].

11. This is not to say that participation in the third phase is illegitimate, pace [Tong 2000], which claims that democratic centralism means no public criticism.
explains that the Cultural Revolution both promoted participation, but in allowing the radical logic of participation to develop unheeded, allowed participation to get too distant from the everyday concerns of the masses, who then lost interest. He argues that Deng Xiaoping’s reforms were in fact premised on that disinterest, in that they separate politics and economics [Blecher 1991]. The structure of rural participation has since changed dramatically, and now revolves around the village committee at least as much as the local Party committee. Village committees are not part of the state apparatus, but are autonomous mass organizations [O’Brien 2002, 219]. According to several analysts, village committee elections are making an appreciable impact on local rural life, though there are limits to participation: non-residents cannot participate, women are under-represented on committees, and some election practices are problematic. In addition, in many villages the Party’s influence still exceeds that of the village committee, or else the domination of the latter by the former leaves the committee with no real independent role.  

Various observers have also noted that Local Peoples’ Congresses are beginning to play more active roles in the policy formation process. Their current status reveals rather a lot about the complexities of the ecology of the Chinese political system. They have developed a niche by gaining support of the Party for their objectives, and by mostly cooperating with governments — the latter, in particular, because government leaders currently tend to be higher-placed in the Party than legislative leaders. But at the same time, these local legislatures have increasingly developed supervisory powers vis-a-vis governments. This sort of oversight could prove to be an important point of access into the policy process for local people represented by the Congresses. According to one analyst, however, until and unless relations between the Local

12. In addition to [O’Brien 2002], see [Ogden 2002, ch. 6] and [Chan 2003], which discusses the mixed results of another new institution, the Village Representative Assembly. Interestingly, O’Brien writes that "Chinese villagers are increasingly identifying, interpreting, and challenging improper elections using the vocabulary of rights" [O’Brien 2002, 227]. On the other hand, he acknowledges that one could say that they are acting like villagers for many centuries, seizing "on official rhetoric, whether framed in terms of Confucianism, class struggle, or citizenship rights, to press claims against malfeasant power holders" [Ibid., 229]. In either case, their active participation in local governance is significant.
Peoples’ Congresses and the Party are sorted out, there is a risk of the former just being another tool of the latter [Cho 2002]. The concrete reality of one party leadership today, that is, means that the government-to-legislature relationship is one of "division of labor," not "separation of power" [Ibid., 729].

Village committees and Local People’s Congresses offer intriguing, if still incipient, possibilities for front-end participation. If we turn to participation in urban areas, the evidence is again mixed. On the one hand, Tianjian Shi’s pioneering study makes clear that there is a relatively high level of political participation, which he defines as “activities of private citizens aimed at influencing the actual results of government policy” [Shi 1997, 21]. He goes as far as to say that political participation in Beijing during the period covered by his study (the latter half of the 1980s) was “no less common than in many other countries” [Ibid., 274]. On the other hand, to a great degree the types of participation fit poorly with the democratic centralist paradigm. According to Shi, urban political participation has the following characteristics [Ibid., 274-5]:

1. People try to intervene in how policy is implemented, rather than in its formation.
2. Types of participation focus on appeals, adversarial activities, and cronyism.
3. The impact of this type of participation on the political system is that the system breaks down to the extent that policy cannot be implemented.
4. Trust in the government varies inversely with participation, thus indicating that the more people participate, the more alienated they are.
5. Vertical social structure — interest-based ties — as well as conflicts among those within an organization, are both cause and consequence of this type of political participation.

In other words, front-end participation is lacking, which leads to the problems identified as (3) and (4) above.\textsuperscript{13} Despite some promising signs, in short, we cannot conclude that participation in keeping with the democratic centralist paradigm is currently institutionalized in China’s cities or its countryside.

\textsuperscript{13} For another, largely compatible view of urban participation, see [Ogden 2002, 220-28]. Shi’s explanation for much of the patterns he observed depends heavily on the ubiquitous role played by the Chinese “work unit (danwei)” in urban life. To the extent that the work unit’s importance is eroding, some changes in people’s behavior should result. See [Dittmer & Lu 1997].
2. Rule of Law. A second critical obstacle standing in the way of protection of the people’s right to political participation in China is the state of Chinese law. Gewirth sees the existence of a legal system based on an authoritative constitution as a necessary institution if human rights are to be reliably protected. One can also find such assertions in China today. First, though, a bit of context. In 1978, the beginning of the post-Mao reform era, China had virtually no functioning legal system. Few laws existed, the Ministry of Justice had been dismantled in 1959, and there were only a handful of lawyers in the entire country [Peerenboom 2002, 6-7]. In the twenty-five years since, Chinese leaders and Chinese society have made substantial commitments, both verbally and in terms of institution-building, to developing the rule of law. By any measure, much progress has been made. One way to judge where things stand today, though, is to ask whether the current legal system could still support systematic denials of people’s right to political participation.

The answer is that it does. Legal theorists in China today distinguish between “rule of law (fazhi)” and mere “rule by law (yi fa zhi guo).” Rule by law is “a form of instrumentalism where law is merely a tool to be used by the state to control others without imposing meaningful restraints on the state itself” [Peerenboom 2002, 64]. The characterization of the contrasting “rule of law” is a matter of considerable debate, but all versions of rule of law are designed so as to impose meaningful restraints on the state through the ideas of the supremacy of the law and the equality of all before the law. No matter how we define it, my main point here is that no one argues that China has actually achieved “rule of law,” and so political participation is not protected.

4.2. Going Forward

I have argued that current Chinese political and legal institutions do not adequately protect the right to political participation of the Chinese people. But could the right to political
participation be guaranteed without a fundamental change of China’s political system in the
direction of competitive democracy? One place to start is with the question of whether anyone
in China — other, perhaps, than leaders intent on nothing but holding power as long as possible
— genuinely thinks that reforming democratic centralism is the way to go. While there are
Chinese intellectuals both inside and outside of China who argue that China’s best choice is to
embrace full-scale competitive democracy, these voices are a distinct minority within
contemporary Chinese political theory. Rather, even when democratic centralism is not explicitly
invoked, the political form envisioned by reformers and theoreticians typically stays within the
bounds of what I would count as democratic centralism. Various ideas of social and political
pluralism are in play in today’s China, as are a range of views about the cleavage between state
and society [Ding 2001]. Each version of these ideas rejects a strong thesis of the unity of all
interests and the unity of state and society. As Yijiang Ding notes, rejecting these unity theses
represents an important shift from the political orthodoxy of the Cultural Revolution period and
before, but rejecting strong claims of unity does not entail accepting strong claims of conflict —
which would only be resolvable through competition. Instead, the norm toward which many are
now working is one of consultation, coordination, and harmonization. These ideals suggest a
framework within which democratic centralism can accommodate, endorse, and protect political
participation.

One of the most elaborate, but intellectually least aggressive, discussions of reforming
democratic centralism has been provided by Wang Guixiu. Wang’s central contention is that
recent social and economic changes in China have not changed the fundamental need for
democratic centralism, only details about the way it should be expressed [Wang 1994, 209]. He
recognizes that things have gone wrong in past decades when leaders have paid too little

14. See, e.g., [He 1997], and the discussion of Shang Dewen, Fang Jue, and others in [Fewsmith 2001,
196-7].

and 134-41].
attention to the masses’ actual interests, and he also sees problems in the ways particular decisions are made today. His solutions, though, are remarkable for their lack of ambition. They include more careful compilation of party documents, with more thorough determinations of which things are suited to democratic centralism and which to single-person rule. Wang hopes for detailed rules to cover all circumstances. In situations apt for democratic centralist methods, committees must meet in full sessions and have full discussions; following this, rules on voting, implementation, and inspection must be followed. Perhaps the greatest contrast between Wang’s reforms and those we will look at below is that he makes no mention of a role for "rule of law" here: his concerns are entirely put in terms of party documents [Wang 1994, 223-8]. This highlights the degree to which he sees democratic centralism as essentially a technique of party organization, rather than an over-riding political principle. We saw above the suggestion that the idea of Mass Line might be of use in extending democratic centralism ideas outside of the party, but Wang avoids that step: for him, the Mass Line is concerned with political values, like “serve the masses with all your heart and mind,” as well as being an epistemological doctrine, providing party members with some slogans about how to ascertain the masses’ desires [Wang 1994, 168]. By refusing to characterize the Mass Line as “organizational,” Wang in effect denies that it has any relevance to the institutionalization of participatory channels.

Wang’s reforms are clearly inadequate. He imagines that there are objective criteria that can be found to distinguish those areas which are suited to democratic decision-making from those which are not. Even if we grant this, the democratic decision-making he has in mind has no institutionalized role for non-party members: it is old-fashioned democratic centralism. In response to concerns about the failure of democratic centralism during the Cultural Revolution, Wang talks of clearer rules.16 But who interprets these rules and who would enforce them? When the Party’s paternalism goes awry, Wang has envisioned no institutions through which

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16. He also mentions the need for a “democratic atmosphere,” which was lacking in the Cultural Revolution. He does not say much about where such atmospheres come from, nor why they might disappear, however [Wang 1994, 101].
people can claim protection, engage in protest, or demand redress. Clearly, institutional changes that will bring about social pluralism and consultative institutions are needed.

1. Social Pluralism. At the local level, the various promising trends in participatory local governance mentioned above must all be continued and consolidated. One of the remarkable trends of the last twenty years has been the growth of associations (shehui tuanti) representing a wide variety of interest-groups at both local and national levels: at the present time, there are perhaps 200,000 such associations at the county- through provincial-levels, and some 1,800 at intra-provincial and national levels. Determining what to make of these associations is a complex task: to begin with, to what extent are these “corporatist” institutions that aim at facilitating state control, and to what extent are they autonomous advocates of plural social interests? One excellent analysis of these matters concludes that:

The complex reality of associational activities generally points to some broad trends of change in contemporary China. Regardless of whether they represent a transition toward social corporatism or an emerging civil society, associational activities indicate the restructuring of Chinese society through the breaking down of vertical control structures and the development of horizontal social grouping. This process has contributed to an emerging realm of organized social life, increasing social autonomy, and the development of differentiated social interests. [Ding 2001, 74]

Ideally, this scholar concludes, “the development of associations will enhance society’s ability for self-organization and self-management, and allow the government to transfer many of its social and economic management functions to associations” [Ibid., 75]. 17 It should be clear that to the extent that this takes place, people will be participating increasingly on the front end of the policy making process.

I said a moment ago that the state needed to recognize, endorse, and protect plural social interests. I believe that this has happened to some degree, but there is still a long way to

17. See also the nuanced discussion in [Ogden 2002, ch. 8], which comes to similar conclusions: for instance, “Especially at the local level, associations provide the Chinese people with opportunities to influence the state” [Ibid., 316].
go. Theoretically, the most important issue is to clarify the differences among unity, harmony, and conflict. Many Chinese leaders in recent years have demanded unity. Here is Deng Xiaoping: “We have stressed the need for the strengthening of Party leadership, democratic centralism, and centralization and unification. The most important aspect of centralization and unification is the unification of thought. This is essential if we are to have unity in our actions.”18 Harmony, on the other hand, not only is consistent with differences, but it in fact requires a plurality. (Think of music: we create harmony through the felicitous combination of different tones.) Harmony is different from unworkable conflict, too, but its status as a middle ground between unity and conflict is sometimes missed. In an article on “political harmonization (or coordination: xietiao)” from 1988, for instance, Huang Shaohui worried that if people have diverse opinions, their political participation will be compromised, and their abilities to be "masters in their own houses" will not be fully realized. This is because their opinions will be "scattered," "even to the extent of being mutually conflictual." Only with a unified will, he argued, can people rule [Huang 1988]. The problem with Huang’s analysis is that he collapses the distinction between harmony and unity, failing to see that different opinions can nonetheless be harmonized without ceasing to be different. Put simply, “harmony” aims to arrive at mutually beneficial solutions, often by re-framing questions so that new possibilities can be seen.19 Both conceptual and institutional progress is needed, in short, if plural social interests are to be endorsed and protected.20

2. **Higher-level consultative institutions.** A significant theme in the official report issued by the CCP’s Thirteenth Party Congress in 1987 was the importance of “consultation and dialogue (xieshang duihua).” Under the influence of Party General Secretary Zhao Ziyang and his

18. [Deng 1992, vol. 1, p. 286]; quoted in [Peerenboom 1998, p. 234], Donald Munro has emphasized the tendency of Confucian thought to seek single-minded unity; see both [Munro 1988] and [Munro 1996].


20. For more extensive discussion of the complex relations between plural social interests and democratic centralism, see [Angle 2005].
patron, Deng Xiaoping, limited political reform was very much on the official agenda at that point. While the tragic events of June, 1989 brought such discussion to a halt, talk of the importance of consultation and consultative institutions has been reviving. As we look to the future and ask about possible kinds of political participation, consultation ought to be high on our agenda.

In a recent proposal for political reform from a Beijing political scientist, consultation again takes center stage. Pan Wei argues for “decisive political changes in the direction of ‘consultative rule of law’, which is a rule of law regime supplemented by democracy instead of a democracy supplemented by rule of law” [Pan 2003, 4]. The core of Pan’s proposal is a “neutral civil service system” whose major responsibility will be to “strictly and impartially enforce laws.” The legislative branch in his system is “essentially a consultative institution to the executive [i.e., civil service] branch”; Pan sees the present system of People’s Congresses, at both provincial and national levels, as the starting-points for this arrangement [Pan 2003, 34]. In addition, he adds that:

...as is the practice in Hong Kong, each level of every government department must build its own social consultation committee (SCC), which should consist of retired civil servants, concerned citizen representatives, and concerned entrepreneurs/specialists. By law the civil service has the duty to periodically report to the People’s Congress and the SCCs, hear their suggestions and accept their investigations by providing necessary government files. By law the civil service must answer their inquiries, and within a legally designated time limit they must openly accept, reject, or partially reject the suggestions made by the People’s Congress and the SCCs. [Pan 2003, 36]

In short, “concerned citizens” can raise questions, via the SCCs or their representatives on the People’s Congresses, and these questions must by law be publicly answered.

Is this form of participation worth having? In a critique of Pan’s article, American legal scholar Randall Peerenboom writes:

Neither greater public scrutiny nor Pan’s consultative committees are likely to have a major impact. Pan’s consultative committees have no real powers.... In the absence of democracy, Pan’s government officials are immune to the threat of removal from office, and remain free to pursue their own agendas. [Peerenboom 2003, 59].
If it is true that without “democracy,” defined as “the threat of removal from office,” officials are unconstrained by any sort of consultative regime, then there seems to be little hope for Pan’s proposal, nor for my broader hope to discover a means of satisfying the right to political participation that falls short of electing leaders. We would have an answer to why Gewirth chose to emphasize selecting officials rather than influencing policy: because the former is the only reliable way of doing the latter.

How strong do the constraints on officials — or, to put it more positively, the influence upon officials — have to be? At one extreme, no one could ask for a system in which officials were completely responsive to his or her desires; at the other extreme, a system in which one’s basic rights were routinely violated and no amount of complaint ever had any effect would obviously be inadequate. In setting our target, we can draw on Henry Shue’s definition of rights as “(1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats” [1996, 13]. One’s right is actually protected when the substance of the right is in fact “socially guaranteed against standard threats”: in other words, institutions exist in the society that, functioning in their standard ways, successfully ward off the typical sources of rights violations. It is clearly possible for such a system sometimes to fail to protect the substance of a right, either when the protective institutions themselves malfunction, or when a non-standard threat emerges.

Our question is whether consultative institutions, in conjunction with the rule of law and various forms of local participation, can meet this “social guarantee against standard threats” standard, thus satisfying the right to political participation. We need a model of how Pan’s Social Consultation Committees might function in order to respond to Peerenboom’s critique; fortunately, such a model is available in the elaborate system of “consultative councils (shingikai)” in contemporary Japan.21 The earliest fore-runners of today’s shingikai date back to

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21. Pan himself mentions the system of consultative comittees in Hong Kong [Pan 2003, 36n31]. I look to Japan instead for both principled reasons — the greater size of Japan’s political system and economy make
the late nineteenth century, but up until the end of World War II, they functioned primarily as rubber-stamps [Schwartz 1998, 49]. Their evolution since then has been related to many other changes in the Japanese political system. One of the lessons of Schwartz’s study is that consultative institutions like the shigikai do not function in a vacuum. Part of what makes them work is their place in a system of institutions.

The primary role of the shingikai is to serve as a “a bridge between the social system and the political system” in order to make possible “the confrontation and reconciliation of the demands and supports of the social agents, as well as the expressions of the wishes and possibilities of the political agents.”22 They are composed of representatives of various social interest group associations, businesses, and labor unions; scholars and other “persons of learning and experience”; bureaucrats; and sometimes members of the legislature [Schwartz 1998, 61-75]. They are thus less a means for individual political participation than a means by which interested associations can take part in the policy-formation process. Individuals participate indirectly, through their membership in the relevant associations. We have already seen that Chinese theorists have been paying increasing attention in recent years to the complexity and diversity of interests and interest groups in Chinese society; no longer do most assume that there is one, unified “people’s interest.” The idea of consultation is rather to coordinate or harmonize (xietiao) the various interests so that all can work together toward common goals. It is perhaps worth noting that this idea of the state as serving a harmonizing function among competing social interests is not new in China; influenced in part by Western thinkers like Harold Laski, Gao Yihan made a very similar argument in an important book on political science published in 1930.23

22. [Schwartz 1998, 47]; quoting [Dion 1973, 335].

23 See [Angle 2002, 193]. Interestingly enough, Schwartz himself cites Laski’s assertion that “the first great need of the modern State is adequately to organize institutions of consultation” [Schwartz 1998, 46-7]; quoting [Laski 1931, 80].
Do *shingikai* work? Schwartz cites a tripartite distinction among types of consultation:

- **optional** (when the consulting authority is not obliged to ask for advice),
- **compulsory** (when the consulting authority is obliged to seek advice but not obliged to act on it), and
- **executive** (when the consulting authority is obliged to seek advice and must act on it) [Schwartz 1998, 263].

The consultations that take place between Japanese ministries and *shingikai* are all either optional or compulsory: as in Pan’s system, the councils cannot force the ministries to act. However, Schwartz immediately qualifies this with the following quote from a member of one such council: “It may have no authority, but its influence is large” [Ibid.]. Perhaps the core reason why this is so is captured in a comment Schwartz makes near the end of his book. In the course of explaining why many Japanese analysts endorse the councils, with their inclusion of “private” parties in the “public” policy-making process, he writes: “Ease of legislation and implementation more than make up for the added complexity of policy formation” [Ibid., 275]. By including extensive front-end participation by representatives of many affected interest groups, the *shingikai* make the later stages of the policy process more successful.  

Officials can ignore *shingikai* recommendations, but then they have further hurdles to overcome, including the legislature and various barriers to effective implementation. It is important to note that in Pan’s system, too, the legislature can block passage of bills proposed by the civil service [Pan 2003, 35]. And we have already seen that Chinese citizens have a variety of means at their disposal to disrupt the implementation of policies.

In sum, consultative committees cannot be viewed in isolation. For one thing, they are not adequate means to participation on their own, since only a small number of people actually take part in them. They must be viewed as one of the points at which an elaborate system of social interest groups intersects with the policy-making process; another such point is public

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24 For another, complementary perspective on the role of *shingikai* and other types of consultation in Japanese democracy, see [Richardson 1997]. Richardson stresses the role of horizontal, rather than vertical ties in Japan, calling it a “decentralized bargained democracy” [249].
opinion as expressed in a free media. Secondly, the effectiveness of consultative committees does not come from their executive power, but rather from their role in enabling successful policy-making. Officials heed them because they care about successful policy-making. Of course, officials may have a variety of other aims, including amassing wealth, advancing their careers, or pursuing vendettas. If these are allowed widespread roles, policy-making will suffer, but so will the effectiveness of political participation under such a system. This leads to the last sense in which consultative committees cannot work on their own: if they are not supplemented by the rule of law, and perhaps by an independent anti-corruption system, the committees may be undermined by the bureaucracy’s failing to pursue its proper objectives.

5. Conclusion

I will conclude by considering two final questions. First, would all these changes be enough to meet the standard posed by the human right to political participation? Second, even if the answer to the first question is yes, do Chinese people have good reason to strive for that version of political participation instead of some other one — say, competitive, multi-party democracy?

The answer to the first question hinges on how well a democratic centralist system reformed along the lines envisioned here will meet the standard of providing equal, free, protected, and maximally effective roles in determining the laws. This does not mean that no individual can have more influence than any other on the final shape of the laws. Presumably officials will have a more personal role, just as they do in any system save direct democracy, than the typical citizen. But as citizens, participating in the political process, each person should have an equal opportunity to express opinions, air grievances, call for change, and so on. Since

25. This is a major part of Pan’s system; he suggests modeling an anti-corruption institution on those in Singapore and Hong Kong [Pan 2003, 36-7].
citizens’ locations in a complex society vary considerably, a satisfactory system of participation will require a variety of modes and opportunities for participation. In each of these, citizens should be free to take part and protected from interference once they choose to participate. The combined effect of these various modes of participation, finally, must be as effective as possible, so long as other freedoms and well-being are protected. This means that no one group can expect its wishes to be followed if they seriously undermine the freedom or well-being of others; barring this, they can expect their views to be taken seriously as efforts are made to find optimal (that is, harmonious) solutions to the variety of complex problems with which officials are faced.

As I stressed in my discussion of consultative committees, no one institution of participation can be satisfactory on its own. Though I will not argue for it here, this applies to elections just as much as to any other mode of participation. Committees and other means of consultation depend for their effectiveness on the ability to expose to public view and sometimes (in cases of corruption) to prosecution failures of officials to heed the committee’s advice. Individual citizens need to be able to make their views known, through associations, media, local elections, and so on, without fear of reprisal. This requires the rule of law, the protection of civil rights, and support for multifarious associations in society. It is thus critical that political reform in China take place along all the lines outlined here. If this happens, I see no reason why the resulting political and legal system will not adequately guarantee the human right to political participation.

What of my second question: should Chinese be satisfied with this system? Here we must make a comparative judgment. The question is not whether democratic centralism can satisfy the minimal standard of human rights, but whether it satisfies this standard as well as all possible alternatives. Clearly this is an enormous question that I will not attempt to answer fully, but my reflections here do suggest some intriguing considerations. Many have asked whether democratic centralism makes any sense in a post-revolutionary context. Assuming we reject Mao’s doctrine of permanent revolution, then even if centralism was necessary for a successful
revolution, what role is there now for a vanguard party? Recall that we uncovered serious worries about whether competitive democracy will always actually do enough to support disadvantaged citizens’ well-being, such that they can actually participate on an equal basis. Or worse: partly because of their lack of equal participation, poor citizens’ fundamental right to well-being may itself be compromised in a competitive democracy. This essay suggests, therefore, that the ideological commitment of the CCP to equality and social justice may be as necessary in China today as it ever was. Unless the Chinese state and society were to undergo a variety of other, far-reaching changes, it is rather likely that simply installing a system of competitive democracy would lead to deeply unjust outcomes. Since, as I have argued, Gewirth’s “method of consent” is not an end in itself, this suggests that at least for the time being, a reformed democratic centralism may be the objective toward which Chinese people should strive.
Bibliography


