

# From China’s “Political Meritocracy” to “Just Hierarchy”: the Elusive Search for a Viable Post-Democratic Governance Regime in the Era of Coronavirus

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## Abstract

Students of comparative constitutional design grapple with myriad complex normative and empirical issues. Prominent among them is the relative effectiveness of different governance regimes. Concerns stemming from the perceived malfunctioning of modern democracies have intensified efforts to diagnose and rectify the supposedly proliferating ills. The seemingly solid post-1978 Chinese record of steadily managing intricate societal challenges has highlighted the possible advantages of the country’s tightly controlled top-down institutional apparatus and its potential value as a model worth broadly exploring and even embracing on a meaningful scale. This view, authoritatively and vigorously articulated by an influential and prolific political philosopher and his academic associates, has evolved to a point whereby the Chinese constitutional order and contemporary experience are portrayed as being capable of fruitfully supplanting democratic structures or, alternatively, productively revitalising them. Yet, on the whole, this remains a controversial politico-legal proposition, conceptually problematic and lacking sufficient factual support.

## Keywords

democracy – political meritocracy – just hierarchy – governance regime – constitutional design – China model – efficiency – inclusiveness

## 1 Introduction\*

Sub-par economic growth, escalating income and wealth inequality, bouts of financial instability, burgeoning social problems, increasing political polarization, deepening institutional paralysis, and a pervasive sense of foreboding about the future of humankind and the environmentally compromised planet it inhabits have given rise to doubts about the effectiveness of the democratic governance regimes that have played the leading role in shaping the post-Second World War order. This process of critical reflection has gained momentum in recent years and has featured the putatively constructive and dispassionate examination of the merits of alternative constitutional and quasi-constitutional blueprints.

Identifying flaws in the democratic façade is a time-honoured pursuit, including among those fiercely committed to the ideals underlying this governance regime. Commonly the process consists of acknowledging its certain pitfalls and offering suggestions for fruitfully addressing them, but at the same time reaffirming its fundamental virtues and superiority over any competing institutional configurations. Invoking the spirit of Winston Churchill’s assertion about democracy and its discontents has been a path frequently followed in such circumstances, often culminating, for the purpose of reinforcing the message sought to be conveyed, in an inspirational quote from his 11 November 1947 speech to the British parliament:

“Many forms of Government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time.”<sup>1</sup>

China’s “rise” has posed an intellectual challenge, at least in some respects, to the empirical validity of this historical construction. Unlike other authoritarian systems, notably that of the Soviet Union, the reform-era Chinese communist regime has endured, has enjoyed a relatively high degree of socio-political stability, and has lifted significantly the population’s living standards. Against the backdrop of apparent democratic fragility, this has prompted academic

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\* I wish to thank Miron Mushkat for helping me navigate through social science territory, but I am solely responsible for the views expressed herein.

1 Richard M. Langworth. “Democracy is the Worst Form of Government...” 26 June 2009. Retrieved 31 December 2021, <https://richardlangworth.com/worst-form-of-government>.

researchers and policy makers to explore and even promote China's post-1978 governance regime as a structural constellation conducive to economic progress where relevant conditions prevail or, to put it differently, as a developmental model selectively but by no means narrowly worthy of emulating.<sup>2</sup>

This argument has been advanced most comprehensively, consistently, emphatically, provocatively and systematically through various channels, academic and non-academic, by Daniel Bell, a Canadian scholar currently serving as the Dean of the School of Political Science and Public Administration at Shandong University and Professor of Philosophy at Tsinghua University. Three of his books, one coedited with Chenyang Li, one a solo effort, and one co-authored with Wang Pei have proved particularly impactful in this respect: *The East Asian Challenge for Democracy: Political Meritocracy in Comparative Perspective*;<sup>3</sup> *The China Model: Political Meritocracy and the Limits of Democracy*;<sup>4</sup> and *Just Hierarchy: Why Social Hierarchies Matter in China and the Rest of the World*.<sup>5</sup>

The intellectual appeal of the Chinese example, if indeed conceptually and empirically compelling, could not be minimized, even in the absence of historical parallels, because of the country's size and the important role it plays in international politics and the world economy. Lack of comparable cases, however, would have diminished the attraction of the assertion put forward regarding the commendable performance of certain type of non-democratic governance regimes. Bell thus offers evidence that this is an East Asia-wide phenomenon.<sup>6</sup> Yet, the smaller countries in the region, partly perhaps because most of them can no longer be readily accommodated within the analytical framework erected, increasingly recede into the background and the entire structure becomes heavily tilted towards China.

Democracy is an elastic term not exclusively associated with any specific political system. In his encyclopaedic survey, David Held identifies nine variants, four classical (Athenian-style, protective republicanism, developmental republicanism and Marxian direct democracy) because of their deep historical roots and five of a more recent vintage (competitive elitist democracy,

2 See, generally, H. Li, "The Chinese Model of Development and Its Implications", *World Journal of Social Science Research* 2(2) (2015) 128–138.

3 D.A. Bell and C. Li (eds.), *The East Asian Challenge for Democracy: Political Meritocracy in Comparative Perspective* (Cambridge: Cambridge University Press, 2013).

4 D.A. Bell, *The China Model: Political Meritocracy and the Limits of Democracy* (Princeton: Princeton University Press, 2016).

5 D.A. Bell and W. Pei, *Just Hierarchy: Why Social Hierarchies Matter in China and the Rest of the World* (Princeton: Princeton University Press, 2020).

6 See, in particular, Bell and Li, *supra* note 3.

pluralism, legal democracy, participatory democracy and deliberative democracy).<sup>7</sup> He then places them in two broad categories: direct or participatory democracy and liberal or representative democracy.<sup>8</sup> As the labels imply, the latter entails intermediation by elected agents who act on behalf of the citizens/the principal, whereas the former is intermediation-free and wholly driven by citizens/the principal.

Bell's work revolves primarily around the positive attributes of China's governance regime as seen against the backdrop of the seemingly deteriorating performance of open societies. Liberal or representative democracy is thus his principal reference point. Bell's latest book, which is wider in scope in that it focuses on the merits of hierarchy,<sup>9</sup> arguably encompasses direct or participatory democracy as well, a bottom-up propelled and flat institutional entity. This is not without problems in the present context because liberal or representative democracy is not devoid of hierarchical elements. It is, however, less regimented and more flexible than the so-called Chinese “political meritocracy” so the book may legitimately be regarded as an extension of a reasoning process geared towards demonstrating the virtues of centralised forms of social organisation and falling within the same intellectual ambit as the more narrowly centred studies preceding it.

Whether one is entirely comfortable with assumptions underlying this ambitious multiyear research agenda, the lines of inquiry pursued and the inferences drawn, there can be little doubt that Bell has made a notable contribution to knowledge. He challenges the conventional wisdom regarding the workings of democratic and quasi-authoritarian governance regimes, as well as loosely configured and tightly stratified decision-making systems, poses thought-provoking questions and generates fruitful insights that call for careful reflection. Yet, at the same time, the explanations provided, assessments undertaken and conclusions arrived at, overall and in specific areas, are by no means “fool-proof” and should not escape constructively critical scrutiny. The aim of this article is to offer an evaluation in such a spirit.

The first step in the process is an overview of the mainstream research currently conducted by “insiders” who seek to point out gaps in the democratic façade in order to shrink or even eliminate them, rather than to replace open society institutions, whether selectively or wholesale, with imports from structurally more rigid environments. This is followed by two sections, also substantive in nature, one focused on China's political meritocracy and one on the

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<sup>7</sup> D. Held, *Models of Democracy* (Cambridge: Polity Press, 3rd ed, 2006) pp. 1–255.

<sup>8</sup> *Ibid.*

<sup>9</sup> See, generally, Bell and Wang, *supra* note 5.

notion of “just hierarchy.” The discussion ends with a brief summary which is intended to be of general relevance but which also strives to display sensitivity to the realities of Hong Kong, whose political and legal system is at variance with those of the Mainland giant that is intent on absorbing the territory and, as is becoming increasingly clear, reinventing it in its own image.

## 2 Democracy and Its Discontents Revisited

There is seldom a uniformity of opinion when it comes to interpreting socio-legal phenomena, which are consequently often approached from multiple perspectives that may diverge materially. The effectiveness of democratic regimes is no exception. The subject has inevitably been looked at from a wide range of angles. Advocates of direct or participatory democracy have been critical of liberal or representative democracy,<sup>10</sup> feminist and environmental theorists have targeted system outputs and inputs responsible for the undesirable outcomes,<sup>11</sup> a conservative backlash has ensued,<sup>12</sup> post-modernists have expressed their misgivings,<sup>13</sup> and globalists have registered their dissatisfaction.<sup>14</sup>

For the most part, such and other similar critiques do not closely overlap with those populating Bell’s scholarly agenda. There might perhaps be a temptation to take him to task for not according them sufficient attention, but this would constitute an inappropriate response because Bell has set specific goals for himself, which have not included delivering an all-embracing assessment of democratic institutions and more tightly stratified variants. A balance needs to be struck in such circumstances between leaving no stone unturned and maintaining coherence, and Bell has arguably achieved this objective by incisively progressing along a broad but not overly amorphous pathway.

Two mainstream socio-legal theoretical paradigms, on the other hand, are worth outlining here, despite the gap separating them and Bell’s intellectual scheme, because the contrasts, where they may satisfactorily be pinpointed, may effectively differentiate it from the ways the topic is typically handled in the academic literature. One is a loose form of structural-functionalism, focusing on socio-legal structures and the functions which they perform and fail to

10 J.S. Dryzek and Patrick Dunleavy, *Theories of the Democratic State* (London: Palgrave Macmillan, 2009) pp. 207–225.

11 *Ibid.* pp. 225–268.

12 *Ibid.* pp. 269–286.

13 *Ibid.* pp. 289–306.

14 *Ibid.* pp. 307–328.

perform.<sup>15</sup> The second is the rational choice model that serves as the analytical foundation upon which much of the research conducted in the field of law and economics rests and from which it mostly draws its inspiration.<sup>16</sup>

The two paradigms diverge with respect to motives underlying political behaviour.<sup>17</sup> Structural-functionalist accounts posit that actors in the public arena are “other-directed” rather than self-interested and that they incorporate the common good into their decision-making calculus, subject to the qualification that other-directedness may be channelled towards particular segments of society rather than the community as a whole. This is consistent with public interest and group public interest approaches to political behaviour.<sup>18</sup> By contrast, rational choice theorists assume that actors in the public space are largely driven by self-interest, a proposition underpinning private interest perspectives on political behaviour.<sup>19</sup>

### 2.1 *Structural-Functional Perspective*

Structural-functional-type qualms about the performance of democratic governance regimes generally stem from observations pertaining to the relationship between decentralised institutional constellations and State capacity. The view held in this regard is that the former impinge negatively on the latter which, in turn, leads to functional inadequacies or policy deficiencies.<sup>20</sup> State capacity is a multidimensional concept and not all its components are

15 See, generally, J.R. Fisher, “System Theory and Structural Functionalism”, in: J.T. Ishiyama and M. Breuning (eds.), *21st Century Political Science: A Reference Handbook* (London: Sage Publications, Vol. 1, 2010) p. 71; B. van Roermund. “Law and Functionalism: The Limited Function of the Law”. April 2015. Retrieved 31 December 2020. <https://www.bjutijdschriften.nl/tijdschrift/lawandmethod/2015/04/lawandmethod-D-15-00001>.

16 See, generally, T.S. Ulen, “Rational Choice and the Economic Analysis of Law”, *Law and Social Inquiry* 19(2) (1994) 487–522; R. Posner, “Rational Choice, Behavioral Economics, and the Law”, *Stanford Law Review* 50 (1997) 1551–1575.

17 See, generally, M.P. Petracca, “The Rational Choice Approach to Politics: A Challenge to Democratic Theory”, *Review of Politics* 53(2) (1991) 289–319; F. Cunningham, *Theories of Democracy: A Critical Introduction* (Abingdon: Routledge, 2002); J. Weeden and R. Kurzban, *The Hidden Agenda of Political the Mind: How Self-Interest Shapes Our Opinions and Why We Won't Admit It* (Princeton: Princeton University Press, 2016).

18 B.M. Mitnick, *The Political Economy of Regulation: Creating, Designing, and Removing Regulatory Forms* (New York: Columbia University Press, 1980) pp. 91–108.

19 *Ibid.* pp. 108–153.

20 See, for example, A. Przeworski, *Democracy and the Limits of Self-Government* (Cambridge: Cambridge University Press, 2010); J.K. Tulis and S. Macedo (eds.), *The Limits of Constitutional Democracy* (Princeton: Princeton University Press, 2010); A. Przeworski, *Crises of Democracy* (Cambridge: Cambridge University Press, 2019).

necessarily affected or impacted to the same degree.<sup>21</sup> The policy shortfall, however, may be substantial, resulting in the provision of sub-standard public services or even complete policy paralysis with far-reaching consequences for national security and well-being.<sup>22</sup>

A volume edited by Jon Tulis and Stephen Macedo serves as an illuminating example.<sup>23</sup> The contributors poignantly highlight the partial “failure” of America’s constitutional democracy and its implications for effective governance across a broad policy canvas.<sup>24</sup> They are particularly concerned with the exercise of emergency powers and accord close attention to the ambiguous role of the (“glorious”) commander-in-chief, relational conception of war authority, difficulties of waging of war in general and against the backdrop of constitutional change in particular, challenges of globalisation, threats posed by the spread of theocracy (notably that of the puritan variety), aptly delineating the evolving boundaries between citizenship and non-citizenship, arms control and limits of government.<sup>25</sup>

Yet, it is interesting to note that the suggestions offered for dealing with this partial failure are all incremental in nature and do not involve selective borrowing from other institutional milieus, certainly not ideologically incompatible ones, let alone a radical overhaul of the system.<sup>26</sup> They all comfortably fall under the rubric of “enhancing the quality of constitutional deliberation” and “skilfully managing constitutional intervention.”<sup>27</sup> In a similar structural-functional vein, but somewhat more boldly, Robert Putnam<sup>28</sup> and Richard Couto<sup>29</sup> propose strategies for democratic “re-engineering” featuring the nourishing of

21 See, generally, M.S. Grindle (ed.), *Getting Good Government: Capacity Building in the Public Sectors of Developing Countries* (Harvard: Harvard Institute for International Development, 1997); J.P. Burns, *Government Capacity and the Hong Kong Civil Service* (Oxford: Oxford University Press, 2004); W. Xun, M. Howlett, and M. Ramesh (eds.), *Policy Capacity and Governance: Assessing Governmental Competences and Capabilities in Theory and Practice* (London: Palgrave Macmillan, 2018).

22 See, generally, Przeworski, *Democracy and the Limits of Self-Government*, *supra* note 20; Tulis and Macedo, *supra* note 19; Przeworski, *Crises of Democracy*, *supra* note 19.

23 See, generally, Tulis and Macedo, *ibid.*

24 See, generally, *ibid.*

25 See, generally, *ibid.*

26 See, generally, *ibid.*

27 See, generally, *ibid.* See also Przeworski, *Democracy and the Limits of Self-Government*, *supra* note 20; Przeworski, *Crises of Democracy*, *supra* note 20.

28 See, generally, R.D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993).

29 See, generally, R.A. Couto with C.S. Guthrie, *Making Democracy Work Better: Mediating Structures, Social Capital, and the Democratic Prospect* (Chapel Hill: University of North Carolina Press, 1999).

mediating institutions (structures located between citizens and their representatives) and a determined building of social capital at grassroots level.

## 2.2 *Rational Choice Perspective*

As indicated, rational choice theorists depict politicians/representatives/agents (the same is true of bureaucrats) and citizens/voters/principals as self-interested utility maximisers. On the supply side, for politicians this translates into an overarching desire to gain and maintain office/power.<sup>30</sup> To the extent that altruistic motives (e.g., to pursue the common good) enter into the picture, they clash with and are overwhelmed by narrow-based ones (i.e., parochialism prevails over universalism).<sup>31</sup> This inevitably lays the ground for logrolling/pork-barrel politics, whereby backdoor deals/horse-trading shape policy outcomes.<sup>32</sup>

To complicate matters, a compressed electoral cycle encourages self-interested politicians to favour courses of action that maximise short-term benefits and minimise short-term costs.<sup>33</sup> Legislators bent on defying the trend and rising above the melee are hampered by asymmetric information and unable to hold the executive branch to account.<sup>34</sup> Shielded from external scrutiny, government departments are incentivised to seek large budgets, which enhance organisational and personal power, as well as tangible and intangible rewards.<sup>35</sup> Irrespective of prevailing circumstances, the funds secured are invariably spent in order to prevent any future downward adjustments, culminating in misutilisation of scarce societal resources.<sup>36</sup> Effectiveness is further

30 See, generally, Petracca, supra note 17; S. Parsons, *Rational Choice and Politics: A Critical Introduction* (London and New York: Continuum, 2005).

31 See, generally, Petracca, *ibid.* Parsons, *ibid.*

32 See, generally, J.M. Buchanan and G. Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1962); W.H. Riker, *The Theory of Political Coalitions* (New Haven: Yale University Press, 1962); W.H. Riker and S.J. Brams, “The Paradox of Vote Trading”, *American Political Science Review* 67(4) (1973) 1235–1247; M.P. Petracca (ed.), *The Politics of Interests: Interest Groups Transformed* (Boulder: Westview Press, 1992).

33 See, generally, I. Garri, “Political Short-termism: A Possible Explanation”, *Public Choice* 145 (2010) 197–211.

34 See, generally, K. Krehbiel, *Information and Legislative Organization* (Ann Arbor: University of Michigan Press, 1992).

35 See, generally, W.A. Niskanen, *Bureaucracy and Representative Government* (New Jersey: Transaction Publishers, 1971); A. Breton and R. Wintrobe, *The Logic of Bureaucratic Conduct: An Economic Analysis of Competition, Exchange, and Efficiency in Private and Public Organizations* (Cambridge: Cambridge University Press, 2008).

36 See, generally, Niskanen, *ibid.* Breton and Wintrobe, *ibid.*

undermined by rigid human resource management procedures relied upon in public bureaucracies.<sup>37</sup>

On the demand side, for citizens the cost of participating in the policy process (to all intents and purposes elections) is rather low but, because of the potentially negligible individual impact, the benefits are distinctly meagre, acting as a source of discouragement.<sup>38</sup> Moreover, unlike in the marketplace, public policies are typically presented as bundles that are virtually impossible to disentangle, leaving citizens with almost no room for manoeuvre.<sup>39</sup> The fact that they tend to converge across the political divide in order to appeal to the “median voter” compounds the problem.<sup>40</sup> Again, unlike in the marketplace, where consumption is an ongoing process, the utility derived from voting and the incentive to politically engage through this channel is significantly dampened due to this being a one-off experience.<sup>41</sup>

Even where there is a resolve to overcome such hurdles, policy complexity and uncertainty may militate against taking the necessary initiative because of practical difficulties inherent in conducting an elaborate “reality check” needed to meaningfully monitor the performance of agents in the politico-bureaucratic arena.<sup>42</sup> In addition to challenges encountered in the behavioural space, technical difficulties, known as “Arrow’s paradox”, hinder the aggregation of individual votes in a manner accurately corresponding to their distribution.<sup>43</sup> The proliferation of behavioural and technical problems, in turn, prompts citizens to resort to “strategic voting” which does not fully reflect their preferences, a pattern inconsistent with the spirit of the democratic process.<sup>44</sup>

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37 See, generally, O. Neumann and A. Ritz, “Public Service Motivation and Rational Choice Modelling: An Experimental Design”, *Public Money and Management* 35(5) (2015) 365–370; O. Neumann, “Does Misfit Loom Larger than Fit? Experimental Evidence on Motivational Person-Job Fit, Public Sector Motivation, and Prospect Theory”, *International Journal of Manpower* 37(5) (2016) 822–839; C. O’Leary, “Public Service Motivation: A Rationalist Critique”, *Public Personnel Management* 48(1) (2019) 82–96.

38 See, generally, A. Blais, *To Vote or Not to Vote: The Merits and Limits of Rational Choice Theory* (Pittsburgh: University of Pittsburgh Press, 2000); J.A.J. Evans, *Voters and Voting: An Introduction* (London: Sage Publications, 2003) pp. 68–91.

39 See, generally, Blais, *ibid.* Evans, *ibid.*

40 See, generally, Blais, *ibid.* Evans, *ibid.*

41 See, generally, Blais, *ibid.* Evans, *ibid.*

42 See, generally, Blais, *ibid.* Evans, *ibid.*

43 See, generally, K.J. Arrow, *Social Choice and Individual Values* (Hoboken: John Wiley & Sons, 2nd ed, 1963).

44 See, generally, Blais, *supra* note 38; Evans, *supra* note 38; L.B. Stephenson, J.H. Aldrich and A. Blais, *The Many Faces of Strategic Voting: Tactical Behavior in Electoral Systems Around the World* (Ann Arbor: University of Michigan Press, 2018).

Given this backdrop, citizens sooner or later realise that they are more likely to influence policies collectively rather than individually and channel their resources towards the formation of special interest groups.<sup>45</sup> While serving as an essential platform for transmitting information regarding citizens' preferences, such entities engage in extensive lobbying/rent seeking (i.e., efforts to increase their share of societal wealth without creating new wealth).<sup>46</sup> Their prevalence and prominence spawns regulatory cartelisation (i.e., enactment of policies favouring special interests) and regulatory capture (i.e., *de facto* takeover of government agencies by special interests).<sup>47</sup> More generally, the lopsided power structure that emerges gives rise to policies with concentrated benefits (to maximise advantage for special interests) and widely dispersed costs (to minimise the burden borne by special interests).<sup>48</sup>

The remedies proffered by rational choice theorists are couched in utilitarian terms. On the demand side, the emphasis primarily is on decreasing the cost of voting, increasing the cost of non-voting, better information disclosure and its dissemination, greater transparency and its more widespread distribution, boosting voter mobilization and mechanisms to circumvent the technical impediments to mathematically credible conversion of individual choices to collective preferences mirroring them.<sup>49</sup> Alternatives to the first-past-the-post (FPTP) voting method have attracted considerable attention because they

45 See, generally, Petracca, *supra* note 32.

46 See, generally, R.D. Tollison and G. Tullock (eds.), *Toward a Theory of the Rent-Seeking Society* (College Station: Texas A&M University Press, 1980).

47 See, generally, G.J. Stigler, “The Theory of Economic Regulation”, *Bell Journal of Economics and Management* 2(1) (1971) 3–21; W.F. Shughart and D.W. Thomas, “Interest Groups and Regulatory Capture”, in: R.D. Congleton, B. Grofman and S. Voigt (eds.), *The Oxford Handbook of Public Choice* (Oxford: Oxford University Press, Vol 1, 2019) pp. 585–603.

48 See, generally, M. Olson Jr, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge: Harvard University Press, rev ed, 1971).

49 See, generally, D.J. Amy, *Behind the Ballot Box: A Citizens' Guide to Voting Systems* (Westport: Greenwood Publishing, 2000); J. Gastil, *By Popular Demand: Revitalizing Representative Democracy Through Deliberative Elections* (Berkeley: University of California Press, 2000); B. Grofman and A. Lijphart (eds.), *Electoral Law and their Consequences* (New York: Algora Press, 2003); J.M. Colomer (ed.), *The Handbook of Electoral System Choice* (London: Palgrave Macmillan, 2004); L. Diamond and M.F. Plattner (eds.), *Electoral Systems and Democracy* (Baltimore: Johns Hopkins University Press, 2005); B. Simeone and F. Pukelsheim (eds.), *Mathematics and Democracy: Recent Advances in Voting Systems and Collective Choice* (New York: Springer, 2010); K. Dowding, “Rational Choice Theory and Voting”, in: J. Fisher *et al.* (eds.), *Routledge Handbook of Elections, Voting Behavior and Public Opinion* (Abingdon: Routledge, 2017) pp. 30–45; E.S. Herron, R. Pekkanen and M. Soberg Shugart (eds.), *The Oxford Handbook of Electoral Systems* (Oxford: Oxford University Press, 2018); D.P. Green and A.S. Gerber, *Get Out the Vote: How to Increase Voter Turnout* (Washington: Brookings Institution, 2019).

appear to be a source of fewer distortions and a way of sidestepping the technical issues confronted when opting for the broadly embraced FPTP procedure.<sup>50</sup> The notion of compulsory voting has also loomed large on the rational choice-inspired agenda.<sup>51</sup>

On balance, the supply-side of the “political marketplace” has been less extensively and intensively examined by rational choice theorists. Some fruitful ideas have been generated with respect to campaign finance,<sup>52</sup> political corruption,<sup>53</sup> representatives’ term limits,<sup>54</sup> reinforcement of citizens’ complaint channels<sup>55</sup> and reinventing bureaucratic institutions through exposure to competitive forces in order to render them less monopoly-like.<sup>56</sup> Perhaps the

50 See, generally, N. Case. “To Build a Better Ballot: An Interactive Guide to Alternative Voting Systems”. December 2016. Retrieved 31 December 2020. <https://ncase.me/ballot/>; T. Crilly. “Which Voting System Is Best?” 27 April 2011. Retrieved 31 December 2020. <https://plus.maths.org/content/which-voting-system-best>; P. Cuff *et al.* “Voting Research—Voting Theory”. N.D. Retrieved 31 December 2020. <https://www.princeton.edu/~cuff/voting/theory.html>; J.M. Ptaschunder. “Nudgital: Critique of Behavioral Political Economy”. 2 March 2017. Retrieved 31 December 2020. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3179017](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3179017); Stanford Encyclopedia of Philosophy. “Voting Methods”. 3 August 2011. Retrieved 31 December 2020. <https://plato.stanford.edu/entries/voting-methods/>.

51 See, generally, S. Birch, *Full Participation: A Comparative Study of Compulsory Voting* (Manchester: Manchester University Press, 2008); J. Brennan and L. Hill, *Compulsory Voting: For and Against* (Cambridge: Cambridge University Press, 2014); M. Carreras, “Compulsory Voting and Political Engagement (Beyond the Ballot Box): A Multilevel Analysis”, *Electoral Studies* 43 (2016) 158–168; M. Hoffman, G. Leon, and M. Lombardi, *Compulsory Voting, Turnout, and Government Spending: Evidence from Australia* (Cambridge: National Bureau of Economic Research, 2016).

52 See, generally, E.D. Mazo and T.K. Kuhner (eds.), *Democracy by the People: Reforming Campaign Finance in America* (Cambridge: Cambridge University Press, 2018); M. Latus Nugent, *Money, Elections, and Democracy: Reforming Congressional Campaign Finance* (Abingdon: Routledge, 2019).

53 See, generally, M. Mushkat and R. Mushkat, “Combatting Corruption in the Era of Xi Jinping: A Law and Economics Perspective”, *Hastings International and Comparative Law Review* 43(2) (2020) 137–212.

54 See, generally, E.H. Crane and R. Pilon (eds.), *The Politics and Law of Term Limits* (Washington: Cato Institute, 1994); B. Grofman (ed.), *Legislative Term Limits: Public Choice Perspectives* (New York: Springer, 1996); J. Carey, *Term Limits and Legislative Representation* (Cambridge: Cambridge University Press, 1998); M. Sarbaugh-Thomson *et al.*, *The Political and Institutional Effects of Term Limits* (New York: Springer, 2006); A. Baturo and R. Elgie (eds.), *The Politics of Presidential Term Limits* (Oxford: Oxford University Press, 2019).

55 See, generally, G. Majone, “Nonmajoritarian Institutions and the Limits of Democratic Governance: A Political Transaction-Cost Approach”, *Journal of Institutional and Theoretical Economics* 157(1) (2001) 57–78.

56 See, generally, Niskanen, *supra* note 35); Breton and Wintrobe, *supra* note 35; D.M. Fisk, *Private Provision of Public Services* (Washington: Urban Institute, 1978); C.L. Eavey, “Bureaucratic Competition and Agenda Control”, *Journal of Conflict Resolution* 31(3) (1987)

most far-reaching, from a practical viewpoint, have been suggestions entailing measures designed to enhance the resilience to regulatory capture of non-majoritarian institutions (e.g., central banks, competition commissions and constitutional courts), a vital component of the supply-side of the democratic façade.<sup>57</sup> Key proposals include lengthy but not open-ended terms of service for regulators, performance pay (including deferred compensation), pre-commitment to courses of action commensurate with envisaged contingencies, relational contracting, removal from office only “for cause” and restrictions on private employment upon departure from the public sector<sup>58</sup>

It has been selectively acknowledged that the narrowly stylised model of *homo economicus* at the heart of rational choice theory needs to be augmented in order to accommodate additional dimensions of the human mind. This has led to the discovery of *homo communicans* (who searches for outlets for expressing voice and engaging in productive dialogue), *homo equalis* (who is averse to inequality), *homo parochius* (who divides the world into insiders and outsiders) and *homo reciprocans* (who values mutually rewarding cooperation).<sup>59</sup> The narrow version nevertheless continues to serve a useful purpose, akin to that of a worst case scenario, by heightening the sense of discontent and impelling reform-minded observers to intensify their quest for institutional refinements.

This is also true of the behavioural economics critique of democratic politics which focuses on the “cognitive biases” displayed by voters (but why not their

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503–524; S. Nicholson-Crotty, “Bureaucratic Competition in the Policy Process”, *Policy Studies Journal* 33(3) (2005) 341–361; B.A. Ellison, “Bureaucratic Politics and Agency Competition: A Comparative Perspective”, *International Journal of Public Administration* 29(13) (2006) 1259–1283.

57 See, generally, Majone (n 55); M. Mushkat and R. Mushkat, “The Political Economy of Non-Majoritarian Institutions: Implications for Hong Kong”, *Journal of East Asian Affairs* 19(1) (2005) 143–164.

58 See, generally, Majone, *ibid.* Mushkat and Mushkat, *ibid.* C. Goodhart, *et al.*, *Financial Regulation: Why, How and Where Now?* (Abingdon: Routledge, 1998); M. Thatcher and A. Stone Sweet, “Theory and Practice of Delegation to Non-Majoritarian Institutions”, *West European Politics* 25(1) (2002) 1–22; M.T. Henderson and F. Tung, “Pay for Regulator Performance”, *Southern California Law Review* 85(2012) 1003–1068; M.S. Salter, “Crony Capitalism American Style: What Are We Talking About Here?” 22 October 2014. Retrieved 31 December 2020. [https://www.hbs.edu/faculty/Publication%20Files/15-025\\_c6fbbbf7-1519-4c94-8c02-4f971cf8a054.pdf](https://www.hbs.edu/faculty/Publication%20Files/15-025_c6fbbbf7-1519-4c94-8c02-4f971cf8a054.pdf).

59 See, generally, R. Mushkat, “International Legal Compliance as a Rational Act: Theoretical Extensions and Chinese Realities”, *Transnational Law and Contemporary Problems* 20 (2012) 633–676; R. Mushkat, “Economics and International Law: Closer Alignment through Greater Analytical Diversity?” *Chinese (Taiwan) Yearbook of International Law and Affairs* 36 (2018) 1–55.

representatives?), notably reference point adaptation (to evaluate incoming information), loss aversion (whereby losses cause more pain than the pleasure obtained from gains), myopia/time inconsistency (excessive discounting of the future relative to the present or short-sightedness), and a combination of bounded rationality and heuristics (due to the prevalence of binding constraints, cognitive and others, inability to undertake exhaustive research coupled with reliance on “rules of thumb” to make political choices).<sup>60</sup>

The critical assessments and calls for change emanating from economic sources, be it neoclassical (rational choice theory) or behavioural, tend to be of the micro variety. The corollary is that they are inherently easier to implement than the fruits of macro-style structural-functionalist advocacy. Be that as it may, to date, even cumulatively, while not falling on deaf ears, these reformist urges cannot be said to have substantially transformed democratic practices. Rather surprisingly, given their lack of built-in defences, open society institutions seem to display considerable inertia/“path dependence.” This may partly account for the decision of Bell and other like-minded scholars to seek intellectual and practical inspiration elsewhere.

### 3 The Lure of Political Meritocracy

It is often overlooked that democratic thought and its application may manifest itself in managerial-style institutional forms where grassroots political participation is not a salient feature. Max Weber and Joseph Schumpeter, for instance, espoused a type of democracy that has been aptly portrayed as “competitive elitism [underpinned by] technocratic vision.”<sup>61</sup> Weber, in particular, “sought to rearticulate the liberal dilemma of finding a balance between might and right, power and law, expert government and popular sovereignty.”<sup>62</sup> At times, he tipped the balance in favour of might, power and expert government to such a degree that students of his writings have depicted him as “liberal in despair.”<sup>63</sup> Indeed, both Weber and Schumpeter “tended to affirm a very restrictive concept of democracy, envisaging [it], at best, as a means of

<sup>60</sup> See, generally, V. Bakthavachalam. “How Behavioral Economics Explains Politics Today”. 2 January 2019. Retrieved 31 December 2020. <https://medium.com/vinod-b/how-behavioral-economics-explains-politics-today-8b3fd1e67db3>.

<sup>61</sup> Held, *supra* note 7, 125.

<sup>62</sup> *Ibid.* p. 62.

<sup>63</sup> *Ibid.* p. 61.

choosing decision-makers and curbing their excesses.”<sup>64</sup> This roughly corresponds to the notion of “protective democracy.”<sup>65</sup>

Another political system in the open society domain with similar structural and functional attributes is social democratic corporatism commonly practiced in Western Europe.<sup>66</sup> It is a “three-legged” politico-economic system based on close cooperation between government, capital and labour.<sup>67</sup> Social democratic corporatism entails firmly anchored institutionalist collective bargaining between representatives of employers and employees, mediated by the State at the national level.<sup>68</sup> A (bicameral) variant of this scheme has been put forward as a possible blueprint for Hong Kong’s fledgling democracy which is exhibiting symptoms of “arrested development.”<sup>69</sup>

The existence, resilience and non-trivial success of such governance regimes serve as a poignant reminder that democracy is not necessarily an “unruly phenomenon” generating “disorderly outcomes.”<sup>70</sup> This has not prevented, however, devotees of the East Asian “economic miracle” from extolling the virtues of a significantly more centralized/elitist political system.<sup>71</sup> The failure of Latin American countries (“control group”) to smoothly modernise, simplistically attributed by dependency theorists to the exploitation of underdeveloped Southern “periphery” by wealthy Northern “core” States,<sup>72</sup> and the dynamism displayed by their East Asian counterparts (“experimental group”), have provided them with compelling historical evidence that a relentlessly

64 *Ibid.*

65 *Ibid.*

66 *Ibid.* pp. 158–184.

67 *Ibid.*

68 *Ibid.*

69 M. Mushkat and R. Mushkat, “Conversationalism, Constitutional Economics and Bicameralism: Strategies for Political Reform in Hong Kong”, *Asian Journal of Political Science* 13 (2005) 23–49; M. Mushkat and R. Mushkat, “The Political Economy of Constitutional Incrementalism in Hong Kong”, *Northwestern Interdisciplinary Law Review* 9 (2016) 1–46.

70 See, generally, S. P. Huntington, *The Third Wave: Democratization in the Late 20th Century* (Norman: University of Oklahoma Press, 1991).

71 See, generally, C. Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925–1975* (Palo Alto: Stanford University Press, 1982); R. Wade, *Governing the Market: Economic Theory and the Role of Government in East Asian Industrialization* (Princeton: Princeton University Press, 1990); A.H. Amsden, *Asia’s Next Giant: South Korea and Late Industrialization* (Oxford: Oxford University Press, 1992); P.B. Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton: Princeton University Press, 1995); M. Woo-Cumings (ed.), *The Developmental State* (Ithaca: Cornell University Press, 1999).

72 See, generally, A. Gunder Frank, *Capitalism and Underdevelopment in Latin America: Historical Studies of Chile and Brazil* (New York: Monthly Review Press, 1967); F. Enrique Cardoso and E. Faletto, *Dependency and Development in Latin America* (Berkeley: University of California Press, 1979).

and enlighteningly top-down driven policy apparatus is the key to achieving societal prosperity and stability.<sup>73</sup>

The concept of “developmental State” has been coined to capture the essence of this institutional pattern.<sup>74</sup> Developmental States have also been referred to as “hard States”, to distinguish them from their “soft” counterparts.<sup>75</sup> As this label implies, they are believed to have been led by tightly structured politico-bureaucratic machinery staunchly dedicated to promoting material well-being and willing to go to great lengths to marginalise non-conformist elements in the process, while forming close alliances with those well-disposed to follow in its track.<sup>76</sup> Strong emphasis has been placed on endowing the bodies spearheading this effort with the resources and competences/capabilities needed to fulfil the modernisation agenda in a cost-effective fashion.<sup>77</sup>

### 3.1 *Developmental State Morphs into Political Meritocracy*

Bell’s substantial body of work produced over more than two decades, beginning perhaps with publication of his book entitled *Towards Illiberal Democracy in Pacific Asia*,<sup>78</sup> but gathering great momentum over the past decade or so, has involved an elaborate dissection and a tenacious advancement of key elements of this model of political organisation and strategic positioning. The whole scheme is rather heterogeneous and has more historical precedents as well as contemporary manifestations than is often implied,<sup>79</sup> so it needs to be

73 See, generally, Chalmers, *supra* note 71; Wade, *supra* note 71; Amsden, *supra* note 71; Evans, *supra* note 71; Woo-Cumings, *supra* note 71.

74 See, generally, Chalmers, *ibid.* Wade, *ibid.* Amsden, *ibid.* Evans, *supra* note 71; Woo-Cumings, *ibid.* P.B. Evans and P. Heller, “Human Development, State Transformation, and the Politics of the Developmental State”, in: S. Liebfried *et al.* (eds.), *The Oxford Handbook of Transformations of the State* (Oxford University Press, 2015), pp.691–713.

75 Woo-Cumings, *ibid.* p. 183.

76 See, generally, *ibid.* Chalmers, *supra* note 71; Wade, *supra* note 71; Amsden, *supra* note 71; Evans, *supra* note 71.

77 See, generally, Chalmers, *ibid.* Wade, *ibid.* Amsden, *ibid.* Evans *ibid.* Woo-Cumings, *ibid.* W-W. Law, “The Developmental State, Social Change, and Education”, in: R. Cowen and A.M. Kazamias (eds.), *International Handbook of Comparative Education* (Springer, 2009) pp. 257–276; P.B. Evans and P. Heller, “Human Development, State Transformation, and the Politics of the Developmental State”, in: S. Liebfried *et al.* (eds.), *Oxford Handbook of Transformations of the State* (Oxford University Press, 2015) pp. 691–713; J. Sung and A. Radon, “Approaches to Skills in the Asian Developmental States”, in: C. Warhurst *et al.* (eds.) *Oxford Handbook of Skills and Training* (Oxford University Press, 2017) pp. 509–528.

78 D.A. Bell, *Towards Illiberal Democracy in Pacific Asia* (New York: Macmillan, 1995).

79 See, generally, E. Perez Caldentey, “The Concept and Evolution of the Developmental State”, *International Journal of Political Economy* 37(3) 27–53; J. Nem Singh and J. Salah Ovadia, “The Theory and Practice of Building Developmental States in the Global South”, *Third World Quarterly* 39(6) (2018) 1033–1055.

stressed that Bell may be drawing inferences on the basis of the Asian developmental State experience, but he is not explicitly advocating any particular policy stance or unequivocally embracing the entire “package.” Moreover, he is, indirectly at least, underlining the universal, as distinct from regional or socio-economically determined, relevance of his ideas and thus in some respects ventures further than proponents of the developmental State.

Bell’s multiyear-long intellectual and strategically inspired journey in Asian developmental State territory revolves around the concept of “political meritocracy”, a phenomenon possessing Confucian roots and evincing itself in various shapes over the post-Second World War period, mainly and most prominently in East Asia<sup>80</sup> but not exclusively so (albeit more modestly elsewhere).<sup>81</sup> According to Bell, as well as other scholars grappling with and often embracing this institutional configuration,<sup>82</sup> “the basic idea of political meritocracy is that everybody should have an equal opportunity to be educated and contribute to politics, but not everybody will emerge from this process with an equal capacity to make morally informed political judgements.”<sup>83</sup>

The corollary is that the challenge and essence of politics is “to identify those with above average ability and to make them serve the political community.”<sup>84</sup> And, “[i]f the leaders perform well, the people will basically go along.”<sup>85</sup> Singapore’s political order, meticulously nurtured since the country gained independence in 1959, is said to embody this vision, incisively articulated by Prime Minister Lee Hsien Loong in the following terms: “many Confucian ideals are still relevant to us. An example is the concept of government by honorable men (*junzi*), who have a duty to do right for the people, and who have the trust and respect of the population.”<sup>86</sup> And as he has further elaborated, “[t]his fits us better than the Western concept that a government should be given as limited powers as possible, and always treated with suspicion, unless proven otherwise.”<sup>87</sup>

80 See, generally, Bell and Li, *supra* note 3; Bell, *supra* note 4.

81 See, generally, Caldenty, *supra* note 79; Nem Singh and Salah Ovidia, *supra* note 79; S. Parrado and M. Salvador, “The Institutionalization of Meritocracy in Latin American Regulatory Agencies”, *International Review of Administrative Sciences* 77(4) (2011) 687–712; A. Yaya Kamara, “Africa Rising—Meritocracy or Mediocrity—Lessons from History”. 18 June 2019. Retrieved 31 December 2020. <https://www.thesierraleonelegraph.com/africa-rising-meritocracy-or-mediocrity-lessons-from-history/>.

82 See generally Bell and Li, *supra* note 3.

83 D.A. Bell, “Introduction”, *ibid.*, p 3.

84 *Ibid.*

85 *Ibid.*

86 *Ibid.*

87 *Ibid.* pp. 3–4.

These succinct observations implicitly bring into focus the distinction between meritorious processes/political meritocracy and meritorious outcomes/meritorious governance or rule, which is painstakingly explored by Joseph Chan in the volume on East Asian political meritocracy edited by Bell.<sup>88</sup> He claims and illustrates that political meritocracy does not necessarily pave the way for meritorious governance or rule.<sup>89</sup> Thus, “[m]eritocracy [...] does not guarantee meritorious governance, for the meritocratically elected may not govern effectively.”<sup>90</sup> He consequently opts for mixing meritocracy and democracy, relying on non-participatory and superficially participatory methods such as selection by competitive examinations, selection by close acquaintances and selection by colleagues to establish a non-majoritarian chamber operating alongside a majoritarian one, without however comprehensively addressing pivotal issues such as accountability, checks and balances, legitimacy, policy capacity, structural coherence, system dynamics and stability, and value maximisation.<sup>91</sup>

In Singapore, the standard bearer of meritocratic virtues, the education sector serves as the principal arena for finding “the best people who can govern the country in terms of competence, character, commitment and compassion.”<sup>92</sup> Strong emphasis, in this context, is placed on academic distinction because the country “needs a core of its ablest citizens, those with both intellectual and social acumen, to play leadership roles in the economy, the administration, and the political leadership.”<sup>93</sup> The search for outstanding talent begins at early stages of the learning cycle and is systematically carried out thereafter.<sup>94</sup> The upshot is that “promising students are [carefully] identified and cultivated for future leadership roles in government.”<sup>95</sup>

Methodical talent spotting and nourishing is coupled with a utilitarian-type and generous incentive scheme.<sup>96</sup> It was introduced in 1994 and has undergone some minor revisions, but the principle of pay parity for ministers and senior civil servants with top earners in the private sector, including the most amply

88 See, generally, J. Chan, “Political Meritocracy and Meritorious Rule: A Confucian Perspective”, in: Bell and Li (n 3) pp. 31–54.

89 See, generally *ibid.*

90 *Ibid.*

91 *Ibid.* pp. 41–50. See also P. Petit, “Meritocratic Representation”, in: Bell and Li (n 3) pp. 138–159.

92 B. Wong, “Political Meritocracy in Singapore: Lessons from the PAP Government”, in: Bell and Li (n 3) pp. 289–313.

93 *Ibid.*

94 *Ibid.* pp. 289–293.

95 *Ibid.* pp. 289–290.

96 *Ibid.* pp. 293–296.

rewarded professions, has remained essentially intact, reflecting the realisation that economic globalization has “created a single worldwide market for talent”,<sup>97</sup> requiring effective measures to ensure skill retention in the public sector.<sup>98</sup> This neoliberal compensation system incorporates considerations of equity as well as unadulterated utilitarian calculus. After all, “why should those who [generate] wealth or bring benefit to others not be duly rewarded or materially benefitted?”<sup>99</sup>

A broadly embraced contention is that the “economic Darwinism” practiced in a quasi-authoritarian manner by the meritocratic elite that has presided over the governance regime borne out of these strategies, while not immune to criticism on analytical and normative grounds,<sup>100</sup> has been the decisive factor in Singapore’s transformation from a “survivalist State” into its developmental successor and has propelled Singapore to great heights on multiple fronts.<sup>101</sup> It is generally posited that the virtuous cycle that has been unleashed has had manifold positive influences, structural and functional, notably of the stability-promoting variety.<sup>102</sup> A key argument put forward in this regard is that the meritocratic elite has “demonstrably directed and piloted the economy towards

97 *Ibid.* p 293.

98 *Ibid.*

99 *Ibid.* p 296.

100 *Ibid.* pp. 299–307; K.P. Tan, “Meritocracy and Political Liberalization in Singapore”, in: Bell and Li (n 3) pp. 314–339 at pp. 324–335; D.A. Bell, “A Communitarian Critique of Authoritarianism: The Case of Singapore”, *Political Theory* 25(1) (1997) 6–32; S. McCarthy, *The Political Theory of Tyranny in Singapore and Burma: Aristotle and the Rhetoric of Benevolent Despotism* (Abingdon: Routledge, 2006); K.P. Tan, “Meritocracy and Elitism in a Global City: Ideological Shifts in Singapore”, *International Political Science Review* 29(1) (2008) 7–27; J. Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012); M. Chou, B. Moffitt, and O. Bryant, *Political Meritocracy and Populism: Cure or Curse?* (Abingdon: Routledge, 2019); B. Choo, *The Democratic Outcome State: Political Meritocracy and the Tyranny of Consent* (Singapore: Partridge, 2020); T. Desker. “Meritocracy: Time for an Update?” 14 February 2016. Retrieved 31 December 2020. <https://www.csc.gov.sg/articles/meritocracy-time-for-an-update>; Global-is-Asian Staff. “Meritocracy in Singapore: Solution or Problem.” 13 November 2018. Retrieved 31 December 2020. <https://lkyspp.nus.edu.sg/gia/article/meritocracy-in-singapore-solution-or-problem>; K. Han. “Singapore Can Have Meritocracy or Aristocracy, But Not Both: By Airing their Dirty Laundry in Public, the City-State’s Ruling Family Is Exposing Its Hypocrisy.” 28 June 2017. Retrieved 31 December 2020. <https://foreignpolicy.com/2017/06/28/singapore-can-have-meritocracy-or-nepotism-but-not-both/>; B. Yip Zhen Yuan. “Understanding the Four Critiques of Singapore’s Meritocracy.” 29 April 2019. Retrieved 31 December 2020. <https://www.todayonline.com/commentary/understanding-four-critiques-singapores-meritocracy>.

101 Tan, *ibid.* pp. 317–322.

102 *Ibid.*

high economic growth, high incomes, and international competitiveness, thus acquiring high levels of performance legitimacy.”<sup>103</sup>

Singapore’s undeniably remarkable achievements across a wide policy spectrum have not elevated political meritocracy to a level remotely approaching that of democracy in ideational and practical discourse.<sup>104</sup> Bell attributes this to the “hardness” of its governance regime: “Singapore’s political system does not seem designed only to select able and humane Confucian-style leaders; it also relies on highly controversial measures such as a tightly controlled media, strict limits on the freedom of association, and harsh retaliation against members of the political opposition.”<sup>105</sup> Consequently, “in the eyes of many outsiders (especially in the Western world), the political system should still be described as (bad) authoritarianism, even if it’s a ‘softer’ form of authoritarianism compared with regimes such as North Korea.”<sup>106</sup>

Also relevant in this respect is the government’s own reluctance to seek broad acceptance of its brand of meritocratic strategies.<sup>107</sup> Specifically, eschewing grand narratives featuring emphatic assertions of universal validity, it has confined itself to claiming that “the need to select and promote political talent is most pressing in a tiny city-[S]tate without natural resources, and, most important, a tiny talent pool.”<sup>108</sup> The implication is that this particular experience, however successful, possibly cannot provide a sufficient basis for engaging in a thorough assessment of the political meritocracy blueprint and debating in a multifaceted fashion its virtues, or lack thereof, as a genuinely universal proposition.<sup>109</sup>

By contrast, Chinese national aspirations extend beyond the country’s borders, in virtually every sense of the term. This has become increasingly apparent since Xi Jinping’s ascent to power in 2012 and the strategic reorientation that he has engineered from Deng Xiaoping’s goal of making China affluent, encapsulated in his pronouncement that “to get rich is glorious”,<sup>110</sup> to that of making it great again.<sup>111</sup> This has been accompanied by a shift from Deng’s low-profile national posture to “striving for achievement”, manifesting itself

103 *Ibid.* p. 320.

104 Bell, *ibid.* p. 4.

105 *Ibid.*

106 *Ibid.*

107 *Ibid.*

108 *Ibid.*

109 *Ibid.*

110 See, generally, R. Vietor and J. Galef. “China: “To Get Rich Is Glorious.” November 2006. Retrieved 31 December 2020. <https://www.hbs.edu/faculty/Pages/item.aspx?num=33810>.

111 See, generally, K. Muhlhahn, *Making China Modern: From the Great Qing to Xi Jinping* (Cambridge: Belknap Press, 2019).

not merely in greater muscle flexing in the global arena but also in an eagerness to export the Chinese political model.<sup>112</sup> To the extent that meritocracy is deemed to be a component of this institutional constellation, its potential may be explored in a broader context, a task which Bell has steadfastly pursued in recent years.<sup>113</sup>

This redirection of the research agenda does not ineluctably materially diminish the relevance of the Singapore case, which has long served as a conceptual and practical inspiration for Chinese policy planners.<sup>114</sup> The appeal of Singapore, in this context, does not exclusively lie in its continuing economic success and stability.<sup>115</sup> Rather, it largely stems from the fact that the affluent city-State’s experience defies predictions of proponents of endogenous modernisation theory, who contend that, as evidenced by politico-economic dynamics observed in South Korea and Taiwan, a rising standard of living inevitably sows the seeds of democracy.<sup>116</sup> The lesson drawn by the powers that be in Beijing, in light of the resilience of this institutional configuration, is that authoritarian modernism may effectively “replace the old Communist utopia

112 See, generally, X. Yan, “From Keeping a Low Profile to Striving for Achievement”, *Chinese Journal of International Politics* 7(2) (2014) 153–184; Z. Lin, “Xi Jinping’s Major Country Diplomacy: The Impacts of China’s Growing Capacity”, *Journal of Contemporary China* 28(115) (2019) 31–46; D.M.H. Loh, “Diplomatic Control, Foreign Policy, and Change Under Xi Jinping: A Field-Theoretic Account”, *Journal of Current Chinese Affairs* 47(3) (2018) 111–145; H. Brands, “China’s Master Plan: Exporting and Ideology: Spreading a Model of Authoritarian Mercantilism.” 11 June 2018. Retrieved 31 December 2020. <https://www.bloomberg.com/opinion/articles/2018-06-11/china-s-master-plan-exporting-an-ideology>; K. Chen, “Should Xi Take the Blame for China’s Assertive Diplomacy?” 12 February 2019. Retrieved 31 December 2020. <https://thegeopolitics.com/should-xi-take-the-blame-for-chinas-assertive-diplomacy/>; S. Daekwon, “Xi Jinping Thought vs. Deng Xiaoping Theory: Xi’s New Era Will See Some of Deng’s Famous Maxims Altered, If Not Discarded Altogether.” 25 October 2017. Retrieved 31 December 2020. <https://thediplomat.com/2017/10/xi-jinping-thought-vs-deng-xiaoping-theory/>; R. McGregor, “Xi Jinping’s Ideological Ambitions: World Communism Isn’t Beijing’s Goal, but It Is Encouraging the Spread of Authoritarianism.” 1 March 2018. Retrieved 31 December 2020. <https://www.wsj.com/articles/xi-jinpings-ideological-ambitions-1519950245>; N. Rolland, “China’s Vision for a New World Order.” 27 January 2020. Retrieved 31 December 2020. [https://www.nbr.org/wp-content/uploads/pdfs/publications/sr83\\_chinasvision\\_jan2020.pdf](https://www.nbr.org/wp-content/uploads/pdfs/publications/sr83_chinasvision_jan2020.pdf); D. Shulman, “Protecting the Party: China’s Growing Influence in the Developing World.” 22 January 2019. Retrieved 31 December 2020. <https://www.brookings.edu/articles/protect-the-party-chinas-growing-influence-in-the-developing-world/>.

113 See, in particular, Bell, *supra* note 4.

114 See, generally, S. Ortmann and M.R. Thompson, “Introduction: The ‘Singapore Model’ and China’s Neo-Authoritarian Dream”, *China Quarterly* 236 (2018) 930–945.

115 See, generally, *ibid.*

116 See, generally, *ibid.*

of the egalitarian society to become the new model of the good society for which the Chinese leaders strive.”<sup>117</sup>

### 3.2 *Singapore Blueprint Is Replaced by Chinese Model*

For Bell, seemingly mounting democratic woes, and the inescapably profound sense of disenchantment that they must have engendered, coupled with China’s supposedly unabated rise, therefore provide an opportunity to build on insights primarily derived from the dissection of strategies judiciously relied upon by Singaporeans in transforming their sparingly endowed and heavily exposed to exogenous shocks city-State into a genuine global metropolis<sup>118</sup> to revisit the notion of political meritocracy on a geographically ambitious scale without embarking on the journey in a historical vacuum. To him, populous China’s meteoric climb, following in the footsteps of the tiny island Republic’s redoubtable founding father and his resolute successors, highlights the institutional credibility of core assumptions underpinning the political meritocracy paradigm. Thus:

“[T]he theory of political meritocracy has been reinvigorated by the rise of China. Since the early 1990s, China’s political system has evolved a sophisticated and comprehensive system for selecting and promoting political talent that seems to have underpinned China’s stunning economic success. Like earlier practices in imperial China, the political system aims to select and promote public servants by means of examinations and assessments of performance at lower levels of government. Chinese-style meritocracy is plagued with imperfections, but few would deny that the system has performed relatively well compared to democratic regimes of comparable size and level of economic development, not to mention family-run dictatorships in the Middle East and elsewhere. And the world is watching China’s experiment with meritocracy. China, unlike Singapore, can ‘shake the world.’”<sup>119</sup>

To place his thesis on a firmer ground, Bell critically re-examines the Churchillian defence of democracy as the “least bad political system.”<sup>120</sup> He

<sup>117</sup> *Ibid.*

<sup>118</sup> See, generally, P. Preston, *Singapore in the Global System: Relationship, Structure and Change* (Abingdon: Routledge, 2007); D.R. Meyer, “The World Cities of Hong Kong and Singapore: Network Hubs of Global Finance”, *International Journal of Comparative Sociology* 56(3–4) (2015) 198–231.

<sup>119</sup> Bell, *supra* note 4, pp. 3–4.

<sup>120</sup> *Ibid.* pp. 14–62.

touches briefly on the contested rights-based arguments controversially employed by proponents of the regime, but devotes more of his attention to the perhaps even more contested and controversial consequential assertions, predicated on the premise that democracy produces superior outcomes to alternative systems (“democracy performs better, even with lower participation, than its competitors (oligarchs, etc) do?”).<sup>121</sup> Bell challenges this view by pointing out the absence of famines in (post-1978) China (as well as Singapore, of course), its disinclination (with Indian border incursions, military encirclement of Taiwan, persistent violations of Japanese air space, and South China Sea offensive manoeuvres conveniently disregarded!) to engage in armed conflict (again, this applies to Singapore), and its ability to deliver greater benefits to the people, while experiencing a lower incidence of corruption, than India and Indonesia, two other large middle-income but democratically constituted Asian countries.<sup>122</sup> China has also avoided the havoc that a premature and rushed introduction of free elections has wrought in many poor nations.<sup>123</sup>

As befitting a political philosopher, as distinct from an empirically oriented policy analyst, however, Bell primarily advances meta-level arguments revolving around inherently dysfunctional and objectionable distortions of the democratic spirit: tyranny of the majority (allowing the majority of the voters to marginalise the rest), the tyranny of the minority (allowing a well-resourced minority to marginalize the majority), tyranny of the voting community (incentivising politicians/representatives/agents to prioritise the interests of voters over those over peripheral segments of the community) and the tyranny of competitive individualists (whereby intense political competition exacerbates rather than mitigates or, better still, paves the way for the resolution of social conflict).<sup>124</sup>

These are for the most part familiar ideas but are presented in an unbalanced fashion. Acceptable (by commonly embraced standards) prevailing practices, alternative mechanisms for expressing grassroots voice and managing agent responsiveness, available and potential democratic safeguards, doable within-system enhancements, and far greater tyrannical threats emanating from political meritocracy sources<sup>125</sup> are relegated to the sidelines. Some intriguing recommendations are made (interestingly, with Singapore,

121 *Ibid.* p. 18.

122 *Ibid.* pp. 18–20.

123 *Ibid.* pp. 19–20.

124 *Ibid.* pp. 21–62.

125 Mild disquiet is expressed by P.C. Schmitter, “Reflections on Political Meritocracy: Its Manipulation and Transformation”, in: Bell and Li, *supra* note 4, pp. 363–374.

where appropriate, rather than China, as a possible model), but it is easier to find more thought-provoking suggestions for change in the academic literature without venturing beyond the stretched boundaries of democratic territory into a highly regimented political sphere.<sup>126</sup> Overall, no sufficiently compelling reasons are offered for jettisoning Churchill's qualified endorsement of today's democracy or Adam Przeworski's more rigorous acceptance of "second-best" democratic realities as, generally speaking, the least bad political system designed by humankind.<sup>127</sup> Pragmatically minded Asian observers of the region's evolution would be hard-pressed to unearth an overabundance of symptoms of tyrannical excesses in Australia's and New Zealand's mature democratic milieus. This, of course, leaves unanswered the question of whether political meritocracy does not have a tangible consequential advantage over or whether it can substantially outperform traditional-style democratic governance regimes, for the benefit of its citizens, now and over time.

According to Bell, the answer predominantly lies in superior methods for identifying, selecting and shaping political leaders (stewards rather than merely agents?).<sup>128</sup> The much-vaunted and time-honoured Chinese institutional vehicle for screening would-be public officials is said to be at heart of this elaborate process: "Imperial China's great contribution to the debate on political democracy is the public service examination system: for more than thirteen hundred years, public officials were selected largely by means of competitive examinations."<sup>129</sup> As the country emerged from the turbulence seen during the 1949–1978 revolutionary era, Mao Zedong's moderate successors reembraced this historically tested administrative device and proceeded to build a dependable apparatus for the "selection and promotion of high-quality leaders appropriate for the period of peaceful development."<sup>130</sup>

This ineluctably gives rise to the question of what constitutes good political leadership, an under-researched subject by scholars, who persist in gravitating towards the business side of the equation, although there is no dearth of practical insights.<sup>131</sup> Without satisfactory answers, any human resource development strategy, even if methodically constructed, may end up being

126 See, for example, E.A. Posner and E.G. Weyl, *Radical Markets: Uprooting Capitalism and Democracy for a Just Society* (Princeton: Princeton University Press, 2018).

127 See, generally, Przeworski, *Democracy and the Limits of Self-Government*, *supra* note 20.

128 Bell, *supra* note 3, pp 63–109.

129 *Ibid.* pp. 65–66.

130 *Ibid.* p. 67.

131 See, for example, A. Alemanno. "Re-inventing Political Leadership: 10 Qualities Political Leaders Need." 8 January 2017. Retrieved 31 December 2020. <https://www.neweurope.eu/article/re-inventing-political-leadership-10-qualities-political-leaders-need/>.

misdirected.<sup>132</sup> Bell believes that this is an issue that has received scant attention in government circles throughout the world but that, to its credit, China, whose nascent public personnel management system is still not being blemish free (yet undergoing continuous refinement), is partially an exception to the norm (but not Singapore?) because it is at least endeavouring to grapple with the challenge.<sup>133</sup>

Bell makes a valuable contribution by identifying the characteristics—intellectual ability, social skills and virtue—that Chinese political leaders specifically should exhibit and by tentatively outlining the recruitment-selection-training mechanisms that might have to be instituted to realise this ambitious goal.<sup>134</sup> The discussion is informed by historical and contemporary insights and mismatches, both in the past and at present, between aspirations and actualities are not entirely overlooked. Again, however, the analysis is skewed towards the political meritocracy end of the institutional spectrum with the gaps between “what is” and “what ought to be” remaining rather large and difficulties encountered in extrapolating from the unfolding dynamics. Consequently, relatively speaking, the account provided does not strongly bolster the case for a Chinese-style governance regime.

Bell acknowledges that political meritocracy is not without its own problems, in China and elsewhere.<sup>135</sup> He identifies a narrow set consisting of corruption, ossification (whereby ruling elites self-perpetuate themselves by excluding entry by members of other social groups) and lack of democratic-type legitimacy. Undue emphasis is placed on exogenous factors rather than endogenous influences stemming from the very nature of political meritocracy. This is particularly true of corruption, gingerly attributed to the lack of a robust anti-graft apparatus, imbalances engendered by protracted transition to a market economy and inadequate material benefits accorded to public servants<sup>136</sup>—a limited and uneven explanation.<sup>137</sup>

Bell is not oblivious to the risks that political meritocracy, in its “pure” form, poses and strives to find a middle ground where this governance regime incorporates some of the virtues displayed by its democratic counterpart: “the rule of law to check corruption and abuses of power, and freedom of speech

132 Bell, *supra* note 3, pp. 68–69.

133 *Ibid.* p. 79.

134 *Ibid.* pp. 79–109.

135 *Ibid.* pp. 110–150.

136 *Ibid.* pp. 112–121.

137 See, generally, M. Mushkat and R. Mushkat, “Combatting Corruption in the Era of Xi Jinping: a Law and Economics Perspective”, *supra* note 53.

and political experimentation to prevent the ossification of political hierarchies.”<sup>138</sup> Yet, this is not an easy task. After all, [h]ow is it possible to reconcile a meritocratic mechanism designed to select superior political leaders with a democratic mechanism designed to let people choose their leaders?”<sup>139</sup> Clearly, there is no obvious answer, but Bell proposes alternatives: “(1) a model that combines democracy and meritocracy at the level of the voter; (2) a horizontal model that combines democracy and meritocracy at the level of central political institutions; and (3) a vertical model with political meritocracy at the level of the central government and democracy at the local level.”<sup>140</sup>

The first scheme, intended to minimise the adverse effects of undesirable voting and non-voting patterns, whether “rational” or “irrational”, is a variant of James Mills’ notion of giving extra votes to groups of citizens apparently capable of exercising sound political judgement, or plural votes, and is deemed unworkable (but not fundamentally wrong).<sup>141</sup> The second scheme, possessing “horizontal” features, consists of central government-level democratic and meritocratic institutions operating alongside each other, like to some extent the British Parliament and the House of Lords.<sup>142</sup> Again, this blueprint is not without its practical problems because of the inevitable pressures for asymmetrical consolidation of the two institutions. Specifically, “[j]ust like the House of Lords, any sort of a meritocratic chamber is almost certain to be progressively weakened once some political leaders are chosen on the basis of one person, one vote.”<sup>143</sup>

Consequently, Bell settles for the third, vertical model which combines democracy at the local government level, where it supposedly functions best, with meritocracy at the central government level, where it seemingly produces the best results overall.<sup>144</sup> Interestingly, this roughly corresponds to Chinese realities, whether actual or projected, where “village democracy” is said to harmoniously coexist with an overarching hierarchically structured “meritocratic” system at multiple levels extending to the pinnacle of the governance regime.<sup>145</sup> No genuinely compelling account of the virtues of this hybrid is offered and it comes across as an affirmation of prevailing practices rather

138 Bell, *supra* note 3, p. 152.

139 *Ibid.*

140 *Ibid.*

141 *Ibid.* pp. 152–157.

142 *Ibid.* pp. 157–168.

143 *Ibid.* p. 167.

144 *Ibid.* pp. 168–178.

145 *Ibid.* See also N. Berggruen and N. Gardels, “Political Meritocracy and Direct Democracy: A Hybrid Experiment in California”, in: Bell and Li, *supra* note 4, pp. 375–394.

than as a dispassionate analysis of the pros and cons of a potential constitutional order, particularly in light of the manifold inadequacies of Chinese village democracy.<sup>146</sup>

Bell is not alone vigorously promoting the political meritocracy vision in the Eastern and the Western hemispheres. Among others, Tongdong Bai, a professor of philosophy at Fudan University, has for some time now been emphatically highlighting democratic flaws and fragility, while laying the intellectual foundations for a putatively better and more enlightened governance regime.<sup>147</sup> The latest platform for reasserting his stance and comprehensively outlining his significantly enhanced institutional architecture is a book in which he elaborately sets the case against political equality.<sup>148</sup> It remains to be seen whether this weighty scholarly contribution will garner as much attention as Bell’s work, but it is likely to amplify the impact.

The familiar scenario painting the inexorable decline of the West and the unstoppable rise of China, relatively speaking, which is assumed to decisively undermine Francis Fukuyama’s thesis that liberal democracy is the final form of human government, and thus amounts to the “end of history”,<sup>149</sup> furnishes the backdrop for this ambitious foray into the realm of comparative constitutional design and politics.<sup>150</sup> A hybrid governance regime steeped in Confucian ideals and which is “for the people, of the people, but not by the people” (i.e., a Chinese-style political meritocracy)<sup>151</sup> is believed to provide a viable answer to pervasive democratic malfunctioning, the unavoidable product of the one person/one vote system that is not amenable to incremental tinkering, let alone structural realignment.<sup>152</sup>

Interestingly, democratic “failures” are primarily surveyed at the micro rather than the macro (i.e., politician/representative/agent) level, where they are more prevalent and undoubtedly more harmful, perhaps because this might prompt uncomfortable questions about the *modus operandi* of meritocratic elites.<sup>153</sup> Narrow and often paternalistic contentions, not necessarily entirely

146 See, generally, K.J. O’Brien and R. Han, “Path to Democracy? Assessing Village Elections in China”, *Journal of Contemporary China* 18(60) (2009) 359–378.

147 See, generally, T. Bai, “A Confucian Version of Hybrid Regime: How Does It Work and Why Is It Superior?” in: Bell and Li, *supra* note 4, pp. 55–87.

148 See, generally, T. Bai, *Against Political Equality: The Confucian Case* (Princeton: Princeton University Press, 2020).

149 See, generally, F. Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

150 Bai, *supra* note 148, pp. 1–31.

151 *Ibid.* pp. 32–51.

152 *Ibid.* pp. 52–82.

153 *Ibid.*

invalid, are recycled to demonstrate that voters may be cognitively impaired, detrimentally rational, emotionally volatile, irrational, seriously uninformed and so forth.<sup>154</sup> The picture is incomplete because several relevant theories of voting—economic, political, psychological and sociological<sup>155</sup>—are brushed aside.

Two examples, borrowed from rational choice theory, may illustrate the limitations of this approach. In the face of evidence to the contrary, researchers who embrace the neoclassical paradigm no longer regard voting as a one-off act but one entailing a degree of cumulative learning, even if of the “satisficing” rather than “maximising” or “optimising” variety.<sup>156</sup> By the same token, they have recognised that rational voters may incorporate altruism into their utility functions and exhibit civic mindedness in the process (with electoral participation further enhancing the sense of civic mindedness).<sup>157</sup> The corollary is that voters—and people in general<sup>158</sup>—are not invariably self-centred but capable of showing social rationality, or making decisions that accommodate interests of other persons, groups and the community as a whole. Indeed, when people vote against their own interest, a phenomenon seized upon by proponents of political meritocracy as an expression of irrationality, this may in fact be a manifestation of altruism or social rationality.<sup>159</sup>

The Confucian middle way that is offered by Bai to escape from democratic chaos, distortions and injustices is not sketched here because it does not materially diverge from Bell’s blueprint. Suffice it to say from a pragmatic standpoint, at this juncture, that a Confucian utopia has never existed on a large-scale,

<sup>154</sup> *Ibid.*

<sup>155</sup> See, Generally, Evans, *supra* note 38; Fisher *et al.*, *supra* note 48; M. Harrop and W.L. Miller, *Elections and Voters: A Comparative Introduction* (New York: Springer, 1987); C. van der Eijk and M.N. Franklin, *Elections and Voters* (London: Palgrave Macmillan, 2009); M. Visser, *Five Theories of Voting Action: Strategy and Structure of Psychological Explanation*. May 1998. Retrieved 31 December 2020. <https://ris.utwente.nl/ws/portalfiles/portal/6078399/t0000001.pdf>.

<sup>156</sup> See, generally, Harrop and Miller, *ibid.* Evans, *ibid.* van der Eijk and Franklin, *ibid.* Fisher *et al.*, *ibid.*

<sup>157</sup> See, generally, C.J. Tolbert, R.S. McNeal and D.A. Smith, “Enhancing Civic Engagement: The Effect of Direct Democracy on Political Participation and Knowledge”, *State Politics and Policy Quarterly* 3(1) (2003) 23–41; A. Edlin, A. Gelman and N. Kaplan, “Voting as a Rational Choice: Why and How People Vote To Improve the Well-Being of Others”, *Rationality and Society* 19(3) (2007) 293–314.

<sup>158</sup> Mushkat, “International Legal Compliance as a Rational Act: Theoretical Extensions and Chinese Realities”, *supra* note 59; Mushkat, “Economics and International Law: Closer Alignment through Greater Analytical Diversity?”, *supra* note 59.

<sup>159</sup> See, generally, M. Thalos, *A Social Theory of Freedom* (Abingdon: Routledge, 2016).

other than perhaps in philosophers’ minds. As Gerald Chan, an empirically oriented political scientist has noted, power has always been “the cornerstone of Chinese politics.”<sup>160</sup> Those who occupy high layers of the State machinery are “masters of power politics, having inherited a well-spring of experience of power plays over the millenniums.”<sup>161</sup> It is true that the “Confucian hierarchical structure of society is based on reciprocal exchange of righteous behaviour between individuals [and that] [i]n an ideal situation moral virtues should form the basis upon which such behaviour is exchanged.”<sup>162</sup> In practice, however, “power and authority, as legitimised by a common acceptance of the codes of conduct, are the underpinning structure reinforcing such behaviour.”<sup>163</sup>

Wide-ranging and inspirational quests for political discovery aimed at resurrecting a historical model, whether real or hypothetical, embodying a vision of the “good polity”<sup>164</sup> which may have proved elusive in the modern era, while well-intentioned and intricately constructed, need to be critically subjected to a four-dimensional scrutiny. First, is the underlying premise, pitting democracy against political meritocracy, sound? Second, are democratic regimes falling short of meeting broadly accepted performance standards? Third, is political meritocracy, particularly the Chinese variant, sustainably delivering superior results? And is today’s, as well as possibly tomorrow’s, China a meritocratic regime that roughly dovetails with the “ideal type” ardently brought into life by philosophers?

Thus, to begin with, it should be pointed out that the entire analytical façade meticulously erected to elevate political meritocracy to the apex of the pyramid encompassing governance regimes rests on a rather shaky conceptual foundation. Specifically, the argument that the predominantly merit-based civil service systems, a vital component of the democratic landscape, are somehow decoupled from the political arena does not remotely correspond to prevailing realities. To varying degrees, carefully recruited, selected and trained civil servants exercise political judgement and shape public policies throughout the democratic space. In Asia, the Japanese experience is a telling example. Chalmers Johnson’s assertion that, to all intents and purposes,

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160 G. Chan, *Chinese Perspectives on International Relations: A Framework for Analysis* (London: Macmillan, 1999) p. 28.

161 *Ibid.*

162 *Ibid.*

163 *Ibid.*

164 *Ibid.*

the bureaucracy governs Japan<sup>165</sup> may have undergone some refinements, but mostly cosmetic in nature.<sup>166</sup>

The implication is that merit is not a scarce commodity in democratic regimes and it is not clear what tangibly distinguishes them in this specific regard from what is proposed by Bell, Bai and other scholars who seek to engineer a Confucian transformation of open society institutions. As to politicians and voters, they ought perhaps to be required to participate in independently designed and widely embraced life-long civic education programmes (akin to continuing professional development/CPD) rather than being forced into an unproven political straitjacket that might stifle them in virtually every respect! And is there any reason to surmise that an ineluctably imperfectly designed and rigid recruitment-selection-training scheme would produce better leaders than an intensely competitive political process? The Singapore pattern may tentatively give pause for thought, but the anecdotal evidence for the Chinese side does not support this conjecture.<sup>167</sup> It goes without saying that this does not obviate the need for identifying mechanisms to more soundly reconcile the tension between democracy and expert knowledge<sup>168</sup> (as well as moral virtue).<sup>169</sup>

There is a surprisingly solid set of empirical findings to address the issue of democratic regime performance. The relationship between democracy and economic development has been subjected to particularly extensive quantitative examination.<sup>170</sup> From a statistical perspective, the picture that consistently emerges is that democracy “causes” economic growth, although the relationship may not be linear (i.e., democratic excesses may have a dampening effect) and intervening/mediating variables<sup>171</sup> such as income/wealth inequality and

165 See, generally, C. Johnson, “Japan: Who Governs? An Essay on Official Bureaucracy”, *Journal of Japanese Studies* 2(1) (1975) 1–28.

166 See, generally, T.J. Pempel, “Bureaucracy in Japan”, *PS: Political Science and Politics* 25(1) (1992) 19–24; M. Wright, “Who Governs Japan? Bureaucrats and Politicians in the Policy-Making Processes”, *Political Studies* 47(5) (1999) 939–954.

167 See, generally, A.J. Nathan. “The Problem with the China Model.” 5 November 2015. Retrieved 31 December 2020. <https://www.chinafile.com/reporting-opinion/viewpoint/problem-china-model>.

168 See, generally, A. Moore, *Critical Elitism: Deliberation, Democracy, and the Problem of Expertise* (Cambridge: Cambridge University Press, 2017).

169 See, generally, D.L. Norton, *Democracy and Moral Development: A Politics of Virtue* (Berkeley: University of California Press, 1995).

170 See, generally, M. Mushkat and R. Mushkat, “Economic Growth, Democracy, The Rule of Law, and China’s Future”, *Fordham International Law Journal* 29 (2005) 229–259.

171 See, generally, D.W. Britt, *A Conceptual Introduction to Modeling: Qualitative and Quantitative Perspectives* (Mahwah: Lawrence Erlbaum Associates, 1997).

the rule of law may diminish or augment the impact.<sup>172</sup> The latest and most comprehensive dissection of the data available suggests that democratisation increases per capita GDP by about 20 percent in the long run, which constitutes a notable outcome.<sup>173</sup>

The impact on income/wealth inequality is less pronounced and more complicated, but it is nevertheless positive and satisfactory overall.<sup>174</sup> As to be expected, democratisation increases redistribution and reduces inequality.<sup>175</sup> Due to the median voter influence, however, the redistribution is in favour of the middle class rather than the poor segment of the community.<sup>176</sup> Ideology is also an element of the equation.<sup>177</sup> It appears that in societies that value equality highly there is less conflict among socio-economic groups and democratisation has merely a negligible effect on inequality.<sup>178</sup> On the other hand, in societies that value inequality less, democratisation decreases inequality via redistribution as the poor outvote the rich.<sup>179</sup> It is noteworthy, however, that with few exceptions upper high-income democratic regimes have relatively low Gini coefficients of inequality.<sup>180</sup> These supposedly strained political systems also comfortably outscore more hierarchically structured ones on the United Nations Human Development Index (HDI),<sup>181</sup> Environmental Performance Index (EPI),<sup>182</sup> Social Progress Index (SPI),<sup>183</sup> Global Innovation Index (GI),<sup>184</sup>

172 See, generally, Mushkat and Mushkat, *supra* note 170.

173 See, generally, D Acemoglu *et al.*, “Democracy Does Cause Growth”, *Journal of Political Economy* 127(1) (2019) 47–100.

174 See, generally, D. Acemoglu *et al.*, *Democracy, Redistribution and Inequality* (Washington: National Bureau of Economic Research, 2013).

175 See, generally, *ibid.*

176 See, generally, *ibid.*

177 See, generally, M. Gradstein, B. Milanovic, and Y. Ying, *Democracy and Income Inequality: An Empirical Analysis* (Washington: World Bank, 2001).

178 See, generally, *ibid.*

179 See, generally, *ibid.*

180 See, generally, World Bank. “Gini Index (World Bank Estimate).” Retrieved 31 December 2020. <https://data.worldbank.org/indicator/SI.POV.GINI>.

181 See, generally, United Nations Development Programme. “Human Development Reports.” 2019. Retrieved 31 December 2020. <http://hdr.undp.org/en/content/2019-human-development-index-ranking>.

182 See, generally, EPI Team. “2018 EPI Results.” Retrieved 31 December 2020. <https://epi.envirocenter.yale.edu/epi-topline>.

183 See, generally, Statista. “Country Rankings by Social Progress Index 2019.” Retrieved 31 December 2020. <https://www.statista.com/statistics/256975/worldwide-index-of-social-progress/>.

184 See, generally, World Intellectual Property Organization. “Global Innovation Index (GI) 2019.” Retrieved 31 December 2020. [https://www.wipo.int/global\\_innovation\\_index/en/2019/](https://www.wipo.int/global_innovation_index/en/2019/).

measures of quality of healthcare,<sup>185</sup> and scales of happiness/life satisfaction.<sup>186</sup> Switzerland, deemed to be the “best country in the world”,<sup>187</sup> outshines its “competitors” in terms of most of those pivotal criteria.

It is impossible not to marvel at the remarkable across-the-board performance of the Swiss Confederation, an immensely affluent semi-direct democracy (representative democracy with strong instruments of direct democracy), whose population is barely larger than that of Hong Kong. Ruchir Sharma, the much-travelled and prolific Chief Global Strategist at Morgan Stanley Investment Management, has noted that “[w]hile widening its income lead over Scandinavia in recent decades, Switzerland has been catching up on measures of equality.”<sup>188</sup> A highly decentralised and quintessentially bottom-up driven political system has sustained, rather than hampered, the pursuit of excellence in domains such as environmental preservation, education, healthcare and industrial innovation.<sup>189</sup> As Sharma has pointed out, “[t]he Swiss excel in just about every major industry other than oil, often by targeting specialized niches, such as biotech and engineering.”<sup>190</sup> The landlocked country is “home to 13 of the top 100 European companies, more than twice as many as the three Scandinavian nations combined.”<sup>191</sup> Moreover, “most Swiss firms dwarf Scandinavian peers.”<sup>192</sup> The lesson for students of comparative constitutional design and politics, as well as business and economics, is that:

“[T]he stark choice offered by many politicians—between private enterprise and social welfare [and, by extension, democracy and political meritocracy]—is a false one. A pragmatic country can have a business friendly environment alongside social equality, if it gets the balance right... Swiss [semi-direct democracy has] become the world’s richest nation by getting it right, and [its] model is hiding in plain sight.”<sup>193</sup>

185 See, generally, World Population Review. “Best Healthcare in the World 2020.” Retrieved 31 December 2020. <https://worldpopulationreview.com/countries/best-healthcare-in-the-world/>.

186 See, generally, United Nations. “World Happiness Report.” Retrieved 31 December 2020. <https://happiness-report.s3.amazonaws.com/2020/WHR20.pdf>.

187 See, generally, U.S. News and World Report. “Overall Best Countries Rankings.” Retrieved 31 December 2020. <https://www.usnews.com/news/best-countries/overall-rankings>.

188 R. Sharma. “The Happy, Healthy Capitalists of Switzerland.” 2 November 2019. Retrieved 31 December 2020. <https://www.nytimes.com/2019/11/02/opinion/sunday/switzerland-capitalism-wealth.html>.

189 See, generally, *ibid.*

190 *Ibid.*

191 *Ibid.*

192 *Ibid.*

193 *Ibid.*

No former or current East Asian developmental State may claim similar achievements, but their overall record is stellar, with Japan and Singapore not far behind, and South Korea and Taiwan faring well enough. China has a long way to go before reaching such heights, but in key respects it may qualify as “work in progress.” The picture is complicated, however. Paul Krugman’s critique,<sup>194</sup> based on detailed and technically sophisticated analysis undertaken by Alwyn Young,<sup>195</sup> attributing the East Asian “miracle” to massive but unproductive resource mobilisation (i.e., featuring low productivity due to factor accumulation accompanied by modest technological headway), has been duly challenged by Robert Barro,<sup>196</sup> but neither the reservations expressed nor the findings supporting them may be discarded altogether, particularly in the case of China.<sup>197</sup>

To compound matters further, it is a moot point whether political meritocracy played a significant role in facilitating the fulfilment of lofty modernisation goals. It may have been a component of a “package” consisting of an array of proactive policies (education, fiscal, healthcare, housing, industrial, regulatory, social welfare, trade and so forth.), but neither a single nor a decisive driving force. It might conceivably be regarded as a “distal/upstream cause”,<sup>198</sup> located somewhere at the back of the causal chain, yet without operating as a “proximal/downstream cause”,<sup>199</sup> directly responsible for the host of beneficial effects produced.

Importantly, from a methodological perspective, there is no compelling reason to think that political meritocracy is a necessary (as well as sufficient) condition for speedy and seamless modernisation. As indicated, post-Second World Japan was spearheaded by a bureaucratic meritocracy rather than a political one and both South Korea and Taiwan shifted in a democratic (plus neoliberal) direction, as predicted by endogenous modernisation theory (but Singapore did not discernibly follow). Countries such as Ethiopia<sup>200</sup> in Africa

194 See, generally, P. Krugman, “The Myth of Asia’s Miracle”, *Foreign Affairs* 73(6) (1994) 62–79.

195 See, generally, A. Young, “The Tyranny of Numbers: Confronting the Statistical Realities of the East Asian Growth Experience”, *Quarterly Journal of Economics* 110(3) (1995) 641–680.

196 See, generally, R.J. Barro, 1998. “The East Asian Tigers have Plenty to Roar About.” *Business Week*, 7 April, p. 24.

197 See, generally, J. West. “China, A Low Productivity Superpower.” 31 October 2019. Retrieved 31 December 2020. <https://asiancenturyinstitute.com/international/1548-china-a-low-productivity-superpower>.

198 See, generally, J. Freese and J.A. Kerven, “Types of Causes”, in: S.L. Morgan (ed) *Handbook of Causal Analysis for Social Research* (New York: Springer, 2013) pp. 27–43.

199 See, generally, *ibid*.

200 See, generally, F. Mulu Gebremariam and A. Moges Bayu, “Ethiopia: A Democratic Developmental State?” *ILIRIA International Review* 7(2) (2017) 153–170.

and Mexico<sup>201</sup> in Latin America have endeavoured to embrace an East Asian-style developmental agenda without straying from the democratic path. The corollary is that the political meritocracy-developmental State nexus may not be robust and, where it materialises, the combination may turn out to be a transient phenomenon.<sup>202</sup>

Worse still, political meritocracy may have adverse consequences by hindering socio-economic progress. The Chinese Imperial examination system (*keju*) is a case in point. On the positive side, it induced the transmission of human capital across socio-economic strata<sup>203</sup> and generations,<sup>204</sup> fostering a culture of valuing education in the process.<sup>205</sup> At the same time it dissuaded high-performing individuals from pursuing vital modernising activities, bred conservatism, discouraged risk taking, stifled innovation and suppressed intellectual discovery.<sup>206</sup> It was also afflicted with the buying of officer positions, divergences between theory and practice, favouritism and procedural irregularities.<sup>207</sup> The test-centred three-level examination system adopted following *keju's* abolition in 1905 engendered an atmosphere more conducive to scientific learning but retained many of its predecessor's change-inhibiting and entrepreneurship-impeding attributes.<sup>208</sup>

On the face of it, the Singapore experience militates against inferences casting doubt on the strength of the relationship between political meritocracy and broad-based modernisation. The city-State, however, may be an "outlier", or an

201 See, generally, D.C. Levy, K. Bruhn and E. Zebadua, *Mexico: The Struggle for Democratic Development* (Berkeley: University of California Press, 2nd ed, 2006).

202 See, generally, L. Low, *Developmental States: Relevancy, Redundancy or Reconfiguration* (New York: Nova Science, 2004); M. Williams (ed.), *The End of the Developmental State?* (Abingdon: Routledge, 2014).

203 See, generally, X. Tian, *The Hope of the Country with a Large Population: Theories and Practices of China's Population Transformation* (New York: Springer, 2014).

204 See, generally, T. Chen, J. Kai-sing Kung and C. Ma. "Long Live *Keju!* The Persistent Effects of China's Imperial Examination System." 26 June 2017. Retrieved 31 December 2020. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2793790](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2793790).

205 See, generally, *ibid.* Tian, *supra* note 202.

206 See, generally, R. Wang, *The Chinese Imperial Examination System: An Annotated Biography* (Lanham: Scarecrow Press, 2013); Y. Bai, "Farewell to Confucianism: The Modernizing Effect of Dismantling China's Imperial Examination System", *Journal of Development Economics* 141(C) (2019).

207 See, generally, Wang, *ibid.* Tian, *supra* note 203.

208 See, generally, Wang, *ibid.* Tian, *ibid.* R. Kirkpatrick and Y. Zang, "The Negative Influences of Exam-Oriented Education on Chinese High School Students: Backwash from Classroom to Child", *Language Testing in Asia* 1(3) (2011) 1–10; D. Ahlstrom and Z. Ding, "Entrepreneurship in China: An Overview", *International Small Business Journal* 32(6) (2014) 610–668; K. Yu, *The Implementation of Inclusive Education in Beijing: Exorcizing the Haunting Specter of Meritocracy* (Lanham: Lexington Books, 2014).

exception to the norm. As its own leaders caution, this may well be a special case spawned by unique circumstances. Moreover, to firmly establish causality, counterfactual reasoning should ideally be invoked.<sup>209</sup> What if Singapore opted for an institutional constellation roughly akin to that of largely self-regulating Hong Kong,<sup>210</sup> another prominent global metropolis which matches it in terms of most pivotal criteria?<sup>211</sup> Would the results be any different?

Addressing the same issue in the Chinese context, it should be noted that the purchasing power parity (PPP)-adjusted per capita income for the country stands at \$15,376, considerably above the level of Indonesia (\$11,647) and India (\$6,597).<sup>212</sup> This outperformance, however, is the upshot of a handful of pragmatic decisions taken early in the reform era at the prompting of Deng Xiaoping, who was endowed with superb practical instincts rather than being the product of a sophisticated socialisation process. Political meritocracy cannot take the credit for opening up the economy in a manner consistent with China’s comparative advantage, partial liberalisation of its domestic segment and igniting the power of *de facto* fiscal federalism.<sup>213</sup> Indeed, as the pace of reform has slackened from the 1990s onward, which has coincided with a steepening of the meritocratic curve, the economy has begun to lose some of its lustre.<sup>214</sup> During this period, it has increasingly been propped up by the “invisible hand” of the market rather than being propelled by meritocratic impulses.<sup>215</sup>

209 See, generally, S.L. Morgan and C. Winship, *Counterfactuals and Causal Inference: Methods and Principles for Social Research* (Cambridge: Cambridge University Press, 2nd ed, 2014); R. Mushkat, “Counterfactual Reasoning: An Effective Component of the International Law Methodological Armor?” *German Law Journal* 18 (2017) 59–98.

210 See, generally, M. Mushkat, *The Economic Future of Hong Kong* (Boulder: Lynne Reiner and Hong Kong University Press, 1990); K-W. Li, *Economic Freedom: Lessons of Hong Kong* (Singapore: World Scientific, 2012).

211 See, generally, P.G. de Krassel. “Even with Protests, Recession and Corona Virus, Hong Kong Is a Better Bet than Singapore.” 24 May 2020. Retrieved 31 December 2020. <https://www.scmp.com/comment/opinion/article/3085695/even-protests-recession-and-coronavirus-hong-kong-better-bet>.

212 See, generally, World Bank, GDP Per Capita, PPP.

213 See, generally, B. Naughton, *The Chinese Economy: Transitions and Growth* (Cambridge: MIT Press, 2007); J. Yifu Lin, *Demystifying the Chinese Economy* (Cambridge: Cambridge University Press, 2012).

214 See, generally, Y. Huang, *Capitalism with Chinese Characteristics: Entrepreneurship and the State* (Cambridge: Cambridge University Press, 2008); N. Lardy, *The State Strikes Back: The End of Economic Reform in China* (Washington: Peterson Institute for International Economics, 2019).

215 See, generally, L. Yuan. “Private Businesses Have Built Modern China. Now the Government Is Pushing Back.” 31 October 2018. Retrieved 31 December 2020. <https://www.nytimes.com/2018/10/03/business/china-economy-private-enterprise.html>.

Looking forward, the economic outlook is clouded because of demographic stagnation brought about by the one-child policy, depletion of the stock of “surplus” labour flowing from rural to urban areas (China may have reached the “Lewis turning point” as long as a decade ago), the fact that the country is no longer “pursuing” the leading industrialised nations but is being “pursued” by the likes of Vietnam, and the post-coronavirus restructuring of global supply chains coupled with the severe damage wrought by the pandemic to the all-important small-and-medium-size enterprise (SME) sector.<sup>216</sup> These trends may accentuate imbalances in the economy and may exacerbate its underlying fragility (e.g., further inflate the massive debt mountain).<sup>217</sup> The belief that skilful meritocratic manipulation of scientific tools such as artificial intelligence (AI) and big data will prove to be a panacea<sup>218</sup> may be seen as ill-founded.<sup>219</sup>

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- 216 See, generally, Y. Hu, *Strategic Priorities: China's Reforms and the Reshaping of the Global Order* (Singapore: Enrich Professional Publishing, 2014); R.C. Koo, *The Other Half of Economics and the Fate of Globalization* (Hoboken: Wiley, 2018); S. Black and A.J. Morrison. “Can China Avoid a Growth Crisis?” September 2019. Retrieved 31 December 2020. <https://hbr.org/2019/09/can-china-avoid-a-growth-crisis>; C. Taylor. “Companies Will Shift Supply Chains Away from China After Coronavirus Crisis, Mark Mobius Predicts.” 21 April 2020. Retrieved 31 December 2020. <https://www.cnbc.com/2020/04/21/supply-chains-will-move-away-from-china-after-coronavirus-mark-mobius.html>; Z. Xin, H. Huifeng and S. Leng. “Coronavirus: China's Small Firms at Risk While Outbreak Poses Challenge to Beijing's Grand Economic Goals.” 12 February 2020. Retrieved 31 December 2020. <https://www.scmp.com/economy/china-economy/article/3049833/coronavirus-chinas-small-firms-risk-while-outbreak-poses>.
- 217 See, generally, Hu, *ibid.* S.L. Shirk, *China: The Fragile Superpower* (Oxford: Oxford University Press, 2007); P. Shankar Jha, *Managed Chaos: The Fragility of the Chinese Miracle* (London: Sage Publications, 2009); C. Walter and F. Howie, *Red Capitalism: The Fragile Financial Foundation of China's Extraordinary Rise* (Hoboken: Wiley, rev ed, 2012); M. Pettis, *The Great Rebalancing: Trade, Conflict, and the Perilous Way Ahead for the World Economy* (Princeton: Princeton University Press, 2013); A.E. Rey, *The China Sinkhole: Increasing Systemic Fragility underneath China's Debt-Laden Economy, Expedited by the US-China Trade War* (Axel E. Rey, 2019).
- 218 See, generally, S. Leng. “The Big Data and AI Projects China Is Pinning its Global Tech Ambitions On.” 29 December 2017. Retrieved 31 December 2020. <https://www.scmp.com/news/china/economy/article/2126029/big-data-and-ai-projects-china-pinning-its-global-tech-ambitions>.
- 219 See, generally, T.D. Jules and F.D. Salan (eds.), *The Educational Intelligent Economy: Big Data, Artificial Intelligence, Machine Learning and the Internet of Things in Education* (Bingley: Emerald, 2019); P. Massotte and P. Corsi, *Complex Decision-Making in Economy and Finance* (Hoboken: Wiley, 2020); E. Kania. “Seeking a Panacea: The Party-State's Plans for Artificial Intelligence (part 2).” 15 November 2017. Retrieved 31 December 2020. <https://www.ccpwatch.org/single-post/2017/11/15/Seeking-a-Panacea-the-Party-State%E2%80%99s-Plans-for-Artificial-Intelligence-Part-2>.

Outside the strictly economic sphere, other than for innovation (at 14th place versus India's 52nd and Indonesia's 85th rank), China's comparative advantage is somewhat less obvious. A Gini coefficient of 0.47<sup>220</sup> is indicative of greater inequality than in India (0.35)<sup>221</sup> and Indonesia (0.37),<sup>222</sup> although there are concerns about data reliability. The UN Human Development Index (China 85th, India 129th and Indonesia 111th)<sup>223</sup> and the Environmental Performance Index (China 120th, India 177th and Indonesia 133rd)<sup>224</sup> are the only sources of statistics covering all three countries with regard to socio-environmental performance, tipping the scales in China's favour, but without reflecting exceptional strides. Happiness/life satisfaction measures are available for three Chinese cities (Shanghai 84th, Guangzhou 95th and Beijing 134th)<sup>225</sup> and they too suggest that the country's political meritocracy faces serious challenges.

Policy analysts typically search for the common ground shared by all developmental States (e.g., government-directed capitalism). There has been a cluster of studies focusing on the differences, such as between South Korea and Indonesia, yet without identifying political meritocracy as a strong determinant of any divergences.<sup>226</sup> China has been selectively included in such comparative surveys,<sup>227</sup> and there has been a number of attempts to methodically juxtapose Indian economic performance with that of China,<sup>228</sup> but again political meritocracy has not emerged as a crucial influence in that context

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- 220 CEIC. “China Gini Coefficient.” Retrieved 31 December 2020. <https://www.ceicdata.com/en/china/resident-income-distribution/gini-coefficient>.
- 221 World Population Review. “Gini Coefficient by Country 2020.” Retrieved 31 December 2020. <https://worldpopulationreview.com/countries/gini-coefficient-by-country/>.
- 222 See, generally, *ibid*.
- 223 United Nations Development Programme, *supra* note 181.
- 224 EPI Team, *supra* note 182.
- 225 United Nations, *supra* note 186.
- 226 See, generally, T. Vu, “State Formation and the Origins of Developmental States in South Korea and Indonesia”, *Studies in Comparative International Development* 41 (2007) 27–56; T. Vu, *Paths to Development in Asia: South Korea, Vietnam, China, and Indonesia* (Cambridge: Cambridge University Press, 2010).
- 227 See, generally, Vu, *Paths to Development in Asia: South Korea, Vietnam, China, and Indonesia, ibid*.
- 228 See, generally, B. Bosworth and S.M. Collins, “Accounting for Growth: Comparing China and India”, *Journal of Economic Perspectives* 22(1) (2008) 45–66; S. Dougherty and V. Vali, “Comparing China and India: An Introduction”, *European Journal of Economics* 6(1) (2009) 53–55; S. Ranjan Basu, “Comparing China and India: Is the Dividend of Economic Reforms Polarized?”, *European Journal of Economics* 6(1) (2009) 57–99; V. Vali and D. Saccone, “Structural Change and Economic Development in China and India”, *European Journal of Economics* 6(1) (2009) 101–129; I. Bensidoun, Françoise Lemoine and Deniz Unal, “The Integration of China and India into the World Economy: A Comparison”, *European Journal of Economics* 6(1) (2009) 131–155; I. Patnaik and A. Shah, “The Difficulties of the

(as distinct, for instance, from policy/State capacity, which is not tightly correlated with political meritocracy). As implied earlier, to ascertain causality, counterfactual simulation would have to be undertaken to establish whether China itself would have performed less well, as well or better under different governance regimes.

Indeed, political meritocracy hardly features at all in the academic literature endeavouring to account for the success and failure of nations across space and over time. In the most exhaustive exploration of the subject, Daron Acemoglu and James Robinson lay a heavy emphasis on inclusive political institutions as a key to prosperity and the stream of benefits that it yields.<sup>229</sup> From a long-term perspective, other things being equal, this bodes better for Singaporean than the Chinese variant of political meritocracy, and more generally speaking for countries that structurally accommodate and strategically nourish diversity than those that resist and suppress it.

Some sinologists have highlighted the emperor-like iron grip that the Chinese Communist Party (CCP) has maintained over society, preventing potentially disruptive centrifugal forces from bursting into the open.<sup>230</sup> Others have lauded it for its skilful containment of incipient symptoms of atrophy, resilience and, above all, the ability to reinvent itself and adapt to changes in its domestic and external environments.<sup>231</sup> No clear causal relationship, however, has compellingly been shown to exist between political meritocracy as such and any of these outcomes. Moreover, there is ample empirical evidence to indicate that, contrary to philosophers' ruminations, properly designed

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Chinese and Indian Exchange Rate Regimes", *European Journal of Economics* 6(1) (2009) 157–173; S. Naseem, "Economies of Two Asian Giants India and China: Comparative Study", *International Journal of Business and Social Science* 8(9) (2017) 42–48.

229 See generally D. Acemoglu and J.A. Robinson, *Why Nations Fail? The Origins of Power, Prosperity, and Poverty* (New York: Crown Publishing, 2012). See also R. Sharma, *The Rise and Fall of Nations: Forces of Change in the Post-Crisis World* (New York: W.W. Norton, 2017).

230 See, generally, Z. Yongnian, *The Chinese Communist Party as Organizational Emperor: Culture, Reproduction and Transformation* (Abingdon: Routledge, 2010).

231 See, generally, D. Shambaugh, *China's Communist Party: Atrophy and Adaptation* (Berkeley: Woodrow Wilson Center Press and University of California Press, 2008); P.B. Potter, *Law, Policy, and Practice on China's Periphery: Selective Adaptation and Institutional Capacity* (Abingdon: Routledge, 2011); K. Brown, *China's Dream: The Culture of Chinese Communism and the Secret Sources of Its Power* (Cambridge: Polity, 2018); S. Heilmann, *Red Swan: How Unorthodox Policy Making Facilitated China's Rise* (Hong Kong: Chinese University Press, 2018); F. Sun and W. Zhang, *Why Communist China Isn't Collapsing: The CCP's Battle for Survival and State-Society Dynamics in the Post-Reform Era* (Lanham: Lexington Books, 2020).

and smoothly functioning democratic mechanisms are a superior vehicle for resolving social conflicts<sup>232</sup> and facilitating productive adaptation.<sup>233</sup>

Nor is it just a matter of the causal relationship or lack thereof between political meritocracy and regime performance. As pointed out earlier, the question arises whether, in practice, today China's structural-functional attributes (or those of any other country, with the exception of the special case of Singapore) closely correspond to the political meritocracy blueprint in its unadulterated form. There is no doubt that great effort is invested in cadre recruitment, selection, training and continuous on-the-job guidance coupled with results-based monitoring and evaluation.<sup>234</sup> In reality, however, the CCP rules the country by means of two pivotal instruments, namely, organisation and ideology, with all else, including merit, as conventionally construed, being of secondary importance.<sup>235</sup>

The gap between formal prescriptions and observed behavioural patterns may also often be substantial. For instance, John Burns and Wang Xiaoqi, in their detailed micro-level study of the impact of the 1993 regulatory enhancements and the 2006 Civil Service Law, have concluded that any positive effects were offset by conflicting policies pursued at the same time and by a failure to soundly address persistent characteristics of organisational culture that have traditionally rewarded illicit practices in general and corruption in particular.<sup>236</sup> Another illuminating example of divergences between administrative

232 See, generally, D. Kinsella and D.L. Rousseau, “Democracy and Conflict Resolution”, in: J. Bercovitch, V. Kremenyuk and I. William Zartman (eds.), *Sage Handbook of Conflict Resolution* (London: Sage Publications, 2009) pp. 475–491.

233 See, generally, B.D. Jones, D.A. Epp and Frank R. Baumgartner, “Democracy, Authoritarianism, and Policy Punctuations”, *International Review of Public Policy* 1(1) (2019) 7–26.

234 See, generally, Shambaugh, *supra* note 231; Zheng, *supra* note 230; K.E. Brodsgaard (ed.), *Globalization and Public Sector Reform in China* (Abingdon: Routledge, 2014); H. Wei, G. Zhiyong Lan and L. Songbo, “Innovations in Cadre Selection and Promotion in China: The Case of Mudanjiang City”, *Business and Public Administration Studies* 8(1) (2014) 48–57; B. Zhiyue, “Political Leadership in China”; in R.A. Rhodes and Paul t Hart (eds.) *The Oxford Handbook of Political Leadership* (Oxford: Oxford University Press, 2014) p. 613; W-H. Tsai and C-W. Kou, “The Party's Disciples: CCP Reserve Cadres and the Perpetuation of a Resilient Authoritarian Regime”, *China Quarterly* 221 (2015) 1–20; Q. Zeng, “Democratic Procedures in the CCP's Cadre Selection: Implementation and Consequences”, *China Quarterly* 225 (2016) 73–99; W. Wo-lap Lam (ed.), *Routledge Handbook of the Chinese Communist Party* (Abingdon: Routledge, 2018).

235 See, generally, Zheng, *ibid.* X. Chen, “Remaking the Loyal Cadres: The Ideological Responsibility System in China's New Era”, *Journal of Chinese Governance* 3 (2018) 292–306.

236 See, generally, J.P. Burns and W. Xiaoqi, “Civil Service Reform in China: Impacts on Civil Servants' Behaviour”, *China Quarterly* 201 (2010) 58–78. See also B.K.P. Chou, “Implementing the Reform of Performance Appraisal in China's Civil Service”, *China Information* 19(1)

principles and their application is the incentive structure aimed at motivating cadres to promote both economic and socio-environmental objectives but which ends up being heavily tilted in favour of the former (GDPism).<sup>237</sup> From a broader perspective, as seen from a bottom-up angle, a long series of efficiency-enhancing administrative reforms seems to have had a negligible impact on organisational performance.<sup>238</sup>

Trends that have emerged in this domain in the past decade or so, coinciding with a relentless anti-graft campaign, have apparently not reflected a wholesale repositioning of the politico-bureaucratic apparatus. Jerome Doyon, who has dissected them empirically, has noted that cadre assignment procedures have become increasingly non-transparent, with the process being predominantly conducted behind closed door and less weight than previously being accorded to “objective” criteria.<sup>239</sup> He has consequently inferred that these trends are likely to pave the way for the transformation of the party-State machinery into a more clientelist/particularistic and less youthful /vigorous institution than may have been expected, given the overall direction of administrative reform in the preceding years.<sup>240</sup>

The point about clientalism/particularism has further ramifications. Specifically, it serves as a poignant reminder that political meritocracy—again, other than perhaps in a small city-State such as Singapore—is not a safeguard against regulatory cartelisation and capture. This is a subject that has received considerable attention on the part of political economists researching private-public dynamics in China.<sup>241</sup> Their findings suggest that regulatory

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(2005) 39–65; W. Xiaoqi, *China's Civil Service Reform* (Abingdon: Routledge, 2012); Z. Bo, “Selection of Local Leaders in China: Meritocracy or Personal Connections”, in: X. Zang and H.S. Chan (eds.), *Handbook of Public Policy and Public Administration in China* (Edward Elgar, 2020) p. 22.

237 See, generally, S-Y. Tang and B. Wen, “Beyond Governance for Economic Growth: Understanding Incentive Distortions in the Chinese Bureaucracy”, in: X. Zang and H.S. Chan (eds.), *ibid.*, p. 96; J.Y.S. Cheng, “Local Governments in China”, in: U. Sadioglu and K. Dede (eds.) *Comparative Studies and Regionally Focused Cases Examining Local Governments* (Hershey: Information Science Reference, 2016) pp. 207–227; J. van Heijster, “Imagining Modernization: The Symbolic Embrace of GDP in China”, *China Political Science Review* 5 (2020) 50–73.

238 See, generally, F. Wan, H. Yin and Z. Zhou, “Does China's Civil Service Improve the Government Performance? A Case Study of Education Bureau of Ningbo City”, *Chinese Public Administration Review* 2(3/4) (2004) 54–66.

239 See, generally, J. Doyon, “Clientelism by Design: Personnel Politics under Xi Jinping”, *Journal of Current Chinese Affairs* 47(3) (2018) 87–110.

240 See, generally, *ibid.*

241 See, generally, T-W. Ngo and Y. Wu (eds.), *Rent Seeking in China* (Abingdon: Routledge, 2009); H. Wei Ping, “Regulatory Capture in China's Banking Sector”, *Journal of Public Regulation* 14

cartelisation and capture manifests itself in virtually every Chinese industry and that the heavy concentration of political and economic power mostly accounts for this phenomenon.<sup>242</sup> Countervailing meritocratic influences, sought by philosophers, are conspicuous by their absence.

By the same token, there is no empirical evidence—once more, with the atypical Singapore case possibly as a statistical outlier—that political meritocracy acts as an antidote to social divisiveness, let alone promotes social cohesion, whether at the elite or grassroots level. As Bo Zhiyue has amply documented, the Chinese Party-State apparatus has long been rife with factionalism, perfunctorily disavowed but strenuously practiced by the country’s leaders.<sup>243</sup> This perhaps accounts for the fact that of the many models purporting to explain the evolution of policy making in China,<sup>244</sup> the fragmented authoritarianism paradigm<sup>245</sup> has been the most widely embraced by sinologists.<sup>246</sup> Developments in the past decade have no diverged from this historical pattern, featuring strident repudiation of factionalism and at the same time the formation of a powerful Xi Jinping faction consisting of “his proteges /underlings from Fujian, Zhejiang, and Shanghai (where he served as a senior administrator); associates with relations to his home province of Shaanxi; and loyal generals (including several who have served in the erstwhile Nanjing military region).”<sup>247</sup>

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(2013) 89–90; W. He and H. Wei Ping, *Banking Regulation in China: The Role of Public and Private Sectors* (London: Palgrave Macmillan, 2014); C-M. Tsai, “Regulating China’s Power Sector: Creating an Independent Regulator without Autonomy”, *China Quarterly* 218 (2014) 452–473; Q. Jiwei (ed.), *The Rise of the Regulatory State in the Chinese Health-care System* (Singapore: World Scientific, 2017); K. Li, C. Long and W. Wan, “Public Interest or Regulatory Capture: Theory and Evidence from China’s Airfare Deregulation”, *Journal of Economic Behavior and Organization* 161 (2019) 343–365; C. Shian Liou and C-M. Tsai, “The Governing Paradox in a Transition Economy: Repeated Institutional Reforms and Increasing Regulatory Capture in China’s Energy Sector”, *Problems of Communism* 67(2) (2020) 156–168; J. Chen and Q. Shan. “Over-Investment and Regulatory Capture in China’s Transportation Industry.” 2014. Retrieved 31 December 2020. <https://www.semanticscholar.org/paper/Over-Investment-%26-Regulatory-Capture-in-China%E2%80%99s-Chen-Shan/a75bc593699eb245ccc32452ac2a7419cb622186>.

242 See, generally, Ngo and Wu, *ibid.* He, “Regulatory Capture in China’s Banking Sector”, *ibid.* He, *Banking Regulation in China: The Role of Public and Private Sectors*, *ibid.* Tsai, *ibid.* Qian, *ibid.* Li, Long and Wan, *ibid.* Liou and Tsai, *ibid.* Chen and Shan, *ibid.*

243 See, generally, B. Zhiyue, “Political Leadership in China”, in: Rhodes and ‘t Hart, *supra* note 234, p. 613; B. Zhiyue, “Factional Politics in the Party-State Apparatus”, in: Lam, *supra* note 234, pp. 122–134.

244 See, generally, H. Jianrong, *The Applicability of Policy-Making Theories in Post-Mao China* (Farnham: Ashgate, 1999).

245 See, generally, K. Erik Brodsgaard (ed.), *Chinese Politics as Fragmented Authoritarianism: Earthquakes, Energy and Environment* (Abingdon: Routledge, 2017).

246 See, generally, *ibid.* Huang, *supra* note 244.

247 Bo, “Factional Politics in the Party-State Apparatus”, *supra* note 243, p. 122.

The pervasive splintering of the politico-bureaucratic machinery has prompted Ming Xia to equate the resulting institutional structure with a “network mode of governance”, a less firmly interconnected and a more diffuse organisational entity than commonly postulated.<sup>248</sup> While these observations have been specifically directed at the political component of the overall system, they are equally valid with respect to its bureaucratic counterpart,<sup>249</sup> which exerts considerable policy influence.<sup>250</sup> As Alex Jingwei He has vividly illustrated, that is a highly segmented and loosely configured arena where intricate and multi-frontal manoeuvring takes place, with far-reaching and potentially problematic implications for outsiders as well as insiders.<sup>251</sup>

Interestingly, factionalism in academic settings, the standard bearers of meritocratic virtues, is a time-honoured phenomenon.<sup>252</sup> Nor are academic institutions renowned for their organisational effectiveness.<sup>253</sup> In sum, as a tidily articulated abstract philosophical notion, political meritocracy may conceivably possess some innate attractions. Selectively invoking the peripheral Singapore experience and largely misrepresenting Chinese realities, however, may not turn it into an empirically grounded and universally relevant practical proposition—certainly not as a standalone governance mechanism, as distinct from one element of an accountable, functionally sound, representative and transparent regime.

#### 4 Rethinking the Value of Social Hierarchy

In recent years, applied researchers and political commentators surveying the evolving socio-legal terrain have become preoccupied with the world’s increasing “flatness”, the apparent product of forces of globalisation sustained by cutting-edge innovations in the information and communication

248 See, generally, M. Xia, *The People’s Congresses and Governance in China: Toward a Network Mode of Governance* (Abingdon: Routledge, 2008).

249 See, generally, Brodsgaard, *supra* note 245.

250 See, for example, M. Dougan, *A Political Economy Analysis of China’s Civil Aviation Industry* (Abingdon: Routledge, 2002).

251 See, generally, A. Jingwei He, “Manoeuvring Within a Fragmented Bureaucracy: Policy Entrepreneurship in China’s Local Healthcare Reform”, *China Quarterly* 236 (2018) 1088–1110.

252 See, for example, Byron K. Marshall, “Academic Factionalism in Japan: The Case of the Todai Economics Department, 1919–1939”, *Modern Asian Studies* 12(4) (1978) 529–551.

253 See, for example, V. Kupriyanova, T. Estermann, and N. Sobic, “Efficiency of Universities: Drivers, Enables and Limitations”, in: A. Curaj, L. Deca, and R. Pricopie (eds.), *European Higher Education Area: The Impact of Past and Future Policies* (New York: Springer, 2018) pp. 603–618.

technology (ICT) industry.<sup>254</sup> This pattern has had concrete manifestations in the private and public sector, particularly the former, with both profit and non-profit oriented organisations adopting progressively more flexible structures, including those characterised by criss-crossing lines of authority and heterarchical forms of professional collaboration entailing an extraordinary degree of decentralisation/flatness.<sup>255</sup>

Organisational sociologists, however, have continued to portray hierarchy as “one of the cornerstones of human society since chronicles began”<sup>256</sup> and as “an (almost) eternal beast that has reigned over humanity for the best part of its history.”<sup>257</sup> According to them, it is ubiquitous and found “amongst us—between individuals and in groups, organisations, and whole societies.”<sup>258</sup> Its impact has been enormous as evidenced by the fact that “[k]ingdoms have been built on it, religions would have not come into existence and reached global dominance without this ‘heavenly power,’ and societies allegedly would descend into chaos without it.”<sup>259</sup> Today, “[m]odern organisations—the economic, political, social, and cultural institutions that govern our lives—exist in harmonious symbiosis with this beast.”<sup>260</sup>

Organisational sociologists provide an array of explanations for the persistence of social hierarchies.<sup>261</sup> Most frequently, they highlight the centrality of status and power.<sup>262</sup> Status, alluding to the respect accorded to people by others, generates expectations for behaviour and opportunities for advancement that confer an advantage on those with prior status superiority.<sup>263</sup> Power, referring to a person’s control over prized resources, impinges on individual psychology in such a way that the powerful think and act in a manner that leads to

254 See, for example, T.L. Friedman, *The World Flat: Brief History of the Twenty-First Century* (New York: Farrar, Straus, and Giroux, 3rd ed, 2007).

255 See, generally, G. Jones, *Organizational Theory, Design and Change* (London: Pearson, 7th ed, 2012).

256 T. Diefenbach, *Hierarchy and Organisation: Toward a General Theory of Hierarchical Social Systems* (Abingdon: Routledge, 2013) p. xv.

257 *Ibid.* p. 2.

258 *Ibid.*

259 *Ibid.*

260 *Ibid.*

261 *Ibid.* pp. 11–34.

262 See, generally, J.C. Magee and A.D. Galinsky, “The Self-Reinforcing Nature of Social Hierarchy: Origins and Consequences of Power and Status”, *Academy of Management Annals* 2(1) (2008) 351–398.

263 See, generally, *ibid.*

the acquisition and retention of power.<sup>264</sup> Hierarchy-enhancing belief systems further stabilise the stratified structures that status and power beget.<sup>265</sup>

Organisational economists also acknowledge, albeit less emphatically, the widespread presence of, the need for, and the enduring nature of social hierarchy. They contend that, in certain circumstances, resource allocation via the market may prove sub-optimal and that, in order to minimise transaction costs, it may be desirable to internalise business activities within the (hierarchically structured) firm rather than purchase them externally through competitive channels.<sup>266</sup> In addition, they argue that hierarchies are conducive to the centralisation of ownership and coherent supervision, properties which enable institutions to gather information and enforce discipline necessary for effective planning and coordination.<sup>267</sup>

Both organisational sociologists and organisational economists, however, have increasingly shifted their attention to heterarchy and its derivatives as an emerging type of social organisation complementing and even supplanting hierarchy. The former, of course, have long dissected network-like informal social structures,<sup>268</sup> but are now earnestly grappling with the formal variant as well.<sup>269</sup> Similarly, social networks and network-based organisations are currently a fast-growing area of scientific research in institutional economics.<sup>270</sup> Among other things, the work undertaken in this scholarly realm sheds ample light on the significant benefits that, where appropriate, organisational flatness bestows on society and segments thereof, including enhanced commitment, communication, cooperation, dynamism, flexibility, group cohesion, horizontal coordination, information sharing, innovation, mutual trust, responsiveness and sense of self-fulfilment.<sup>271</sup>

264 See, generally, *ibid.*

265 See, generally, *ibid.*

266 See, generally, O.E. Williamson, *Markets and Hierarchies: Analysis and Anti-Trust Implications, A Study in the Economics of Internal Organization* (New York: Free Press, 1975).

267 See, generally, H. Daems, "The Economics of Hierarchical Organization", *Tijdschrift voor Economie en Management* XXX(3–4) (1985) 339–348.

268 See, generally, C. Kadushin, *Understanding Social Networks: Theories, Concepts, and Findings* (Oxford: Oxford University Press, 2011).

269 See, generally, T. Diefenbach and R. Tondem (eds.), *Reinventing Hierarchy and Bureaucracy: From the Bureau to Network Organizations* (Bingley: Emerald, 2012).

270 See, generally, G. Umbhauer, H. Stahn, and P. Cohendet (eds.), *The Economics of Networks: Interaction and Behaviours* (New York: Springer, 1998); R. Gibbons and J. Roberts (eds.), *Handbook of Organizational Economics* (Princeton: Princeton University Press, 2012); Y. Bramouille, A. Galeotti and B. Rogers (eds.), *Oxford Handbook of the Economics of Networks* (Oxford: Oxford University Press, 2016).

271 See, generally, Diefenbach and Tondem, *supra* note 269; Jones, *supra* note 255; G. Fairlough, *Three Ways of Getting Things Done: Hierarchy, Heterarchy and Responsible Autonomy in Organizations* (Dorset: Triarchy Press, 2005).

#### 4.1 *Challenge of Defending Social Hierarchy*

Against this backdrop, in his latest influential book, venturing beyond the strict confines of the political meritocracy space from a base at one of the world’s most regimented major political systems, Bell and his Chinese co-author, launch a spirited defence of the by no means obsolete yet no longer imperious social hierarchy.<sup>272</sup> According to them, from a purely descriptive perspective and not necessarily controversially, this is a structural constellation “characterized by (a) difference and (b) ranking according to some attribute.”<sup>273</sup> This portrayal is “neutral” in nature, akin to those observed in the study of biological phenomena, where that pattern features prominently without moral judgement exercised in the process.<sup>274</sup>

As indicated earlier, the emergence and paramountcy of hierarchy is often ascribed by social scientists to efficiency-related factors. Understandably, this is particularly true of economists, for whom efficiency in the Paretian (welfare) sense is the overarching societal goal.<sup>275</sup> That inclination may manifest itself even more in the explanations furnished by natural scientists, reflected *inter alia* in the assertion that centralised “complex biological systems need fewer connections and things may [thus] run more efficiently”<sup>276</sup>—a claim that may plausibly be extended into the social domain: “The only way that large human groups can arrive at a common course of action is by [hierarchically] structuring interpersonal connections.”<sup>277</sup>

Such analytical accounts are partly misleading because they equate heterarchy and its derivatives, including networks, with “structurelessness”, which is not the case.<sup>278</sup> Hierarchy is hardly the sole functionally viable organisational principle.<sup>279</sup> Moreover, this type of explanations is devoid of contextual relevance because it overlooks the fact that efficiency is the product of situation-dependent structural configurations.<sup>280</sup> After all, as contingency theorists compellingly contend and demonstrate, there is no optimal strategy for

272 Bell and Wang, *supra* note 5.

273 *Ibid.* p. 8.

274 *Ibid.* pp. 8–9.

275 See, generally, P-O. Johansson, *An Introduction to Modern Welfare Economics* (Cambridge: Cambridge University Press, 1991).

276 Bell and Wang, *supra* note 5, p. 9.

277 P. Turchin. “The Evolution of Hierarchy.” 20 December 2014. Retrieved 31 December 2020. <http://evolution-institute.org/blog/the-evolution-of-hierarchy>.

278 See, generally, J. Freeman aka Joreen. “The Tyranny of Structurelessness.” 1972. Retrieved 31 December 2020. <https://www.jofreeman.com/joreen/tyranny.htm>.

279 See, generally, Jones, *supra* note 255.

280 See, generally, Lex Donaldson, *The Contingency Theory of Organizations* (London: Sage Publications, 2001).

organising a purposeful system and the most effective course of action hinges on prevailing external and internal conditions<sup>281</sup> (e.g., tight hierarchy may serve poorly a corporation like Facebook Inc.)<sup>282</sup>

In itself, this conclusion is unlikely to meet the standard set by Bell and Wang, who posit that efficiency is valueless unless coupled with morality and is ultimately eclipsed by the latter. This applies to both the natural (“[i]t may well turn out that what’s efficient from the point of view of natural selection is morally wrong, and we can and should strive to challenge much of what seems ‘natural’”) <sup>283</sup> and social (“[i]n the same vein, there are good reasons to challenge many of the social hierarchies that seem natural to us [;] these hierarchies may have arisen for reasons of efficiency, but we need not endorse them from a moral point of view”) <sup>284</sup> realm. Having conjoined efficiency with morality, Bell and Wang proceed to broadly articulate their fundamental proposition:

“Our book is informed by what we might call a ‘progressive conservative perspective.’ On the one hand, we are sympathetic to the traditional egalitarian causes of the left, including an aversion to extremes of wealth distribution, more rights for the productive classes, more support for the poor countries that unduly suffer from the effects of global warming, equality between men and women, as well as equal rights for same-sex couples. In our view, many of the social hierarchies traditionally viewed as natural and just are neither natural nor just, and we can and should challenge those hierarchies: by revolutionary means, if necessary. On the other hand, we share a conservative attachment to, if no reverence for, tradition, and we recognize that some traditional hierarchies—among family members, citizens, [S]tates, humans and animals, and humans and machines—are morally defensible. We do not argue for blindly reaffirming and implementing hierarchies that may have worked in the past. But suitably reformed [...] they can be appropriate for the modern world.”<sup>285</sup>

It should be noted that the sharp uncoupling of efficiency and morality is not without its conceptual and practical problems because the two are intimately

281 See, generally, *ibid.*

282 See, generally, Panmore Institute. “Facebook Inc.’s Organizational Structure (Analysis).” 6 June 2018. Retrieved 31 December 2020. <http://panmore.com/facebook-inc-organizational-structure-analysis>.

283 Bell and Wang, *supra* note 5, p. 11.

284 *Ibid.*

285 *Ibid.* pp. 12–13.

connected.<sup>286</sup> At the most elementary level, an excessive emphasis on divergences rather than the inevitable overlapping between efficiency and morality may imply that squandering societal resources is not an ethical concern.<sup>287</sup> Beyond that, an inference may inappropriately be drawn that utilitarianism lacks moral underpinnings.<sup>288</sup> Moreover, the proposition overlooks the fact that the pursuit of Pareto efficiency (a situation where no individual or preference criterion can be better off without making at least one individual or preference criterion worse-off) and its less stringent Kaldor-Hicks counterpart (which allows the winners to compensate the losers, as long as there is net gain to society) may prove fruitless in the absence of accountable, equitable, humane and transparent institutions.<sup>289</sup>

Rather sensibly, Bell and Wang refrain from opting for an overarching principle of justice in assessing the moral foundations of different hierarchical constellations. Instead, they choose to follow Michael Walzer’s approach to justice,<sup>290</sup> which is predicated on the notion that there is “no one principle of justice appropriate for all times and places.”<sup>291</sup> The corollary is that “different hierarchical principles ought to govern different kinds of social relations.”<sup>292</sup> *Ergo*, in the specific context of Bell’s and Wang’s validation of this postulate, “[w]hat justifies hierarchy among inmates is different from what justifies hierarchy among citizens; what justifies hierarchy among citizens is different from what justifies hierarchy among countries; what justifies hierarchy among countries is different from what justifies hierarchies between humans and animals; and what justifies hierarchies between humans and animals is different from what justifies hierarchies between humans and (intelligent) machines.”<sup>293</sup>

While generally sound, this analytical pathway is not friction-free. Ineluctably, there is a degree of arbitrariness associated with such *ad hocism*, depriving the overall thesis of a common denominator that would have

286 See, generally, A.E. Buchanan, *Ethics, Efficiency, and the Market* (Lanham: Rowman and Littlefield, 1985); D.N. Chorafas, *Business Efficiency and Ethics: Values and Strategic Decision Making* (London: Palgrave Macmillan, 2014).

287 See, generally, Buchanan, *ibid.* Chorafas, *ibid.*

288 See, generally, M. Nakano-Okuno, *Sidgwick and Contemporary Utilitarianism* (London: Palgrave Macmillan, 2011).

289 See, generally, A. Sen, *On Ethics and Economics* (Oxford: Basil Blackwell, 1987); A. Sen, *Development as Freedom* (Oxford: Oxford University Press, 1999); J.B. Wight, “The Ethics Behind Efficiency”, *Journal of Economic Education* 48(1) (2017) 15–26.

290 See, generally, M. Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).

291 Bell and Wang, *supra* note 5, p. 16.

292 *Ibid.*

293 *Ibid.* pp. 16–17.

provided necessary reinforcement. The heavy reliance on Confucianism, a virtue-imbued moral philosophy but one riddled with ambiguities, gaps between theory and practice, inconsistencies, and tensions between “good” and “evil”<sup>294</sup> conveys a certain sense of imbalance and adds to the impression that a degree of selectivity is exercised in formulating empirically grounded observations regarding the ethical merits of social hierarchy. The narrow ambit of Confucian thought, a system of moral governance primarily focusing on the maintenance of family order by means of filial piety (*xiao*) and political order through loyalty (*zhong*),<sup>295</sup> implies that any criteria predominantly derived from that source are likely compress the overly narrow picture further.

Elsewhere in the academic literature on the subject, an overarching principle is commonly invoked.<sup>296</sup> This normally begins with an account of how, over time, hierarchical social systems emerge out of multiple dynamic processes and become effectively linked via several mechanisms of systemisation (i.e., socialisation, adaption, synchronisation, institutionalisation, transformation and navigation).<sup>297</sup> Differentiation ensues as these structures set in motion processes that, on functional grounds, confer advantages or disadvantages on certain individuals or groups in terms of social status and power.<sup>298</sup> The underlying logic, or moral justification for embracing social stratification, revolves around the idea that it is right to grant greater privileges to those better equipped to put them to good use than others less capable of such contribution, turning “merit” into an overarching evaluative yardstick:

“The inequality of circumstance between dominant and subordinate is justified by a principle of differentiation, which reveals the dominant as specially qualified, suited or deserving to possess the resource, to pursue the activity or hold the position which forms the basis of their power, and the subordinate as correspondingly unsuited or unfitted to do so, and hence rightly excluded from it.”<sup>299</sup>

As indicated, Bell and Wang, perhaps rightly so, favour a more eclectic approach. It is interesting to note, however, that the former is less inclined to expand his

294 See generally M. Shuman, *Confucius and the World He Created* (New York: Basic Books, 2015).

295 See, generally, J. Barbalet, *Confucianism and the Chinese Self: Re-examining Max Weber's China* (London: Palgrave Macmillan, 2017).

296 See, for example, Diefenbach, *supra* note 256, pp. 29–33.

297 *Ibid.* p. 8.

298 *Ibid.*

299 *Ibid.* p. 30.

set of normative criteria when it comes to political meritocracy. This may not be the sole reason, but the duality possibly stems from the uncomfortable (for those who minimise its importance or overlook it) fact that actual organisational allocation mechanisms tend to substantially diverge from those found in prescriptive blueprints expected to explicitly or implicitly shape behaviour within social hierarchies. Put another way, as seen in the Chinese context, organisational practice may erode merit to a point whereby it may cease to loom large in allocative decision-making processes:

“The reality of hierarchies is very different from the theoretical models of perfect or imperfect hierarchies. As everyone knows, even if the selection of candidates for social positions is *officially* solely or primarily merit-based, the *actual* selection process within hierarchical organisations happens very differently, information (about candidates) is not complete, the available information is interpreted in different ways, subjective factors play a role, and candidates are finally picked for a whole range of reasons other than the actual merits. Usually, the allocation of people to social positions is a combination of so-called ‘rational’ *and* subjective factors—whereby very often the former provide the official reasons and justifications and the latter represent the real (but unofficial) reasons behind a decision.”<sup>300</sup>

Another possible explanation for steering clear of the challenges encountered in accommodating a highly diverse social sphere within the confines of a single overarching principle is that it offers a convenient escape route to eschew the inherent tension between hierarchy and freedom, an ethical tenet *par excellence*.<sup>301</sup> Confronting this uneasy relationship head-on is not a matter of merely highlighting the unavoidable trade-offs but also furnishing space within hierarchical structures for people to navigate, without being unduly constrained, their way through institutional channels and interpersonal networks.<sup>302</sup> This may entail a significant loosening of top-down controls and induce a shift from “perfect” to “imperfect” hierarchy,<sup>303</sup> perhaps even further to “real” hierarchy<sup>304</sup> and beyond (i.e., heterarchy), a prospect that advocates of finely tuned pyramid-like social systems are inclined to cast aside.

300 *Ibid.*

301 See, generally, Sen, *On Ethics and Economics*, *supra* note 289; Sen, *Development as Freedom*, *supra* note 289; R. Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

302 Diefenbach, *supra* note 256, p. 8.

303 *Ibid.* p. 32.

304 *Ibid.*

#### 4.2 *Social Hierarchy with “Chinese Characteristics”*

Such limitations notwithstanding, Bell and Wang deliver food for thought that is constructively worth engaging with on a number of fronts. The principal difficulty lies in picking China as a model of just political hierarchy, consistent with the theme steadfastly pursued by Bell in his work on political meritocracy, outlined in the previous section. Rather paradoxically, given the qualms expressed about the nature of the connection between efficiency and morality, the choice is to a considerable extent rationalised with reference to the former. Specifically, the authors posit that the “most obvious justification for hierarchy in large communities is efficiency”<sup>305</sup> and that any “attempt to implement an Athenian-type democracy would be recipe for chaos in huge political communities.”<sup>306</sup> Moreover, the logic apparently applies best to the high layers of the political pyramid governing sizeable communities and extends beyond the boundaries of the current Chinese State. Thus:

“[T]he ideal of political meritocracy is an appropriate standard for assessing political progress and regress at higher levels of government in China because the ideal has been central to Chinese political culture, it has inspired political reform over the past few decades, it is appropriate for large-scale political communities, and it is endorsed by the vast majority of the people. These reasons may be particular to the political context, but there are also more general reasons to support the ideal of political meritocracy in the modern world. For one thing, political meritocracy, with its emphasis on high-quality leaders with wide and diverse political experience and a good track record of responding and adapting to changing circumstances, may be particularly appropriate in a time of fast technological change and unpredictable global shocks.”<sup>307</sup>

One of the problems faced in assessing the structural-functional attributes of Chinese-style hierarchy in light of ethically and practically acceptable criteria is that its workings remain shrouded in uncertainty. The inputs and outputs are subject to distortions, but their quantity and quality may be ascertained with a reasonable degree of accuracy after filtering out the “noise.” The conversion process or what transpires inside the system, however, is unfathomable—a pattern or lack thereof bearing broad similarities with cyberneticists’

305 Bell and Wang, *supra* note 5, p. 68.

306 *Ibid.* p. 67.

307 *Ibid.* p. 74.

“black box.” For Bell and Wang, such poor transparency is not fundamentally different from that witnessed when academic recruitment committees do not disclose the full details of the exchange of views culminating in an offer of employment to one candidate and the rejection of all others.<sup>308</sup> According to them, in both circumstances “[o]pen deliberations would set constraints on what’s said, nor would it be fair to candidates who are not selected.”<sup>309</sup>

Bell and Wang acknowledge that, in the absence of competitive elections, limiting power in a hierarchically organised political setting may prove to be a serious challenge.<sup>310</sup> They also recognise that, without binding external constraints, rigidly configured hierarchies may be prone to indulge in a wide range of bureaucratic excesses, notably of the corrupt variety.<sup>311</sup> Yet, they put their faith in internal regulatory mechanisms and a fruitful coupling of hierarchically driven politics and legal imperatives deeply enshrined in the country’s institutional fabric.<sup>312</sup> This sanguine outlook has its roots in the “Law School of Thought”, a legalist tradition which exerted substantial influence on China’s political environment for as long as five centuries—a period during which the governance regime seemingly operated in a manner roughly consistent with prevailing notions of the rule of law.<sup>313</sup>

This entire intellectual architecture, constructed to legitimise (and, in fairness, enhance the “virtues” of) Chinese-type political hierarchy, rests on thin conceptual and empirical foundation. There is no solid evidence to suggest that, as political units grow larger, they adopt progressively more hierarchically shaped governance mechanisms on efficiency grounds. With the exception of China, the most populous countries in the world, which are also highly diverse (e.g., the United States), have loosely organised political systems and the trend is accelerating.<sup>314</sup> By the same token, students of organisational development have shown that, as businesses expand, they often (where appropriate) jettison hierarchy in favour of heterarchy.<sup>315</sup> Similarly, economists have demonstrated

308 *Ibid.* p. 77.

309 *Ibid.*

310 *Ibid.* pp. 78–81.

311 *Ibid.* pp. 81–84.

312 *Ibid.* pp. 69–72, 78–84.

313 *Ibid.* pp. 69–72. See also W. Pan, “Toward a Consultative Rule of Law Regime in China”, *Journal of Contemporary China* 12(34) (2003) 3–43; D. Zhao, *The Confucian-Legalist State: A New Theory of Chinese History* (Oxford: Oxford University Press, 2015).

314 See, generally, G. Shabbir Cheema and D.A. Rondinelli (eds.), *Decentralizing Governance: Emerging Concepts and Practices* (Washington: Brookings Institution, 2007).

315 See, generally, Jones, *supra* note 255.

that federalism<sup>316</sup> and decentralized provision of public services are associated with tangible efficiency gains.<sup>317</sup>

Nor are the assertions regarding the inevitability of hierarchical governance in large communities consistent with reform-era Chinese experience. A number of factors have contributed to the post-1978 rise in the standard of living but pronounced regionalism must count among the most prominent.<sup>318</sup> The central government may exercise control over personnel but, to all intents and purposes, the subnational governments run the bulk of the economy.<sup>319</sup> Had it not been for this peculiar “regionally decentralised authoritarian constellation”,<sup>320</sup> the reform era economic trajectory would have been significantly flatter<sup>321</sup> and maintaining social stability would have been a far more complicated task.<sup>322</sup>

It is misleading to equate academic confidentiality embedded in a procedurally credible institutional architecture with pervasive low transparency. If efficiency is a preeminent national goal, at least in the instrumental sense of the word, it may not be fulfilled in the long run without a firm commitment to transparency.<sup>323</sup> Interestingly, such posture is also conducive to inclusiveness, the key determinant of long-term socio-economic performance (e.g., the highly successful Swiss semi-direct democracy consistently accommodates its five major parties within the Federal Council and ingeniously smooths over political conflict via the integrative force of consociationalism).<sup>324</sup> And tightly

316 See, generally, C.M. Tiebout, “A Pure Theory of Local Expenditures”, *Journal of Political Economy* 64(5) (1956) 416–424.

317 See, generally, W.E. Oates, *Fiscal Federalism* (San Diego: Harcourt Brace Jovanovich, 1972).

318 See, generally, S.L. Shirk, *The Political Logic of Economic Reform in China* (Berkeley: University of California Press, 1993); P.F. Landry, *Decentralized Authoritarianism in China: The Communist Party's Control of Local Elites in the Post-Mao Era* (Cambridge: Cambridge University Press, 2008); C. Xu, “The Fundamental Institutions Of China's Reforms and Development”, *Journal of Economic Literature* 49(4) (2011) 1076–1151.

319 See, generally, Xu, *ibid.*

320 *Ibid.* 1076.

321 See, generally, *ibid.*

322 See, generally, J.B. Knight, “Economic Causes and Cures of Social Instability in China”, *China and the World Economy* 22(2) (2014) 5–21.

323 See, generally, World Bank. “Transparency Is Key to Weathering Shocks, Investing in Growth, and Enhancing Trust in Government.” 9 April 2020. Retrieved 31 December 2020. <https://www.worldbank.org/en/news/press-release/2020/04/09/transparency-is-key-to-weathering-shocks-investing-in-growth-and-enhancing-trust-in-government>.

324 See, generally, A. Ladner, “Swiss Political Parities: Between Persistence and Change”, *West European Politics* 24(2) (2001) 123–144.

structured hierarchies tend to sacrifice transparency for organisational coherence<sup>325</sup> and at times even opt opportunistically to suppress it.<sup>326</sup>

Bell and Wang materially underestimate hierarchical resistance to reforms threatening the status *quo*, particularly those that might enfeeble top-down controls over the polity.<sup>327</sup> A blueprint for a legalist-style, rule-of-law based Chinese “consultative democracy” was unveiled nearly two decades ago without any palpable headway being made in that direction.<sup>328</sup> Moreover, China’s historical forays into legalist territory should be interpreted with a modicum of caution because some researchers legitimately believe that they laid the foundation for rule by law rather than rule of law and sowed the seeds of authoritarianism, including that of the “hard” variety.<sup>329</sup>

Bell’s and Wang’s inadequate handling of the interplay between hierarchical entrenchment and internally generated regulatory instruments, in the absence of robust externally shaped constraints, brings into sharp focus the liberties they take in crossing the lines between perfect hierarchy, imperfect hierarchy and real hierarchy. The intellectual world they inhabit is largely populated

325 See, generally, P. Kumar and P. Ramsey (eds.), *Learning and Performance Matter* (Singapore: World Scientific, 2008).

326 See, generally, Q. Zhang, *The Constitution of China: A Contextual Analysis* (Oxford: Hart, 2012); B. Xe, *Media Transparency in China: Rethinking Rhetoric and Reality* (Lanham: Lexington Books, 2017); J.R. Stromseth, E.J. Malesky and D.D. Gueorguiev, *China’s Governance Puzzle: Enabling Transparency and Participation in a Single-Party State* (Cambridge: Cambridge University Press, 2017); C. Campbell. “The Entire System Is Designed to Suppress Us. What the Chinese Surveillance State Means for the Rest of the World.” 21 November 2019. Retrieved 31 December 2020. <https://time.com/5735411/china-surveillance-privacy-issues/>; J.P. Horsley. “The Chinese Communist Party Experiment with Transparency.” 8 February 2018. Retrieved 31 December 2020. <https://www.brookings.edu/blog/order-from-chaos/2018/02/08/the-chinese-communist-partys-experiment-with-transparency/>; L. Rosenberger. “China’s Coronavirus Information Offensive: Beijing Is Using New Methods to Spin the Pandemic to Its Advantage.” 22 April 2020. Retrieved 31 December 2020. <https://www.foreignaffairs.com/articles/china/2020-04-22/chinas-coronavirus-information-offensive/>; J. Zhuang Liu *et al.* “Transparency in an Autocracy: China’s ‘Missing’ Cases in Judicial Opinion Disclosure.” February 2019. Retrieved 31 December 2020. <https://www.marshall.usc.edu/sites/default/files/takjunwo/intellcont/Law180219-1.pdf>.

327 See, generally, J. Fewsmith, *The Logic and Limits of Political Reform in China* (Cambridge: Cambridge University Press, 2013).

328 See, generally, J. Ci. “Without Democracy, China Will Rise No Farther: Beijing Cannot Compete with Washington until It Reckons with Its People.” 4 October 2019. Retrieved 31 December 2020. <https://www.foreignaffairs.com/articles/china/2019-10-04/without-democracy-china-will-rise-no-farther/>; J. Cohen, “Law’s Relation to Political Power in China: A Backward Transition”, *Social Research: An International Quarterly* 86(1) (2019) 231–251.

329 See, generally, Z. Fu, *China’s Legalists: The Early Totalitarians* (Abingdon: Routledge, 1996).

by perfect hierarchies, which exhibit a “perfect match between social positions, candidates, and their merits with complete information and a rational decision maker.”<sup>330</sup> This is a philosopher’s world characterised by a dearth of imperfect hierarchies and, more importantly, real ones. The former “struggle with the measurement or measurability of merits and, thus, cannot guarantee a fair allocation of candidates to social positions.”<sup>331</sup> Worse still, the latter reveal that there is a crucial “structural asymmetry with regards to the appreciation of people’s merits; people higher up the hierarchical ladder receive a relatively larger share of the overall outcomes in relation to their merits than people lower down.”<sup>332</sup> In the world inhabited by ordinary humans, a category that hopefully encompasses empirically minded socio-legal scholars, judgement should be exercised with reference to yardsticks grounded in reality. In such a world, key aspects of Bell’s and Wang’s analysis and salient facets of their proposals need to be mostly discarded.

## 5 Summary and Some Further Thoughts

As liberal democracies have stumbled from one crisis to another, whether actual or perceived, concerns have emerged about the quality of governance of the constitutional order which they represent. At the same time, the attractions of an alternative institutional pattern, supposedly featuring a sage-like and virtue-rich political meritocracy at the apex of a purposeful and well-oiled bureaucratic hierarchy, capable of continuously satisfying any conceivable material needs and outpacing all its primary competitors in the process, have drawn growing attention and have come to be viewed favourably as a vehicle for pursuing national prosperity and stability. The Chinese governance regime is said to be the embodiment of that institutional pattern.

As Elizabeth Economy has elaborately documented, this perspective is not vaguely articulated and it is not the product of mere armchair theorising.<sup>333</sup> According to her, none other than Xi Jinping has been actively promoting such a portrayal of the putatively changing balance between democracy and the authoritarian paradigm reflected in the supposedly merit-propelled sturdy

330 Diefenbach, *supra* note 256, p. 32.

331 *Ibid.*

332 *Ibid.*

333 E.C. Economy. “Exporting the China Model.” 13 March 2020. Retrieved 31 December 2020. [https://www.uscc.gov/sites/default/files/testimonies/USCCTestimony3-13-20%20\(Elizabeth%20Economy\)\\_justified.pdf](https://www.uscc.gov/sites/default/files/testimonies/USCCTestimony3-13-20%20(Elizabeth%20Economy)_justified.pdf).

hierarchy over which he mightily presides by emphatically claiming that “[t]he China model for a better social governance system offers a new option for other countries and nations to speed up their development while preserving their independence.”<sup>334</sup> Not content with it serving as a source of developmental inspiration, he has added that the model encapsulates “Chinese wisdom and a Chinese approach to solving the problems facing mankind.”<sup>335</sup>

Exporting the model passively and even through official policy channels may have its limitations. A finely constructed intellectual platform is required to reinforce the message and render it more impactful. Daniel Bell, a (presently) China-based influential and prolific political philosopher, has systematically built such a platform. It is vast and selectively furnishes valuable insights. As this article illustrates, however, it falls short, both conceptually and empirically, of persuasively demonstrating the enduring perils of liberal democracy and establishing a compelling case for hierarchically underpinned Chinese-type political meritocracy as a viable constitutional and organisational ideal.<sup>336</sup>

Beyond this shortfall, Bell’s broad and punctilious exploration of democratic governance and its hierarchical meritocracy alternative does not do justice to the former in two noteworthy respects. First, it brushes aside several institutional and technological innovations, some far-reaching in nature, that have the potential to enhance the effectiveness of the democratic model. Access to these innovations is readily available as they are regularly monitored by socio-legal researchers who contribute to the “theories of institutional design” series of books published by Cambridge University Press under the general editorship of Robert Goodin, himself an influential and prolific scholar, who holds a professorship of philosophy and social and political theory at the Australian National University (ANU) in Canberra.<sup>337</sup>

Second, Bell presents a one-dimensional picture of the democratic space and consequently turns a blind eye to solutions to constitutional problems found within that multi-layered space. Hong Kong is a case in point. CCP’s inability and unwillingness, coupled with divisive united front tactics, to devise a reasonably representative governance regime for this global metropolis has provoked a grassroots backlash and engendered acute political polarisation, pushing this once stable capitalist enclave to the brink of a precipice.

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334 *Ibid.*

335 *Ibid.*

336 For a similar conclusion, arrived at via a polemical route, see D. Markovits, *The Meritocracy Trap: How America’s Fundamental Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite* (New York: Penguin, 2019).

337 See, for an overview, <https://www.cambridge.org/core/series/theories-of-institutional-design/C27D7B23B6E6CD42167BB51BB7F7909E>.

That outcome could have arguably been averted, had a variant of “corporatist democracy”, productively accommodating directly elected representatives and indirectly elected (as distinct from appointed) representatives of functional constituencies within a two-tier legislative structure, been introduced.<sup>338</sup>

Embracing such a structure might constitute a logical step in Hong Kong’s institutional evolution, mirroring the territory’s socio-economic profile.<sup>339</sup> The entire body would then select the head of the executive branch of government without jeopardising overall CCP rule.<sup>340</sup> An additional stabilising mechanism in the form of an Australian-style compulsory voting scheme might induce the territory’s “median voter” to meaningfully enter the political arena and help bridge the enormous and pernicious gap between the pro-universal suffrage and pro-establishment camps.<sup>341</sup> The fine details of the blueprint are not relevant here but the general lesson is: democracy is a workable governance regime possessing sufficient breadth and depth to efficiently and justly address the needs of a wide-range of different communities within a workable constitutional framework.<sup>342</sup>

338 See, generally, Mushkat and Mushkat, “Conversationalism, Constitutional Economics and Bicameralism: Strategies for Political Reform in Hong Kong”, *supra* note 69; Mushkat and Mushkat, *The Political Economy of Constitutional Incrementalism in Hong Kong*, *supra* note 69.

339 See, generally, Mushkat and Mushkat, “Conversationalism, Constitutional Economics and Bicameralism: Strategies for Political Reform in Hong Kong” *ibid.* Mushkat and Mushkat, *The Political Economy of Constitutional Incrementalism in Hong Kong* *ibid.*

340 See, generally, Mushkat and Mushkat, “Conversationalism, Constitutional Economics and Bicameralism: Strategies for Political Reform in Hong Kong” *ibid.* Mushkat and Mushkat, *The Political Economy of Constitutional Incrementalism in Hong Kong* *ibid.*

341 See, generally, J. Lam, “Pay Hong Kong Voters for Casting Ballots, Silent Majority Group Urges.” 2 November 2013. Retrieved 31 December 2020. <https://www.scmp.com/news/hong-kong/article/1345522/pay-hong-kong-voters-casting-ballots-silent-majority-pressure-group>.

342 See also Y. Yuen Ang, “Why Chinese Autocracy vs American Democracy Is a False Comparison.” 30 October 2020. Retrieved 31 December 2020. <https://www.scmp.com/comment/opinion/article/3107545/why-chinese-autocracy-vs-american-democracy-false-comparison>.