On the Informal Rules of the Chinese Communist Party

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Abstract

The Chinese Communist Party (CCP) is a closely constituted party. Recent studies of the CCP describe and evaluate its formal rules, but to understand the Party as an institution we also need to understand its informal rules. The literature on "party norms", "institutionalization" and the "unwritten constitution" often fails to distinguish rules from other political phenomena. It confuses informal rules with political practices, constitutional conventions, behavioural equilibria and doctrinal discourse. It is prone to overlook important rules, and to see rules where there are none. Hence, it potentially overstates how institutionalized the CCP is, and therefore how resilient it is. The article provides a clearer account of informal rules and suggests a different explanation for the resilience of the CCP.

Keywords: Communist Party; rules; constitution; leadership politics; China

The Chinese Communist Party is a closely constituted party, a party characterized by the breadth and depth of its rules. Apex Party committees, whose membership and functions are regulated, meet at appointed times, to exercise delegated powers, through a series of formal instruments. Despite all the power held by Xi Jinping 习近平, he can only viably dismiss a member of the Politburo by accusing them of breaking the rules, because Politburo membership is an office embodied in rules, whose authority derives from the Central Committee and, ultimately, from the Party Congress.

Informal rules form an important part of this matrix. They include emerging norms of leadership succession. For example, as China approached the 19th Party Congress there was widespread speculation that Xi Jinping would dispense with an informal rule that forbids senior officials from assuming a new office after their 68th birthday (*qishang baxia* 七上八下). Xi had already set aside rules that buttress stable leadership transitions such as *xingbushang changwei* 刑不上 常委, which gives former members of the Politburo Standing Committee immunity from prosecution. In October 2016, Deng Maosheng 邓茂生, a member of the drafting committee for the Sixth Plenum Communiqué, told reporters "there is no specific standard [retirement] age" and described the rule

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as "pure folklore."[1] Tom Kellogg wrote that Xi might be willing to break the rules in order to retain a trusted lieutenant or elevate a loyal retainer from political obscurity.[2] Andrew Nathan countered that Xi consolidated power "without violating established Party norms."[3] Taisu Zhang and Thomas Ginsburg went further, arguing that the 19th Party Congress demonstrated Xi's fidelity to the rules: he followed constitutional form in amending Article 79, which establishes the term limit for the president, of the State Constitution.[4] All five superannuated standing committee members stood down on time.

Unlike Article 79, rules such as the notional term limit for the general secretary and *qishang baxia* are informal rules, not codified, formal rules. As such, we cannot say whether rules have been broken unless we can identify informal Party rules. This article provides a framework for describing and evaluating informal rules, then considers some important and topical examples.

Informal rules have an enduring importance in debates about the past and future of the CCP. Nathan argues that the main reason behind the durability of China's political order is "the increasingly norm-bound nature of [China's] succession politics."[5] Joseph Fewsmith responds that while Party rhetoric pays lip service to an "institutionalized, standardized, and procedure-based" system, the actual rules suggest "anything but institutionalization."[6] More recently, Fewsmith argues that "élite infighting is not bound by institutional rules" in China.[7] Thomas Pepinsky labels this move the "institutional turn" in comparative authoritarianism.[8]

Some argue that the CCP is hostile to rules and regulation in general. Michel Schoenhals describes the Cultural Revolution as an example of "movement" (*yundong* 运动), a mode of governance that he characterizes as a "state of flux"; the intentional "shattering of all regular standards"; and "the temporary suspension of whatever laws, norms and rules applied at regular times."[9] For Schoenhals, "movement" represents the antithesis of rules, and it is an intermittent but enduring feature of the Party's governing style, encapsulated in the slogan "smash the rules and go a hundred miles an hour!" (*dapo changgui, yiri qianli* 打破常规一日千里!)[10]

In contrast, over the last ten years, many Chinese scholars have described the informal rules of the CCP as an unwritten constitution. Jiang Shigong juxtaposes China's legal constitution with the "unwritten rules" that contextualize it.[11] Chen Duanhong emphasizes the need for unwritten political controls rather than

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1 "Retirement rule for CCP leaders 'pure folklore'." *Straits Times*, 2 November 2016. These comments were not repeated in Chinese State media.
2 Kellogg 2017.
3 Fewsmith and Nathan 2019, 177.
4 Zhang and Ginsburg 2019.
5 Nathan 2003, 6.
6 Fewsmith 2003, 15.
7 Fewsmith and Nathan 2019, 174.
8 Pepinsky 2014.
9 Schoenhals 1999, 596.
10 "Move fast and break things" is an alternative translation.
11 Jiang 2010.

written legal controls. He identifies the former as a fundamental or higher law, composed of "a body of undisputed values and customs established customarily by the [political] community over a long period of time."[12] Luo Haocai underlines the importance of what he calls "soft law" in China's legal and constitutional order, looking at the "self-regulatory norms" of political organizations.[13] Hu An'gang's influential book, *China's Collective Presidency*, projects a distinctively constitutional understanding of Party power.[14]

The historical narrative of the Party and the rules traces a familiar arc. The story begins optimistically, with the endorsement of a "coherent set of Party organisational norms" at Yan'an 延安.[15] It then declines into an anarchy that would "smash all permanent rules";[16] then rises once again in a spirit of "institutionalization, standardization and proceduralization."[17] For example, in his masterly study of the decline of Party rules, *Politics and Purges*, Frederick Teiwes argues that from the founding of the PRC "elite behaviour in China was guided by a relatively well-defined set of organisational norms." These norms "began to erode" during the Great Leap Forward, whereupon they were "gravely weakened" and then finally "shattered" in 1966."[18]

Although many of these claims are grounded in the history of a particular period, they hold a current importance. Some think the wave has begun to recede under Xi Jinping and some think it continues to swell. Zhang and Ginsburg contend that there is a new and more robust "authoritarian legality."[19] Carl Minzner, instead, sees the Party "tear[ing] up the existing rules" and "steadily cannibalizing its own prior political institutionalisation."[20] Rogier Creemers argues that the CCP's "unity, discipline and flexibility … has been sufficient to accomplish the basic requirements for survival"; yet this culture is "incompatible with notions of … consistency and rules-based ordering."[21] Writing in 2019, Fewsmith claims that "efforts to normalize the system" – in other words, to subject it to norms – "lead to dysfunction and conflict."[22]

This poses a familiar problem. Some argue that it is impossible for the Party to bind itself through rules, because all Party rules are evanescent. For constitutional theorists such as Chen Duanhong, the Party "is a permanent institution for the constituent power of the people." It is a standing constitutional convention – a body with the peremptory power to change the rules.[23] Flora Sapio distinguishes between two sorts of sovereignty: a narrow sovereignty, which is

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12 Chen 2008, 487.
13 Luo and Song 2012.
14 Hu 2014.
15 Teiwes 2015, 13.
16 Tay 1968.
17 Fewsmith 2003.
18 Teiwes 2015, 467.
19 Zhang and Ginsburg 2019.
20 Minzner 2018, 33, 34.
21 Creemers 2014, 107.
22 Fewsmith and Nathan 2019, 176.
23 Chen 2008.

exercised through the rules, and a larger sovereignty, which transcends the rules.[24] The sovereign is the party who can switch off the rules.[25] But if the Party can transcend its own rules, then how can those same rules make it more resilient?

What is missing from these debates is a coherent picture of what informal rules *are* and how they *work*. On that basis, this article suggests a different answer to the sovereignty question, an answer grounded in a better understanding of the nature and function of informal political rules. In doing so, the article challenges that mainstream scholarship on the Party and its rules, a scholarship that confuses constitutional conventions, behavioural equilibria and doctrinal discourse, and which is prone to confuse rules and values, to overlook important institutions, and to see rules where there are none.

The argument proceeds in two parts. The first distinguishes formal and informal rules, then distinguishes informal rules from connected concepts such as practices, conventions, discourse and doctrine. It explains why patterns of political practice are not informal rules and explores how political discourse girds informal rules. The second part applies this theory in practice. It addresses dubious claims about the "unwritten constitution" of the CCP, then describes and evaluates more plausible examples of informal Party rules.

Part One: Some Conventional Theories of Informal Party Rules

This is an article about informal rules. The literature sometimes refers to these rules as "Party norms,"[26] as "unwritten" or "unspoken" rules, as "latent" rules (*qian guize* 潜规则) or, more carefully, as "informal intra-party institutions" (*dangnei feizhengshi zhidu* 党内非正式制度). This section begins by defining formal and informal rules. It distinguishes what some writers call "prudential rules" from political practice. It turns to "conventions" and considers two different senses of convention, one based on behavioural equilibria and one grounded in social rules. It develops an account of informal rules and explains how norms, practices, habits and other consistent patterns of behaviour are a necessary but insufficient component of informal rules. It then explains how discourse and doctrine are also necessary but insufficient components of informal rules. Finally, it shows how these component parts fit together. The following section of the article explains why these distinctions matter, with reference to topical, informal Party rules.

Formal and informal rules

Douglass North argues that institutions such as the CCP are embodied in rules.[27] Those rules consist of both "formal rules" such as "constitutions, laws [and] property rights" and "informal constraints" such as "sanctions, taboos, customs, traditions, and codes of conduct."[28]

Formal rules – like written constitutions – are typically codified and often enforced by a central authority. Some Party rules are formal rules, which is to say they are rules made in accordance with the Party Constitution, and rules such as the "Regulations on the use of official documents in state and Party work."[29] For example, CCP cadres are required to meet targets on measures including economic growth and social stability. Mayling Birney presents these targets as "mandates" and distinguishes them from legal rules.[30] But these are nonetheless formal rules, formulated, interpreted and applied by the centre.[31] Recent literature on intra-Party rules by scholars such as Samuli Seppänen explains how formal rules such as these put "the Party in charge of the Party."[32]

Formal rules are only part of the story. An explanation of political rules in China with sole reference to the text of the 1982 Constitution would produce a wholly misleading account. This is because formal rules are influenced, and sometimes substantially qualified, by informal rules. Informal rules are often reduced to writing but usually lack authoritative versions, such as codified texts, and authoritative sources of interpretation, such as supreme courts. As such, the meaning of an informal rule (and, indeed, its existence) is continually contested by the community that is subject to the rule.

Just as we cannot understand China's written constitution without also understanding its deeper, unwritten constitution, so we cannot understand formal rules without understanding informal rules. Formal and informal rules interact.[33] Some formal rules are ignored in light of informal rules. Kellee S. Tsai has shown how formal CCP rules came to be qualified, and later replaced, by informal rules.[34] For example, in the 1980s and 1990s, CCP members were not allowed to operate private businesses. But many did, often registering those businesses as "collective enterprises." This "adaptive, informal institution" hollowed out the formal rule, and paved the way for the admission of "red capitalists" to the Party.[35] In contrast, some formal rules only take effect owing to informal rules. One simple way to change informal rules is to formalize them. Nathan

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27 North 1990, 3. See also Huntington 1968; Searle 2005.
28 North 1991, 97.
29 CCP Central Committee 2012.
30 Birney 2014.
31 Chan 2004; Edin 2003.
32 Seppänen 2019, 286, quoting Song Gongde.
33 It is not possible to explore the ways in which formal and informal rules interact fully in an article of this length and scope, but Griffiths 2003 suggests a general approach to this question
34 Tsai 2006.
35 Ibid., 133.

observes that institutional change is "by definition a process of unmaking old rules in order to make new rules."[36] By this account, Mao did not smash the informal rules of the Party. He changed them.

Formal rules have an obvious bearing on the institutional structure of the CCP, but we can only understand those rules in light of informal rules. The next few paragraphs expand on the nature of informal rules with reference to existing theories of Party rules. We will return to certain points of interaction between formal and informal rules at the end of this section and, again, at the end of the article.

Rule, practices and equilibria

In *Leadership, Legitimacy and Conflict in China*, Teiwes draws a distinction between "normative" and "prudential" rules. What Teiwes terms normative rules are like the formal rules described above. Normative rules are "those official guidelines laying out how elite politics should be conducted and what activities are beyond the pale." These include both the state and Party constitutions and the rules of the "highly specialized hierarchical bureaucracies." They also include "official" Party norms "enshrined in major legal documents and repeatedly emphasized in important Party statements."[37]

In contrast, "prudential" rules are "those rules of thumb about the types of behaviour likely to result in success."[38] Teiwes describes these "rules" as "understandings based on experience and practice … rooted in several sources – the institutional arrangements of the system, the particular traditions of the dominant elite, and the prevailing political culture" and observes that they are "more subject to chance than normative rules."[39] He suggests three examples: the rule that you have to "deliver the goods" (that you have to be perceived to be effective); the rule that you need to build a network; and the rule that you have to make alliances.

The distinction between formal rules and practical wisdom is typical of a contemporary literature on authoritarian states. In the mid 1980s, scholars such as Harry Rigby and Graeme Gill theorized the formal and informal rules of the Soviet Union. Informal rules include "conventions, informal principles or assumptions which may be only weakly reflected in formal rules, but which gain their real force through constant application."[40] Transgression of these rules did not result in official sanctions, but it did "have undesirable political ramifications for the transgressor."[41] Gill calls conventions such as these "prudential rules" and distinguishes them from normative rules.

But delivering the goods is not the same as following the rules. What Teiwes, Gill and Rigby call "prudential rules" are *practices* rather than *rules*. They are

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36 Fewsmith and Nathan 2019, 178.
37 Teiwes 2018, 94–95.
38 Ibid.
39 Ibid.
40 Rigby 1984; Gill 1985, 214.
41 Gill 1985, 214.

consistent patterns of behaviour. However, we often behave in a particular way without following rules. For example, there has been a remarkably consistent political practice in the history of the PRC of not invading Taiwan. Every leader since the revolution has followed that practice scrupulously. It was probably prudent to act in this way. But to call this practice a "prudential rule" is to draw the snake then add legs. Not all political practices involve rule-following. There is, however, more to say about the relationship between practice and informal rules, and we will return to the point shortly.

A related approach to informal rules views them as *behavioural equilibria*.[42] Pepinsky approaches authoritarian institutions, including the CCP, in this way. He contends that "when scholars claim to be studying an institution, they are examining the equilibrium of a game among strategic actors" and this game is "stable, durable and robust to certain perturbations."[43] These rules are "conventions," in a special sense of that word, as used by David Lewis and David Hume. Lewis draws on Hume's account to describe behavioural equilibria, based on continual tacit bargaining and adjustment.[44] According to Hume:

> [Convention is] a general sense of common interest: which sense all the members of the society express to one another, and which induces them to regulate their conduct by certain rules … When this common sense of interest is mutually expressed and is known to both, it produces a suitable resolution and behaviour.[45]

Power-sharing agreements can be regulated by conventions such as these.[46] Uncommanded commanders, such as states and organized crime syndicates, can nevertheless be "bound" by Lewisian conventions.[47] Breaking them may invite "unwelcome political consequences." Seen in this way, political institutions are a by-product of social conflict among actors seeking to protect their own interests. For example, we might say that the practice of not-yet-reunifying China reflects a sort of "convention" and that it is calibrated by continual tacit bargaining and adjustment.

Equilibria are important phenomena for gamblers and students of international relations and organized crime. Antagonists, including states and gangsters, figure out ways to work together, when they have to. But as soon as circumstances change, the convention can suddenly vanish. Indeed, what distinguishes behavioural equilibria is that they reflect ephemeral coincidences of self-interest, whereas rules give more durable reasons for action. At war, mobsters may cease fire so long as it is advantageous for them to do so – this is a behavioural equilibrium. But this fragile consensus is unlike the peacetime rule that you cannot kill a "connected guy." That is an informal rule, of a sort that we will consider presently.

42 See, especially, Posner 2000.
43 Pepinsky 2014, following Riker.
44 Lewis 2002.
45 Hume 2006, III.ii.2.
46 Jennings 1959, 82–83.
47 Fiorentini and Peltzman 1995, Ch. 3; Ledeneva 1998; Tilly 1985.

The law of the jungle is not a stable basis for institutionalization. However, there is an alternative, "conventional" theory that explains why self-interested actors might subject themselves to informal rules. Constitutional conventions – as distinct from Lewisian conventions – are a species of non-legal, social rules obeyed for constitutional reasons. For example, in the United Kingdom, the Queen has a constitutional duty to enact legislation presented to her, but no legal duty. If she capriciously refused, she could be said to have acted unconstitutionally, but not unlawfully. Even in the United States, where "unconstitutional" also tends to denote "unlawful," there are also constitutional conventions. Members of the Electoral College are obliged to elect the president in accordance with the majority vote.

Ivor Jennings's classic account of constitutional conventions suggests that we "develop habits in governance," that these "practices tend to be followed" and, crucially, that "people begin to think that practices ought to be followed."[48] Informal rules such as these are not the same as Lewisian conventions nor are they mere political practices. Electors do not just vote in accordance with the ballot because everyone else is doing it, nor because it is temporarily advantageous for them to do so. They do so because they recognize a constitutional rule that demands that they vote in that way.

Word and deed

Constitutional conventions are customary rules, and customary rules of all sorts combine a practice with a belief that the practice is mandatory.[49] We can describe informal rules such as these using the practice theory of social rules.[50]

For Herbert Hart, a *social practice* is a pattern of convergent behaviour – a habit – that can be described by an observer.[51] Practices spread when people copy behaviour. This copying is not compulsory, and participants may not even be aware that they are doing it. A social rule combines a social practice and a critical, reflective attitude towards the practice. That attitude is a state of mind and it must be described subjectively. Some social practices are considered to be obligatory; some are not. From Nîmes to Ningxia, people wear denim. This is a social practice. But few people feel they *ought* to wear denim – the social practice is not a social rule. Unlike social practices, deviations from social rules are criticized, and the criticism is considered to be both justified and legitimate by the critic. The criticism reflects the sense that the practice is binding and, in turn, this makes it more stable and more durable.

If political actors frequently attest to the existence and importance of a rule, this attestation sustains the rule, even in the face of inconsistent practice. For

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48 Jennings 1959, 80–81.
49 See, e.g., International Law Association 2000.
50 Hart 1994. Compare, e.g., Llewellyn 2011 and International Law Association 2000.
51 Hart 1994.

this reason, discourse is especially important when we analyse informal rules in states that routinely break them. Dissent need not undermine an informal rule if the rule is overt and the dissent is covert. Overt dissent challenges the rule and changes the critical attitude towards it. For example, torture is relatively widespread, but this fact does not undermine the rule, because covert torturers condemn overt torturers.[52] The rule is sustained by what people say, in spite of what people do.

We can only understand so much about informal rules by observing patterns of behaviour – political practices, behavioural equilibria and so on. We also have to pay attention to what people say about their behaviour – how they justify it and exhort others to similar behaviour. In other words, we need to pay attention to what the Party says about its informal rules as well as its patterns of political practice. The trouble is people often claim to endorse and to follow informal rules when in fact they think and do no such thing. The scholarship on "movement" suggests that *in practice* CCP rules are frequently questioned, reinterpreted, disobeyed, discarded and, occasionally, retrenched.[53] The dissonance between formal and informal rules stands in stark contrast to the apparent coherence of what the Party says about its rules in its doctrine.[54]

Another issue is that the literature sometimes takes Party doctrine as gospel. A ten-page chapter in *Politics and Purges* largely asserts the key tenets of a "coherent set of Party organisational norms" by drawing on some statements by Mao Zedong 毛泽东 and Liu Shaoqi 刘少奇.[55] Teiwes claims that these informal norms are "coherent" and, indeed, that they "have changed little since the 1940s."[56] But the evidence marshalled by Teiwes unambiguously shows that the ideals in the writings of both Mao and Liu were *not* faithfully put into practice. Nonetheless, he maintains the position that these idealized rules are the *real* rules. In *Leadership, Legitimacy and Conflict*, Teiwes contends that "those official guidelines laying out how elite politics should be conducted and what activities are beyond the pale" are normative rules.[57]

Other studies of informal Party rules take the same approach. In 2014, Zhou Jingqing of the Shanghai Party School edited a volume on informal intra-Party institutions.[58] The book begins with a careful study of social rules and institutional systems, drawing on North's work on historical institutionalism in political science and on Wu Si's influential account of latent rules (*qian guize* 潜规则).[59]

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52 The International Court of Justice came to this conclusion in respect of the prohibition on torture in military and paramilitary activities in and against Nicaragua (*Nicaragua v United States of America*), Merits, ICJ Reports 1986, 14, International Court of Justice at [186].
53 See, e.g., Schoenhals 1999.
54 For a fuller definition and exemplification of Party doctrine, see Smith 2018. For a theoretical account of the coherence of doctrine, see Dworkin 1998.
55 Teiwes 2015, 13–24.
56 Ibid.
57 Teiwes 2018, 94.
58 Zhou 2014.
59 Wu 2009.

Like Teiwes, Zhou mounts a vigorous defence of the coherent body of norms set out in the Party Constitution. For example, she compares the formal norms of democratic centralism with actual practice:

> Since it was established, the Party has striven to build a regulatory system, a process of institutional construction with the party constitution at its heart … [However] the practice of intra-party democracy often placed undue emphasis on centralism and insufficient emphasis on democracy. Especially during the Cultural Revolution, phenomena such as the rule that "what I say goes"; "patriarchal decision-making"; "individuals deciding major issues"; and "the individual overriding the collective" continued to grow. "The personality cult of the leader" also reached its peak.[60]

Zhou is arguing that informal institutions such as these debase the true "regulatory system" of democratic centralism set out in the Party Constitution.[61]

When they refer to rules or "norms," Zhou and Teiwes are really referring to what the Party says about its rules.[62] Sometimes, this provides us with crucial evidence that a political practice reflects an informal rule. But, as Teiwes eventually conceded, sometimes these dogmas are "pious statements of intent which never really functioned as claimed."[63] Just as informal rules do not solely reflect what the CCP does, neither do they solely reflect what it says. Instead, it is a complex, reflexive relationship between practice and doctrine that constitutes the CCP's informal rules.

In his contribution to *An Intellectual History of Modern China*, Stuart Schram connects institutionalization and discourse. He argues that "party building mean[s] something far more significant than it would at first glance appear. It implied defining a correct doctrine, and unifying and rectifying the party on the basis of that doctrine."[64] Schram later cites Mao Zedong's speech at Beidaihe 北戴河 in 1958, which explains (in classically legalist terms) how Party doctrine, informal rules and formal rules are connected:

> You can't rely on laws to rule the majority of the people, for the majority of the people you have to rely on cultivating [the right] habits … Every one of our Party resolutions is a law; when we hold a meeting, that's law too … Basically we do not rely on [constitutional instruments] we rely on our resolutions.[65]

The CCP indoctrinates. Party doctrine projects an authoritative account of political ideas and proposes an authoritative explanation of how these ideas relate to one another. One purpose of Party doctrine is to unify political practice. One way in which this is achieved is through informal rules. One important constitutional function that doctrine plays is to make clear to actors that political practice is binding: that it *ought* to be followed. As such, Party doctrine is a key component of the discourse that identifies and stabilizes the informal rules of the CCP.[66]

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60 Zhou 2014, 52. Author's translation.
61 Ibid., 37.
62 See, especially, the discussion of Party Constitutions in Teiwes 2015, 488.
63 Ibid., xlv.
64 Schram 2002, 337.
65 Ibid, 445. See also Xiao 1979.
66 Smith 2018; 2019; 2020.

This brings us back to a question posed in the introduction to this article. The sovereign power of the Party – and the actual power of its elites – present a problem for theories of Party rules. How can an uncommanded commander be bound by unalterable laws?[67] The nature of informal rules suggests an answer. It is difficult for any institution to dispense with its own doctrine, or at least to dispense with it quickly. Cadres can break rules and leaders can change them, but it is hard to erase the words and deeds of generations of Party leaders. Party doctrine can be read in more than one way, and the core leadership has latitude in changing it and in departing from it. However, it is not disobedience but disavowal that erodes and ultimately shatters Party rules, and rarely have China's top leaders had the power to disavow Party doctrine. So, perhaps informal rules can only be changed by top leaders, and then only once they have consolidated power, and then only slowly. Perhaps it is this feature of Party doctrine which accounts for the relative resilience of the informal rules of the CCP. We will explore this idea in practice in the next section.

Part 2: Some Examples of Informal Party Rules

In the introduction, we considered a new body of work which presents the internal rules of the CCP as a sort of unwritten constitution. That body of work is based, explicitly or implicitly, on ideas developed in the Commonwealth literature of the unwritten constitution of the late 19th and early 20th centuries: Chen Duanhong, for example, begins with Albert Dicey and Ivor Jennings;[68] Jiang Shigong cites Dicey, Jennings and Kenneth Wheare.[69] It draws on the practice theory of social rules and especially on the notion of constitutional conventions. This section of the paper challenges that literature and the informal rules it proposes. In due course, it will show how a practice theory of informal Party rules suggests an alternative account of the rules currently in force, including Party leadership and democratic centralism.

Some doubtful informal rules

Jiang Shigong suggests three informal rules that structure and distribute power in China: the rule of Party leadership; the rule that the three great offices of state are occupied by one person; and the rule that the centre respects the decisions of provincial administrations within their own sphere of autonomy. He calls these rules "conventions." Like Jiang, Hu An'gang argues that the connection of Party and state offices under the principle of the leadership of the Party embodies a system of collective leadership. He claims this system is comparable to the

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67 Dicey 1920, 252.
68 Chen 2008.
69 Jiang 2010.

separation of powers. Hu frequently refers to the manner in which Party leaders are entrusted with leadership of "major institutions."

These are dubious examples of conventions. Indeed, some are dubious examples of rules. For example, Hu's account of Party leadership resembles a game of three-card monte. What he describes as the "six major institutions" of state are quickly replaced with "five major institutions" and then "four major institutions."[70] In the 1980s, the "six major institutions" return to the top of the pack, only to be switched for the "four major institutions." By 1997, we have the "seven major institutions" and, in 2008, this swells to the "eight major institutions." The effect of this sleight of hand is to overstate the consistency of the political practice on which the rule is based.

The trinity of offices

Other scholars make the same error. Jiang Shigong claims that, by convention, the general secretary of the Party holds a trinity of offices. It is not clear that this reflects a practice, let alone an informal rule. From 1949 until 1991, the three offices (general secretary of the Party, president of the People's Republic and chairman of the Central Military Commission (CMC)) were either held by different leaders, or they did not exist. One reason for the political rivalry between Mao Zedong and Liu Shaoqi was that these important offices were divided between them. When Mao purged Liu, this did not formally result in the unification of the offices but in what Jiang describes as the "destruction" of the system of concurrent office holding. The office of chairman was abolished in the 1975 Constitution because the National People's Congress (NPC) did not need one: it had ceased to meet. And, when Deng Xiaoping 邓小平 restored the formal institutions of the party-state, starting in 1978, he divided the offices as a bulwark against strong-man rule. The three offices were not handed on to Hu Jintao 胡锦涛 in 2002, because Jiang Zemin 江泽民 retained the chairmanship of the CMC. Hence, when Xi Jinping assumed these three offices in 2012, it was the second time in the history of the PRC that the offices had been held concurrently and the first time that they had all been handed over.

Hu An'gang takes a different approach, focusing on doctrine rather than practice. He traces the trinity rule to the First Plenary Session of the 14th Central Committee "according to a resolution made by the Central Committee and by Deng Xiaoping."[71] This claim is not correct. The First Plenum of the 14th Central Committee did not issue a resolution (*jueyi* 决议) or a decision (*jueding* 决定). It did, however, issue a communiqué (*gongbao* 公报) that formally reappointed Jiang Zemin to his positions as general secretary and president of the CMC.[72] However, that communiqué does not establish or refer to a rule uniting

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70 Ibid., 19, 21, 25.
71 Hu 2014, 34. Cryptically, Hu's citation refers generally to the *Collected Works of Jiang Zemin*.
72 CCP Central Committee 1992b.

the three offices. Even if we look more widely at Party doctrine in that period, to all four resolutions issued by the 14th Party Congress, we find no direct statement that supports the rule.[73]

Party leadership of the NPC

Jiang Shigong's most compelling example of a customary convention is the principle of Party leadership of the NPC, which he specifies in the following way:

> In [the] constitutional structure of the party-state regime, the NPC and its Standing Committee must necessarily function as a "rubber stamp." By the letter of the written constitution, the NPC and its Standing Committee can fully exercise their power independently of the CCP, but in actual political practice they cannot develop a political will with regard to national goals and the political mission without the party.[74]

This looks like a pattern of behaviour, although by no means a uniform one. But we should ask whether the legislators think they are following a *rule*? Only 60 per cent of NPC members represent the CCP and, historically, a substantial minority of NPC members do not vote with the Party bloc on every issue.[75] It is not obvious that these deputies consider themselves constitutionally bound to support the Party's legislative programme (although it may certainly be in their immediate self-interest to do so). If there is a rule to the effect that NPC members cannot develop political will separate to that of the Party, then this is a rule from which a significant minority of legislators dissent. It is simpler and more accurate to say that the *CCP members* of the NPC are supposed to vote with the Party programme.

Bipartisanship

Ten years ago, Cheng Li asked whether "resilient authoritarianism" had ended, partly because what he saw as emerging "norms and practices" of bipartisanship had failed to emerge.[76] An earlier paper identified two factions within the leadership and described these factions as "institutionalizing checks and balances."[77] It suggested that senior offices were allocated to each faction according to an informal rule.

In the UK, there is a constitutional convention that members of parliamentary select committees are drawn from each political party in proportion to their standing in the House of Commons or House of Lords. There are several reasons to be sceptical about the claim that there is a corresponding rule in China. First,

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73 CCP Central Committee 1992a; 1994. The final resolution underlined the importance of the peaceful and complete transition of power to the third-generation leadership and praised the Commission for reforming the gerontocratic system of "lifelong" office: "*feichu shiji cunzai de lingdao zhiwu zhongshen zhi.*"
74 Jiang 2010, 25.
75 For historical accounts of voting patterns, see Tanner 1994; Zhang, Qianfan 2012. It may be argued that a stronger rule is currently in gestation.
76 Li 2012, 603.
77 Li 2005, 389.

the practice was not consistent. As Nathan amply shows, factional affiliation in the CCP is not binary, still less bipartisan.[78] For example, Li Zhanshu 栗战书 is an ally of Xi Jinping, but he is also a former provincial leader of the Communist Youth League.

Second, there is a longstanding doctrinal rule that forbids "factional struggle" (*paibie douzheng* 派别斗争) in the Party. This poses a problem. The Party plainly does contain factions. Does this mean the rule against factionalism is a "pious statement of intent"? On the contrary. There is a clear *informal* rule that forbids factional politics in the CCP. CCP members do not openly refer to factional affiliation, still less to factional struggle; they condemn it publicly.[79] Like the rule against torture, the rule against factionalism is not sufficient to eradicate factional politics, but it does cabin those politics. Perhaps what Li has shown is a Lewisian convention – a behavioural equilibrium between factions? But if we were to use that conception here we would mistake a rule that *forbids* bipartisanship for a rule that *demands* bipartisanship. By misinterpreting informal rules, we would read the actual rule back-to-front.

Overall, what is at stake is how "predictable" and "resilient" Party politics are. The claims addressed in this section demand that we view internal rules in soft focus. That some leaders have held some offices simultaneously, that the NPC generally supports the Party programme and that factions exist are salient facts about Chinese politics. It is misleading to describe these facts as "norms." By failing to attend to what counts as an informal rule, we risk seeing rules where there are none. We can observe the "destruction" of a rule like concurrent office-holding, yet still believe it to be in force. We can ignore a rule that forbids factions and instead see a rule that endorses them.

These examples also illustrate the reflexive relationship between practice and doctrine. Hu An'gang's inaccurate claim that the trinity of offices was established in a resolution of the First Plenary Session of the 14th Central Committee can nonetheless lead us to a deeper understanding of informal rules. If the First Plenary Session of the 14th Central Committee *had* said the three offices of state went together, it would cast a different light on inconsistent practice following that statement. It might suggest that the rule was a hypocrisy. Alternatively, it might suggest a sincere, but as yet unsuccessful, attempt to create an informal rule.

Some Plausible Formal Rules

Party leadership

Some familiar features of Party governance are embodied in nested informal rules. For example, we might conceive of Party leadership as a nested system

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78 Nathan 1976, Ch. 2.
79 Teiwes 2015, 20. See, e.g., Liu Shaoqi's July 1942 speech to the Central Party School "On the intra-party struggle."

of constitutional conventions.[80] The principle of Party leadership is expressed in necessarily general terms in high-level Party documents. But the informal rule that Party members are expected to obey Party orders, even when they conflict with certain other rules, is the fundamental convention at the bottom of this system.[81] It constitutes the supremacy of the CCP over the state and the law. Together, these rules provide a much more comprehensive explanation of why the NPC votes consistently with the Party's programme. They explain why some legislators are obliged to vote with the Party, but others are not. These informal rules are buttressed by *formal* rules. They include the rules of the nomenklatura system and the system of party groups.[82]

Institutional succession

We can also view the rules of institutional succession as a series of nested informal rules.[83] The succession rules regulate the appointment of senior officials and also ensure that officials step down at the end of their term and retire at a certain age. In 2002, Politburo Standing Committee (PBSC) member Li Ruihuan 李瑞环 was forced to retire by Jiang Zemin on account of his age. This helped to establish a rule that officials appointed to new terms on the Central Committee, the Politburo and the CMC should be no older than 67 years old upon their appointment.[84] Separate rules, some formal, regulate more junior offices.[85] Together, these rules help to determine which posts fall vacant and when, and who is eligible to fill them. The rule helps to ensure a stable transition of power, and this is important because non-democratic regimes can be vulnerable during leadership transition. They do this, in part, by reducing the scope for factional competition for power.[86] According to some accounts of recent practice, candidates for the core leadership should already hold full Central Committee membership when they are appointed to the PBSC.[87]

If officials were expected to serve one five-year term on the PBSC in preparation for office, followed by one full term in office before their 68th birthday, this would limit the pool of potential candidates for China's top leadership to full Central Committee members no older than 58 when appointed to the Standing Committee. When the current core leadership was selected in 2008, there were three candidates who fulfilled these criteria. Were the age limit convention to be eroded, this would, in turn, corrode the rule that current leaders need to

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80 Compare, e.g., Hu 2014 with Dittmer 1995 and Zeng 2014.
81 On this rule, see Birney 2014.
82 For a fuller consideration, see Burns 1989; 1990; Chan 2004; Edin 2003; Zheng 1997.
83 Kou and Zang 2013; Cai and Kou 2015.
84 The chairmanship of the CMC is not subject to a clear age limit.
85 For example, there is a rule that Central Committee members not holding more senior office must retire at 63.
86 Wang and Vangeli 2016.
87 An alternative account of this rule requires that candidates hold a ministerial or provincial post. The size of the candidate pool is similar regardless of the formulation. See Miller 2010.

step down; dramatically increase the pool of potential candidates for the core leadership; enlarge the scope for factional competition for power; and diminish the stability of any future transition of power.[88]

The introduction to this article questioned whether Xi broke the rules in 2017. Xi did make two changes to the succession norms that indicate that he may plan to remain in power after 2022. First, he did not appoint any PBSC members of the right age to serve two terms after 2022.[89] Second, he started a process of constitutional amendment that ultimately deleted the two-term limit for the presidency in Article 79 of the Constitution. Moreover, as we saw in the introduction, Xi's spokespeople openly challenged the rule. This generated widespread alarm among liberal constitutional scholars in China.

The method applied here, however, suggests a more sanguine approach to those rules. Unlike the age limit rules, we cannot discern a practice of appointing a new core leadership five years prior to their assumption of a ten-year term. Practice was highly irregular prior to Tiananmen. Hu Jintao *was* appointed to the 14th Politburo's Standing Committee in 1992, fully ten years before he assumed power. However, the other half of the core leadership, Wen Jiabao 温家宝, was only appointed when he became premier in 2002. Xi and Li were appointed to the PBSC directly. In reality, the idea that the core leadership was a self-sustaining dyarchy was speculative. Two eligible officials – Hu Chunhua 胡春华 and Sun Zhengcai 孙政才 – were appointed to the Politburo by the 18th Party Congress. They were tipped to form the core sixth-generation leadership because people assumed the "pattern" of the 16th Party Congress would be repeated. But events did not bear this out: Hu has not been elevated further and Sun is in jail. If there were ever a norm that the PBSC carries the seeds of its own re-genesis, then this was at best a nascent and contested rule which lacked the firmness of a convention. It is even harder to make the argument that the term limit memorialized in Article 79 of the Constitution established or reflected a broader constitutional convention that binds the general secretary. Only two Chinese presidents have served exactly two terms.

Democratic centralism

Like Party leadership, we might see democratic centralism as a series of nested informal rules. It includes overarching yet vague rules, such as the "organizational principle," that were originally included in the Sixth Party Constitution in 1928. It also includes very specific rules, such as the informal rule that senior leaders do not engage in open political positioning. Fewsmith describes democratic centralism as one of the "rules of the game" and notes that repeated breaches of this rule are one

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88 Ibid.
89 Three current PBSC members, Wang Yang, Wang Huning and Li Keqiang, are of the right age to serve beyond 2022.

reason why Bo Xilai 薄熙来 was purged.[90] The actual operation of the rule depends on political practice, but that practice is guided by Party doctrine. For example, the Communiqué of the Sixth Plenum of the 18th Central Committee pointedly emphasized that "no single person should be able to undermine [collective leadership] for any reason under any circumstances."[91]

Teiwes's exegesis of early Party doctrine which forbids both "unprincipled" and "factional" struggle is an important step towards identifying informal rules.[92] But we have to be cautious: if practice without theory is blind, then theory without practice is sterile. Patricia Thornton's approach to democratic centralism in this volume is particularly sensitive to the relationship between political practice and Party doctrine.[93] She expands on the changing meaning of the concept over time. Her focus falls on pre-eminent sources of Party doctrine, especially the Party Constitution. But Thornton also approaches democratic centralism as a "political practice."[94] She critically considers the congruence of that practice with doctrine. In this way, she neither imagines the rules nor does she ossify them.

Conclusion

The gap between the rule-in-books and the rule-in-action is a central feature of the study of rules of all kinds. A picture of the formal rules that does not take account of the informal rules is not just an incomplete picture: it is a radically inaccurate and misleading picture.

This article proposes a framework for the analysis of the informal rules of the CCP. It argues that we should understand them as social rules. This helps us to distinguish between rules and practice, and between rules and the discourse that sustains practice. The CCP has informal rules, but they are not to be found in what was said at Yan'an nor in the granular detail of who did what and when. Instead, informal rules combine these two components in a complex and reflexive fashion.

Unless we take informal rules seriously, we risk viewing the Party as a more institutionalized and more resilient body than it is. But if we do take informal rules seriously, they can explain why dominant elites can nonetheless be bound by durable rules. China's constitutional order, dominated by a sovereign party, still features durable social rules girded by Party doctrine and stabilized by political practice.

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90 Fewsmith 2012.
91 CCP Central Committee 2016.
92 Teiwes 2015, 19–20.
93 Thornton 2021.
94 Ibid.

Trevaskes, Richard Ekins, Adam Perry, Roderick Hills and Michael Dowdle, among others.

Conflict of interest

None.

Biographical notes

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摘要: 中国共产党是有宪法性非正式规则的党。 最近的研究着眼于描述和评估共产党的规则。但相对党的非正式制度，这部分研究经常更加重视共产党的正式制度。关于党规，党的制度化，依法治党的研究经常把不同的政治现象，包括宪法惯例，政治规则，政治实践，政治学说和行为平衡都混为一谈，不做区分。这部分研究会也忽视规则，看错规则，因此会夸大共产党的制度化和弹性。这篇文章对非正式规则进行了解释，并对党的韧性提出了不同的理解。

关键词: 共产党; 领导政治; 非成文宪法; 非正式制度; 潜规则; 中国

References

Birney, Mayling. 2014. "Decentralization and veiled corruption under China's 'rule of mandates'." *World Development* 53, 55–67.

Burns, John. 1989. *The Chinese Communist Party's Nomenklatura System*. Armonk, NY: M.E. Sharpe.

Burns, John. 1990. "Strengthening central CCP control of leadership selection: the 1990 *nomenklatura*." *The China Quarterly* 138, 458–491.

Cai, Wenxuan, and Qianwen Kou. 2015. "The Party's disciples: CCP reserve cadres and the perpetuation of a resilient authoritarian regime." *The China Quarterly* 221, 1–20.

CCP Central Committee. 1992a. "Resolution of the 14th National Congress on the Work Report of the Central Advisory Committee of 18 October 1992."

CCP Central Committee. 1992b. "Communiqué of the First Plenary Meeting of the 14th Central Committee."

CCP Central Committee. 1994. "Decision on several major issues concerning strengthening Party building of 28 September 1994."

CCP Central Committee. 2012. "Regulations on the use of official documents in Party and state work of 1 July 2012."

CCP Central Committee. 2016. "Communiqué of the Sixth Plenum of the 18th Central Committee."

Chan, Hon S. 2004. "Cadre personnel management in China: the *nomenklatura* system, 1990–1998." *The China Quarterly* 179, 703–734.

Chen, Duanhong. 2008. "Lun xianfa zuowei guojia de jibenfa yu gaojifa" (The Constitution as the supreme and fundamental law of the state). *Peking University Law Journal* 20, 485–511.

Creemers, Rogier. 2014. "China's constitutionalism debate: content, context and implications." *The China Journal* 74, 91–109.

Dicey, Albert. 1920. *Thoughts on the Union between Scotland and England*. London: Macmillan.

Dittmer, Lowell. 1995. "Chinese informal politics." *The China Journal* 34, 1–34.

Dworkin, Ronald. 1998. *Law's Empire*. Oxford: Hart.

Edin, Maria. 2003. "State capacity and local agent control in China: CCP cadre management from a township perspective." *The China Quarterly* 173, 35–52.

Fewsmith, Joseph. 2003. "The 16th National Party Congress: the succession that didn't happen." *The China Quarterly* 173, 1–16.

Fewsmith, Joseph. 2012. "Bo Xilai and reform: what will be the impact of his removal?" *China Leadership Monitor* 38, https://www.hoover.org/sites/default/files/uploads/documents/CLM38JF.pdf.

Fewsmith, Joseph, and Andrew Nathan. 2019. "Authoritarian resilience revisited." *Journal of Contemporary China* 116, 167–179.

Fiorentini, Gianluca, and Sam Peltzman. 1995. *The Economics of Organised Crime*. Cambridge. Cambridge University Press.

Gill, Graeme. 1985. "Institutionalisation and revolution: rules and the Soviet political system." *Soviet Studies* 37, 212–226.

Griffiths, John. 2003. "The social working of legal rules." *The Journal of Legal Pluralism and Unofficial Law* 35, 1–84.

Hart, Herbert. 1994. *The Concept of Law*. Oxford: Clarendon Press.

Hu, An'gang. 2014. *China's Collective Presidency*. London: Springer.

Hume, David. 2006. *A Treatise of Human Nature*. Oxford: Oxford University Press.

Huntington, Samuel. 1968. *Political Order in Changing Societies*. New Haven, CT: Yale University Press.

International Law Association. 2000. "Final report of the Committee on the Formation of Customary (General) International Law: statement of principles applicable to the formation of general customtory international law (as amended at the London Conference)." In *Report of the Sixty-Ninth Conference*. London: International Law Assocation, 712–717.

Jennings, Ivor. 1959. *The Law and the Constitution*. London: University of London Press.

Jiang, Shigong. 2010. "Written and unwritten constitutions." *Modern China* 36, 12–46.

Kellogg, Tom. 2017. "Xi Jinping is about to face a constitutional crisis." *Foreign Policy*, 7 September 2017.

Kou, Qianwen, and Xiaowei Zang. 2013. *Choosing China's Leaders*. New York: Routledge.

Ledeneva, Alena. 1998. *Russia's Economy of Favours: Blat, Networking and Informal Exchange*. Cambridge: Cambridge University Press.

Lewis, David. 2002. *Convention: A Philosophical Study*. Oxford: Blackwell.

Li, Cheng. 2005. "The new bipartisanship within the Chinese Communist Party." *ORBIS* 49(3), 387–400.

Li, Cheng. 2012. "The end of the CCP's resilient authoritarianism? A tripartite assessment of shifting power in China." *The China Quarterly* 211, 595–623.

Llewellyn, Karl. 2011. *The Theory of Rules*. Chicago, IL: University of Chicago Press.

Luo, Haocai, and Gongde Song. 2012. *Soft Law Governance: Towards an Integrated Approach*. Buffalo, NY: Hein.

Miller, Alice L. 2010. "The 18th Central Committee Politburo: a quixotic, foolhardy, rashly speculative, but nonetheless ruthlessly reasoned projection." *China Leadership Monitor* 33, https://www.hoover.org/research/18th-central-committee-politburo-quixotic-foolhardy-rashly-speculative-nonetheless.

Minzner, Carl. 2018. *End of an Era: How China's Authoritarian Revival is Undermining its Rise*. Oxford: Oxford University Press.

Nathan, Andrew. 1976. *Peking Politics, 1918–1923: Factionalism and the Failure of Constitutionalism*. London: University of California Press.

Nathan, Andrew. 2003. "Authoritarian resilience." *Journal of Democracy* 14, 6–17.

North, Douglass. 1990. *Institutions, Institutional Change, and Economic Performance*. Cambridge: Cambridge University Press.

North, Douglass. 1991. "Institutions." *Journal of Economic Perspectives* 5, 97–112.

Pepinsky, Thomas. 2014. "The institutional turn in comparative authoritarianism." *British Journal of Political Science* 44(3), 631–653.

Posner, Eric. 2000. *Law and Social Norms*. London: Harvard University Press.

Rigby, Harry. 1984. "Khrushchev and the rules of the Soviet political game." In Robert Miller and Ferenc Fehér (eds.), *Khrushchev and the Communist World*. London: Croom Helm, 39–81.

Sapio, Flora. 2010. *Sovereign Power and the Law in China*. Leiden: Brill.

Sapio, Flora. 2015. "Carl Schmitt in China." *The China Story* blog, 7 October 2015, https://www.thechinastory.org/2015/10/carl-schmitt-in-china/. Link currently unavailable.

Schoenhals, Michael. 1999. "Political movements, change and stability: the Chinese Communist Party in power." *The China Quarterly* 159, 595–605.

Schram, Stuart. 2002. "Mao Tsetung's thought to 1949" and "Mao Tsetung's thought from 1949 to 1976." In Merle Goldman and Leo Ou-Fan Lee (eds.), *An Intellectual History of Modern China*. Cambridge: Cambridge Univeristy Press, 267–349, 395–499.

Searle, John. 2005. "What is an institution?" *Journal of Institutional Economics* 1, 1–22.

Seppänen, Samuli. 2019. "Interrogating illiberalism through Chinese Communist Party regulations." *Cornell International Law Journal* 52, 267–311.

Smith, Ewan. 2018. "The rule of law doctrine of the Politburo." *The China Journal* 79, 40–61.

Smith, Ewan. 2019. "The rule of law in Party documents." *China Law and Society Review* 4, 41–69.

Smith, Ewan. 2020. "The conception of legality under Xi Jinping." In Susan Trevaskes and Rogier Creemers (eds.), *Law and the Party in China*. Cambridge: Cambridge University Press, 97–121.

Tanner, Murray Scot. 1994. "The erosion of Communist Party control over lawmaking in China." *The China Quarterly* 138, 381–403.

Tay, Alice Erh-Soon. 1968. "Law in Communist China – Part 1." *The Sydney Law Review* 6, 153–172.

Teiwes, Frederick. 2015. *Politics and Purges in China: Rectification and the Decline of Party Norms, 1950–1965*. Armonk, NY: Sharpe.

Teiwes, Frederick. 2018. *Leadership, Legitimacy, and Conflict in China*. London: Routledge.

Thornton, Patricia. 2021. "Of constitutions, campaigns and commissions: a century of democratic centralism under the CCP." *The China Quarterly*. DOI: https://doi.org/10.1017/S0305741021000758.

Tilly, Charles. 1985. "Warmaking and statemaking as organised crime." In Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol (eds.), *Bringing the State Back In*. Cambridge: Cambridge University Press, 169–187.

Tsai, Kellee S. 2006. "Adaptive informal institutions and endogenous institutional change in China." *World Politics* 59, 116–141.

Twining, William, and David Miers. 2010. *How to Do Things with Rules*. Cambridge: Cambridge University Press.

Wang, Zhengxu, and Anastas Vangeli. 2016. "The rules and norms of leadership succession in China: from Deng Xiaoping to Xi Jinping and beyond." *The China Journal* 76, 24–40.

Wu, Si. 2009. *Qian guize: Zhongguo lishi zhong de zhenshi youxi (Latent Rules: The Real Games of Chinese History)*. Shanghai: Fudan University Press.

Xiao, Gongchuan. 1979. *A History of Chinese Political Thought*. Princeton, NJ: Princeton University Press.

Zeng, Jinghan. 2014. "Institutionalization of the authoritarian leadership in China: a power succession system with Chinese Characteristics?" *Contemporary Politics* 20, 294–314.

Zhang, Qianfan. 2012. *The Constitution of China: A Contextual Analysis*. Oxford: Hart.

Zhang, Taisu, and Thomas Ginsburg. 2019. "Legality in contemporary Chinese politics." *Virginia Journal of International Law* 59(2), 308–389.

Zheng, Shiping. 1997. *Party vs. State in Post-1949 China: The Institutional Dilemma*. Cambridge: Cambridge University Press.

Zhou, Jingqing. 2014. *Dangnei feizhengshi zhidu (Informal Intra-Party Institutions)*. Beijing: Central Compilation and Translation Press.