

# Teaching China's Legal and Political System

## *Culture and Revolution*

BY RICHARD L. WILSON AND HONG WANG

Teaching about China's legal and political system is closely related to the issue of whether—and how—China's government might change in the future. Good teaching cannot be based on inappropriate Western models or fly in the face of available evidence. After a century of research on China, one would think that Western expectations of China's conformity to any foreign models would be diminished. After all, scholars have had decades to consider Jonathan Spence's *To Change China*,<sup>1</sup> which chronicles the follies of Westerners who traveled to China between 1620 and 1960 bent on transforming Chinese civilization, only to end their life's work with the discovery that they changed more than China changed. The improbability of significant change is also suggested by Lucian Pye's work, which demonstrates the durability of Chinese culture.<sup>2</sup> As recently as 2007, James Mann found it necessary to publish *The China Fantasy*, in which he argues that with China, what one sees is what one gets.<sup>3</sup> Mann argues that many American observers and politicians promote one of two dysfunctional fantasies—the gradual democratic transformation of China's government or a revolution that will result in a democratic China.

The first fantasy holds that recent dramatic economic changes in China will lead to a gradual democratic transformation of China's legal and governmental system. In this fantasy, the adoption of free enterprise economic practices will inevitably necessitate the devolution of power away from the Chinese Communist Party (CCP). The attractiveness of this fantasy—especially for American politicians—is that it allows them to continue policies that give American consumers access to inexpensive goods. Insofar as there is a theoretical basis for this view, it rests on the as yet unproven idea that a free enterprise system necessitates a constitutional democratic system that guarantees free expression, a multi-party system, and the rule of law. Some evidence for this view may be distilled from various European experiences, but the jury is still out on whether this will occur in Confucian Asia, notwithstanding the apparent progress in Japan, South Korea, Singapore, and Taiwan. This possibility is even less evident for the core Confucian society in China. Mann acknowledges that some “democratic” change has already occurred and further change is possible over the coming decades, but he does not hold out much hope for any immediate change at the core of Chinese culture.

While Mann is correct in his general argument, his slender book lacks a deeper historical and theoretical analysis of why this is true. One misunderstanding concerns China's recent changes in its economic system. China did not abandon Marxism for an economic system that resembles free enterprise because Deng Xiaoping and the other Chinese leaders read and adopted the views of free market economists such as Milton Friedman.<sup>4</sup> Instead, Deng and his colleagues, attempting to operate a failed Marxist economic system, discovered the first rule of holes: “if you are in one, stop digging.” As Kate Xiao Zhou demon-



**LEAVES of the SAME TREE**  
Trade and Ethnicity in the Straits of Melaka  
Leonard Y. Andaya

**THE SHAOLIN MONASTERY**  
HISTORY, RELIGION, AND THE CHINESE MARTIAL ARTS  
Meir Shahar

**Nippon Modern**  
JAPANESE CINEMA OF THE 1920S AND 1930S  
Mitsuyo Wada-Marciano

**Korean Spirituality**  
Don Baker  
DIMENSIONS OF ASIAN SPIRITUALITY

**Khmer Women on the Move**  
EXPLORING WORK AND LIFE IN URBAN CAMBODIA  
Annuska Derks  
Southeast Asia: Politics, Meaning, and Memory

**Beijing Opera Costumes**  
THE VISUAL COMMUNICATION OF CHARACTER AND CULTURE  
Alexandra B. Bonds

**Modanizumu**  
MODERNIST FICTION FROM JAPAN, 1913–1938  
Compiled and edited by William J. Tyler

HAWAII UNIVERSITY OF HAWAII PRESS  
www.hawaii.uhpress.edu

strated in *How the Farmers Changed China: Power of the People*,<sup>5</sup> the CCP leadership simply stopped enforcing the failed commune system and the farmers, who wanted out of the communes, charged through the opening, thereby transforming the economy. The CCP simply relaxed Marxist central planning and allowed the traditional Chinese economic system, which always had many free enterprise elements, to re-emerge.

This is not to say that the earlier Chinese imperial economy was a free enterprise system, or that the current system is completely free. The Chinese central government has always had control of certain chokepoints in the economy. This makes the economy resemble mercantilism in many respects, but this has been obscured because the Chinese empire is so large that it constitutes a free trade area, and because the Chinese government's power is not sufficiently encompassing to enforce economic laws throughout China's large land area. Persistent central government weakness in controlling the economy gives credence to the Chinese adage that "heaven is high and the emperor is far away."

Some supporters of the evolutionary fantasy argue that this pattern is already working because the CCP allows "free" elections for village offices that were previously appointed by the CCP, and that non-CCP members can run and win. While this is partly true, reports of rigged elections and violent attacks on non-CCP candidates are increasingly common. Even if village elections were completely free and unfettered, the CCP makes it clear that such elections for any higher office will not be tolerated. Campaigns for election to such higher offices would require formation of electoral organizations resembling political parties, and Chinese society—both now and in the imperial past—has a nearly pathological fear of factions. There is no reason then to believe that a two-party, constitutional democracy is just around the corner. China's "free enterprise" type economy functioned for centuries within Chinese imperial systems, casting grave doubt on the notion of any inevitable evolution from a free enterprise economy to a constitutional democracy.

Perhaps the most important reason that substantial evolution is a fantasy is the near impossibility of the rule of law emerging in China. One of the authors of this essay, Richard Wilson, argues in "The Reception of the European Idea of the Rule of Law in China,"<sup>6</sup> that the rule of law and constitutional democracy are largely incompatible with certain intertwining features at the core of Chinese traditional thought.<sup>7</sup> The rule of law is incompatible with the rule of man, yet the rule of man is central to much of Chinese traditional thought. Confucianism places much emphasis on personal development. The Chinese system either relies on one person—the emperor or the top party boss—or on a group of officials—the mandarins or cadres. Either way the system relies on persons, not the rule of law, for fundamental guidance. Often, but not always, the idea is that one person must be in charge of the government. The traditional Chinese adage that there can be only one emperor, just as there is only one sun in the sky, tends to confirm this. This is true even when—under the traditional idea of the Mandate of Heaven—heaven loses confidence in one emperor and bestows it on another. In such a case, the government is still governed by a person, not by law.

Genuine free expression (as opposed to the occasional relaxation of governmental controls of free expression) is also incompatible with the need for a single overriding system of thought—whether Confu-

cianism or Maoism—centered in the current view of whomever is acting as the functional equivalent of the emperor. Intolerance of dissent is also evident in societies outside China influenced by Confucian thought. In Singapore, for instance, the largely Chinese populace accepted the dominant views of Lee Kwan Yu (Singapore prime minister, 1959–1990) to a degree that makes most Westerners uncomfortable. The intolerance of dissent is intertwined with the cultural opposition to "factionalism," which renders political parties and genuine dissent impossible.

The second fantasy, the widespread belief in the "second coming" of a Tiananmen style disturbance that leads (this time) to a successful democratic revolution, not only misreads the nature of the 1989 Tiananmen incident, but also persists, despite the absence of any comparable recurrence of Tiananmen style student demonstrations in the last eighteen years.<sup>8</sup> Mann recognizes the impossibility of ruling out violent political disorder as the result of environmental catastrophe or economic breakdown. Yet the crux of his argument is that the prospect for a democratic revolution is unlikely, and the most probable outcome—even in the face of substantial violent political disorder—is more of the same. Even if the CCP were completely overthrown, the ensuing regime would likely resemble the Chinese imperial structure just as does the CCP.

One important reason for the popularity of this fantasy is that Americans often see revolutions as being similar to the 1776 American affair in which there was an apparent 180-degree change from monarchy to "democracy." Whether this is an accurate picture of the American Revolution should not be debated here, but the American experience does not resemble the far more violent events that were the 1789 French, the 1917 Russian, and the 1949 Chinese Revolutions. These were the world's so-called "grand revolutions" in which deep cultural changes were attempted, in addition to the obvious political regime changes. It was the assault on culture, so characteristic of these grand revolutions, that led them to attain 180-degree change only briefly before continuing on to a nearly 360-degree revolution. Grand revolutions fail to sustain their early 180-degree changes precisely because the revolutionary transformations are so profound, the very durable traditional cultures strike back with a vengeance. While space does not permit a full elaboration of the thesis here, contemporary revolutionary theory fails to see revolutions as nearly full 360-degree events.<sup>9</sup> The views expressed in this essay seek to update the original analysis of Crane Brinton's *Anatomy of a Revolution*.<sup>10</sup> Brinton saw the French Revolution as making a nearly complete 360-degree shift from the autocratic Bourbon kings back to Napoleonic tyranny, a move he called a Thermodorean reaction.

Since the French revolutionary era lasted only about thirty years, it is easier to see in the French than in the Chinese case. If the time frame is extended substantially and Brinton's original thesis developed further, the 360-degree character of grand revolutions becomes clearer, especially for the Chinese revolution. Deng Xiaoping's reforms begin to look very similar to the Thermodorean reaction in Brinton's terminology. Deng can even be seen as a successor to the Qianlong emperor, who retired as Emperor a few years before his death so that his reign would not exceed that of his grandfather, the legendary Kangxi, although he retained ultimate authority until his death. In parallel to Qianlong, Deng Xiaoping gave over power to his successors a few years before his death while also retaining ultimate authority.

For those who pine for another albeit successful Tiananmen, followers of the Brintonian view believe the 360-degree character of grand revolutions holds little hope for the emergence of a constitutional democracy, even if the CCP were successfully overthrown. A Thermorean reaction would eventually occur, thus restoring the essence of the Chinese traditional imperial system. Adherents to this view do not assert that cultures never change, but do argue that the durability of culture means that genuine transformations evolve over very long time frames.

How does one teach all of this? The previously cited writings of Lucian Pye, Jonathan Spence, and Kate Xiao Zhou provide suitable material for comparative government courses on China. Videos are useful in teaching culture, and Carma Hinton is the translator and narrator of three excellent videos: *All under Heaven*, *Small Happiness*, and *To Taste a Hundred Herbs*.<sup>11</sup> Hinton's interviews with the Long Bow residents elicit candid observations of Chinese villagers rarely available from any other source. *To Taste a Hundred Herbs* concerns a Chinese Roman Catholic herbal medicine practitioner who inherited both his medical practice and his religious beliefs from his father and grandfather. This video should be viewed by those interested in a Confucian understanding of the theology of Roman Catholicism. The medical practitioner's theology can only be described as Confucian Roman Catholicism. Whether intended or not, Hinton's videos provide powerful evidence for the durability of Chinese culture.

More directly related to an understanding of China's political and legal system are some Chinese government-sanctioned feature films, which the Chinese government hopes will convince viewers that the government is making slow, steady progress toward holding the CCP officials responsible for their behavior. Such films must be used with caution since more objective evaluations of China's progress toward establishment of the rule of law are discouraging. Ian Johnson's *Wild Grass*<sup>12</sup> shows that the Chinese government has allowed a very small number of ordinary citizens to win lawsuits against CCP officials, but such wins are very rare and do not produce any uniform precedents for other suits by comparably situated citizens.

The assumption that China will become a constitutional democratic system with genuine respect for the rule of law must remain doubtful. The authors realize that this thesis will disappoint many who want American "democracy" to be the most prominent US export, but the Chinese will do a better job of evolving their government in a way compatible with their political culture than the West can do for them. Above all, it does little good to perpetuate fantasies. ■

## NOTES

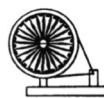
- Jonathan D. Spence, *To Change China: Western Advisors in China 1620 to 1960* (New York: Penguin, 1980).
- See especially Lucian W. Pye, *China: Introduction*, Fourth Edition (New York: Harper Collins, 1991); Lucian W. Pye, *The Mandarin and the Cadre: China's Political Culture* (Ann Arbor, Michigan: The Center for Chinese Studies, University of Michigan Press, 1988); Lucian W. Pye, *Asian Power and Politics: Cultural Dimensions of Authority* (Cambridge, Massachusetts: Belknap Press of Harvard University, 1985).
- James Mann, *The China Fantasy* (New York: Viking, 2007).
- See especially Milton and Rose Friedman, *Free to Choose* (New York: Harcourt Brace Jovanovich, 1980). Friedman received the Nobel Prize in Economics.
- Kate Xiao Zhou, *How the Farmers Changed China: Power of the People* (Boulder, Colorado: Westview Press, 1996).
- Richard Wilson, "Foundation of Laws Helps Economic Future," *Beijing Review*

32:1989, 7-8; Richard Wilson, "Laws Help Economic Future," *Li Lun Xin Xi Bao (Theoretical Information)*, 3-20 (in Chinese); and especially Richard Wilson, "The Reception of the Rule of Law in China," in *History of European Ideas: Volume 16: European Integration and the European Mind* (Oxford: Pergamon, 1995).

- See Richard Wilson, "Confucianism," *Encyclopedia of the Ancient World*, Thomas J. Sienkiewicz, ed. (Pasadena, Calif: Salem, 2002). For more on the conflict with the Western notion of the rule of law, please see Richard Wilson, "The Rule of Law," *Encyclopedia of the US Supreme Court*, Thomas Lewis and Richard Wilson, eds., (Pasadena, Calif: Salem, 2001).
- While the movement did use the rhetoric of majoritarian democracy and the students did sincerely wish to live under a better government, the nature of the movement and Chinese culture makes it doubtful that a constitutional democratic regime committed to free expression and the rule of law could have emerged even if the students had been more successful. See Richard Wilson, "Tiananmen Square," *Magill's Guide to Military History*, John Powell, ed. (Pasadena, Calif: Salem, 2001).
- Wilson and Wang, co-authors of this article, expand this thesis in a book they are developing on culture and revolution.
- Crane Brinton, *Anatomy of a Revolution*, Revised and Expanded Edition (New York: Vintage, 1965).
- These videos are available from Kathy Kline, distribution director of the Long Bow Group at longbowgrp@aol.com.
- Ian Johnson, *Wild Grass: Three Stories of Change in Modern China* (New York: Pantheon, 2004). Despite the subtitle, there is not much change in the control of the CCP evidenced in this book.

**RICHARD L. WILSON** (BA Chicago, PhD, Johns Hopkins) is a Professor of Political Science at the University of Tennessee at Chattanooga and has published a number of articles and book chapters on Asian politics, history, and culture.

**HONG WANG** (MA, Beijing Foreign Studies University, The University of South Florida, and the University of Illinois, Urbana-Champaign) is the Social Science Librarian for California State University, Sacramento.



## Educational Resources GANDHI & INDIA

*Large Photographic Exhibits of India*  
by Beatrice Pitney Lamb

*Large and Small Exhibits on  
Gandhi's Life*

*Films and Books on Gandhi  
and India*

*Course Materials on Life and  
Message of Mahatma Gandhi*

**The Gandhi Memorial Center**  
P.O. Box 9515  
Washington, DC 20016  
301-229-3871  
[www.gandhimemorialcenter.org](http://www.gandhimemorialcenter.org)  
[info@gandhimemorialcenter.org](mailto:info@gandhimemorialcenter.org)