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A ding is an ancient Chinese cauldron with legs. Dings were originally made of ceramic materials, then later, at the time of the Shang dynasty (1766–1046 BC), cast in bronze. They were used for cooking, storage, and the preparation of ritual offerings to ancestors. Perhaps the most famous ancient dings were the set of nine bronze vessels (jiu-ding), which is said to have been cast by King Yu of the Xia dynasty when he divided his nation into the Jiuzhou or nine territories. During the Zhou dynasty (1046–221 BC), only the kings could have a set of nine vessels, while people with lower positions were only allowed to have a smaller number of vessels. Since then the idiom ‘yiyan jiuding’ has been used in Chinese language to represent a sign of rightful authority over all.

Bianque stood looking at Duke Huang of Cai for a while and spoke, ‘Your Majesty is suffering from an ailment, which now remains in between the skin and the muscles. But it may get
worse without treatment.' 'I am not at all indisposed,' replied the Duke complacently. When Bianque left, the Duke remarked, 'It is the medical man’s usual practice to pass a healthy person as a sick man in order to show his brilliance.' Ten days later, when Bianque saw the Duke, he pointed out: 'The ailment has developed into the muscles. It will go from bad to worse if no treatment is conducted.' To this the ruler showed a greater displeasure than before. Another ten days went by. On seeing the Duke again, Bianque warned him that the illness had gone into the stomach and the intestines and that unless an immediate treatment be given, it would go on worsening. Again the Duke looked angry. After a third ten days, when Bianque saw the Duke, he simply turned round and went away... (to be continued)\(^1\)

– Hanfeizi (c. 280–233 BC)

5.1 PARTY VERSUS STATE

5.1.1 What Does the Constitution Say?

According to the Constitution of the People’s Republic of China (PRC), all the power in the country belongs to the people who exercise their power through the NPC and local people’s congresses at all levels; and the people manage the state, economy, culture, and other social affairs through a multitude of means and forms. However, the Constitution also stipulates that the PRC was founded by the Chinese Communist Party (CCP) which is the leader of the Chinese people. The socialist system led by the working class and based on the alliance of the workers and farmers is the fundamental system of the PRC.

The State Council is the official government of China. It initiates legislation and controls the civil service. The State Council is indirectly elected by the NPC, which assembles in plenary every year to scrutinize and ratify its decisions on domestic and foreign affairs. The Chinese People’s Political Consultative Congress (CPPCC) – an institution similar to the Senate in the United States – consists of representatives from the CCP, several democratic parties, democrats with no party affiliations, various people’s organizations and ethnic groups, and other specially invited individuals. The primary functions of the CPPCC are to conduct political consultations and democratic supervisions, and to discuss and manage state affairs.

The approximately 3,000 deputies that attend the NPC are elected indirectly every five years by the People’s Congresses of provinces, autonomous regions, municipalities under central government, and by the People’s Liberation Army (PLA). The supreme legislative organ of China, the NPC, holds regular (annual) meetings in the Great Hall of the People in Beijing to discuss state affairs, to approve those whom are recommended by the Chinese Communist Party Central Committee (CCPCC) as central government officials, and to issue laws and regulations. In addition to indirectly electing the State Council, the NPC can also dismiss the holders of the top offices of state. The Standing Committee of the NPC, which is further composed of a series of special committees and working and administrative bodies (see Figure 5.1) is empowered to modify legislation between plenary sessions of, and carry out the daily work of, the NPC on a more permanent basis. In practice, although its scrutiny role has been enhanced in recent years and unanimous votes have become less frequent, the independent power of the NPC remains limited.\(^2\)

5.1.2 How the Communist Party Works

Although there are other political organizations in China, the only organization that matters is the Chinese Communist Party (CCP). Some 2,000 CCP delegates are elected to the National Congress of the CCP, which is held every five years. The National Congress elects the members and alternates of the Chinese Communist Party Central Committee (CCPCC), which normally sits once a year. The 17th CCPCC, which was elected in 2007, is composed of 371 members and hundreds more alternates. The Central Committee for Discipline Inspection (CCDI) is also elected at this congress. Immediately after the closing ceremony of the National Congress, the CCPCC members indirectly elect, in addition to the Central Military Commission, the General Secretary, members of the Politburo and its Standing Committee, and the Secretariat (see Figure 5.2). The Politburo and particularly the smaller Standing Committee of the Politburo are where the overall policy of the Chinese government is really decided.

The CCP has been virtually the most important body of power in China and holds real political power in China’s de facto one party state. Party organizations run in parallel to those of the government at all levels. The CCP’s structure is characterized by ‘democratic centralism’ (minzhu jizhong), a system whereby the individual party member is subordinate to the organization, and where minority groups or opinions are subordinate to the wishes of the majority, embodied by the CCPCC. At the bottom of this pyramid are ‘primary party organizations’ in workplaces and villages. The overwhelming majority of delegates to the NPC are party members. CCP membership remains essential for a successful career, particularly in the public sector. Party membership now stands at nearly 80 million, and this figure continues to increase.

Indeed, the CCP’s ‘three represents’ theory states clearly that the CCP is no longer the single representative

\(^1\) To be continued at the end of this chapter.

\(^2\) For example, the tenth National People’s Congress (NPC) of March 2008 elected Hu Jintao as President with a total of 2,937 votes. Just four delegates voted against him, four abstained, and 38 did not vote (Guo, 2010, p. 107).
CHAPTER 5 Political and Administrative Systems

FIGURE 5.1 The structure of the National People’s Congress (NPC) of China.

FIGURE 5.2 Structure of the Communist Party of China.

Notes: CCP = Chinese Communist Party; CCPPCC = Chinese Communist Party Central Committee
of poor, working-class people; rather, it has also become the representative of the economic and cultural elites in China. By openly proclaiming itself a party of the ‘economic elite’ that has benefited from its free market agenda, the CCP has been hoping to consolidate a reliable base of support for its continued rule. The party’s alliance with the rich is just as tight. With its pro-growth policies, its ban on independent trade unions, and its low environmental standards, the CCP has created an advantageous atmosphere for the economic elite to make money. Many successful entrepreneurs have also been party members. Policies so favor the rich and business that China’s economic program, in the words of one Western ambassador, resembles ‘the dream of the American Republican Party’ (Pomfret, 2002).

5.1.3 CCP and ‘Baiping’

Since the late 1990s, a new Chinese terminology – Baiping – has been popularized in mainland China. The term ‘Baiping’ is composed of two Chinese characters – ‘bai’ (to place, to put, to arrange, etc.) and ‘ping’ (flat, uniform, fair, etc.). The original meaning of Baiping is ‘to put flat; or to arrange uniform’. The term had been so informal before the twenty-first century that even the 1999 edition of Cihai – the largest and most influential Chinese dictionary published by Shanghai Cishu Publishing House – didn’t mention it. Notice that the frequently used Baiping has extended from its original meaning to ‘to treat fairly’, ‘to compromise’, ‘to tradeoff’, ‘to punish’ and so on.

After the death of Deng Xiaoping in 1997, Jiang Zemin must deftly play its various wings against each other. In this scenario, Li Peng, Chairman of the eighth National People’s Congress (NPC), was selected to hold the No. 2 post of the CCPCC, higher than that of Zhu Rongji, Premier of the State Council, during the 1998–2003 tenure. This was the first time in the PRC’s history that the NPC Chairman held a political rank higher than that of Premier.

Moreover, a large number of non-Communist party and non-party individuals were selected as state leaders with the titles of vice Chairpersons of the NPC and of the Chinese People’s Political Consultative Congress (CPPCC) in exchange for their support of the CCP as the permanent ruler of the state. For example, during the 2003–08 and the 2008–13 tenures, China’s state-level leaders included nine standing members of the CCPCC Politburo (some of whom also held the posts of President, Premier, the NPC and CPPCC Chairmen) and dozens of vice Chairpersons of the NPC and of the CPPCC. The total number has been the highest since the 1980s.

5.2 GOVERNMENT AND ADMINISTRATIVE SYSTEMS

5.2.1 Central Government

In China, the central administrative system includes the central administrative organs under the system of the National People’s Congress (NPC), and the leadership of the central administrative organs over local administrative organs at various levels. The central administrative organ is the State Council of the PRC. The State Council is the highest administrative organ of the state. The State Council is the executive body of the highest organ of state power and the highest organ of state administration in the People’s Republic of China. The State Council exercises leadership over local administrative organs at various levels throughout the country, regulates the specific division of power and function of the state administrative organs at the central level and the provincial, autonomous, regional, and municipal level.

The premiership assumes overall responsibility for the work of the State Council and is responsible to the NPC and its Standing Committee on behalf of the State Council. The vice premiers and state councilors, together with the secretary-general of the state council, and ministers, are responsible to the premier. However, in all circumstances, the premier has the final decision making power on all major issues in the work of the State Council. For example, the premier has the power to suggest to the NPC and its Standing Committee the appointment or removal of the vice premiers, state councilors, ministers, and secretary-general of the State Council. Decisions, decrees, and administrative rules and regulations promulgated by the State Council, bills, and suggestions of appointments and removals submitted by the State Council to the NPC and its Standing Committee are legally valid only after the premier has signed them.

The State Council is composed of the premier, vice premiers, state councilors, ministers, auditor-general, and the secretary-general. The premier is nominated by the president of the PRC, decided by the NPC, appointed and removed by the president. The vice premiers, state councilors, ministers, auditor-general, and secretary-general of the State Council are nominated by the premier, decided by the NPC, appointed and removed by the president of the PRC. When the NPC is not in session, the choice of state councilors, ministers, auditor-general, and secretary-general are decided by the Standing Committee of the NPC according to nomination by the premier and appointed or removed by the President of the PRC.

The State Council serves for a term of five years. The premier, vice premiers, and state councilors may serve no more than two consecutive terms. Entrusted by the premier or the executive meeting of the State Council, state councilors may take charge of work in certain aspects or special tasks. They may also represent the State Council in conducting foreign affairs. Under the leadership of the premier, the secretary-general of the State Council is in charge of the day-to-day work of the State Council. The auditor-general is in charge of the supervision of state revenue and expenditure, and other financial and monetary activities.
All in all, the State Council convenes three categories of meetings:

- General meetings
- Executive meetings
- Working meetings.

The general meeting of the State Council, which is convened once every two months, or once every quarter of a year under normal conditions, is attended by all members of which the State Council is composed, convened and presided over by the premier. The meeting is convened to discuss issues of major importance or matters involving more than one department.

The executive meeting of the State Council, which is convened once a month under normal conditions, is convened and presided over by the premier and participated by vice premiers, state councilors and the secretary-general. The meeting sets out to discuss major issues in the work of the State Council, bills to be submitted to the Standing Committee of the NPC, administrative rules and regulations and important issues submitted by various departments and localities for decision by the State Council.

The working meeting of the premier, which is convened, whenever necessary, by the premier (or by a vice premier entrusted by the premier) is to discuss and deal with major issues in the daily work of the State Council. According to the Constitution of 1982, the State Council exercises the following functions and powers:

1. To adopt administrative measures, enact administrative rules and regulations, and issue decisions and orders in accordance with the Constitution and the law; and to submit proposals to the National People’s Congress or its Standing Committee.

2. To formulate the tasks and responsibilities of the ministries and commissions of the State Council, to exercise unified leadership over the work of the ministries and commissions and to direct all other administrative work of a national character that does not fall within the jurisdiction of the ministries and commissions; to exercise unified leadership over the work of local organs of state administration at various levels throughout the country, and to formulate the detailed division of functions and powers between the central government and the organs of state administration of provinces, autonomous regions, and municipalities directly under the central government; to alter or annul inappropriate orders, directives and regulations issued by the ministries or commissions; and to alter or annul inappropriate decisions and orders issued by local organs of state administration at various levels.

3. To draw up and implement the plan for national economic and social development and the state budget; to direct and administer economic affairs and urban and rural development; to conduct foreign affairs and conclude treaties and agreements with foreign states; to direct and administer the building of national defense; to direct and administer the affairs of education, science, culture, public health, physical culture and family planning; to direct and administer civil affairs, public security, judicial administration, supervision and other related matters; to direct and administer affairs concerning the ethnic groups and to safeguard the equal rights of ethnic minorities and the right to autonomy of the ethnic autonomous areas; to protect the legitimate rights and interests of Chinese nationals residing abroad and protect the lawful rights and interests of returned overseas Chinese and of the family members of Chinese nationals residing abroad; to approve the geographic division of provinces, autonomous regions and municipalities directly under the central government, and to approve the establishment and geographic divisions of autonomous prefectures, counties, autonomous counties and cities; to decide on the imposition of martial law in parts of provinces, autonomous regions, and municipalities directly under the central government; and to examine and decide on the size of administrative organs and, in accordance with the law, to appoint or remove administrative officials, train them, appraise their performance and reward or punish them.

4. To exercise such other functions and powers as the National People’s Congress or its Standing Committee may assign to it. Ministries, commissions, the People’s Bank of China and administrations are departments that make up the State Council. Under the unified leadership of the State Council, they are in charge of directing and administering the administrative affairs in their respective areas and exercise prescribed state administrative powers.

Departments of the State Council

The following ministries, commissions, and the People’s Bank of China, which were set up by the NPC for the period from 2008 to 2013, are departments that make up the State Council. Under the unified leadership of the premiership, they are in charge of directing and administering the administrative affairs in their respective areas and exercise prescribed state administrative powers:

- Ministry of Foreign Affairs
- National Development and Reform Commission
- Ministry of Finance
- People’s Bank of China
- Ministry of Railways

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3. Cited from [http://www.cpcchina.org/2011-10/19/content_13934964.htm](http://www.cpcchina.org/2011-10/19/content_13934964.htm). Accessed on November 14, 2011.
The ministers assume overall responsibility for the work of the ministries and ministry-level bureau, commissions, and administrations. They direct the work of their respective ministries and commissions, convene and preside over ministerial meetings or general and executive meetings of the commissions, and sign important reports to the State Council and decrees and directives issued to lower levels. In addition, these are also organs that are in charge of administrative affairs in special areas, under the leadership of the State Council. Usually, the administrative rankings of these organs are lower than those of the commission and ministries listed above. Leaders of these organs are decided by the executive meeting of the State Council, appointed and removed by the premier:

- Ministry of Transport
- Ministry of Construction
- Ministry of Agriculture
- Ministry of Water Conservancy
- Ministry of Commerce
- Ministry of Industry and Information
- Commission of Science, Technology, and Industry for National Defense
- Ministry of Labor and Social Security
- Ministry of Personnel
- State Family Planning Commission
- Ministry of Land and Resources
- Ministry of Environmental Protection
- State Commission of Ethnic Affairs
- Ministry of Civil Affairs
- Ministry of Justice
- Ministry of Public Security
- Ministry of State Security
- Ministry of National Defense
- Ministry of Supervision
- National Auditing Office
- Ministry of Education
- Ministry of Science and Technology
- Ministry of Culture
- Ministry of Health.

In addition, some coordinating organs and provisional organs may be set up by the State Council to deal with special affairs. These organs normally have special committees or leading groups headed by the premier, or vice premiers, or state councilors or the secretary-general. They do not, in most cases, have independent working offices while the day-to-day work is placed under permanent ministries, commissions, administrations or other departments. These organs include:

- Working organs set up for directing the work in certain special areas
- Coordinating organs
- Consulting organs composed of specialists and leaders of departments concerned.

### 5.2.2 Provincial Administrations

The entire country is divided into provinces, autonomous regions, and municipalities directly under the central government. The provinces and autonomous regions are further divided into autonomous prefectures, counties, autonomous counties, and cities. The counties and autonomous counties are divided into townships, ethnic townships and towns. The municipalities directly under the central government and large cities in the provinces and autonomous regions are divided into districts and counties.

China’s provincial governments comprise 22 provinces, five autonomous regions, four municipalities directly under the central government, and two special administrative regions (SARs) – Hong Kong and Macau – which returned to China in 1997 and 1999, respectively (see Table 5.1 for the names of various administrative divisions in China). It was agreed on handover that the existing political and economic systems that prevailed prior to these dates would be maintained for 50 years. Governments at this level (with the exception of the SARs) are indirectly elected for five years at plenaries of their respective People’s Congresses. The system of governments of SARs is prescribed by laws enacted by the NPC. In addition, government organs may also be set up for special economic zones, development zones, mining industrial zones, and nature reserves.

Provincial governments are the first-level local state administrative organs in China. Provincial governments must accept the unified leadership of the State Council which has the power to decide on the division of responsibilities between the central government and provincial administrative organs. The State Council also has the power to annul inappropriate decisions and orders of provincial governments. Provincial governments implement local laws, regulations, and decisions of the provincial people’s congresses and their standing committees, are responsible to and report on their work to provincial people’s congresses and their standing committees. Provincial people’s congresses and their standing committees have the power to supervise the work of provincial governments, change, and annul inappropriate decisions of the provincial governments.
Provincial governments have the power to exercise unified leadership over the work of governments at the levels of the cities, counties, townships, and towns under their jurisdiction, and to exercise unified administration over economic, social, and cultural affairs.

Provincial governments may send out agencies, upon approval of the State Council. Their agencies are normally called ‘administrative offices’. The administrative offices, as agencies of the provincial governments, are not governments themselves. The regions under their jurisdiction are not administrative divisions either. The basic responsibilities of the administrative offices are to provide guidance and coordinate the work of the counties and cities within the regions, on behalf of provincial governments. An administrative office has a commissioner, vice commissioners, advisors, appointed and removed by the provincial governments. The working meetings of administrative offices are attended by the commissioners, vice commissioners, advisors, assistant advisors, secretaries-general, and deputy secretaries-general to discuss major issues in the work of the administrative offices.

Governments of municipalities directly under the central government are first-level local state administrative organs in China. In China, there are currently four municipalities directly under the central government, namely Beijing, Chongqing, Shanghai, and Tianjin. Governments of these municipalities must accept the unified leadership of the State Council which has the power to decide on the division of power and functions between the central government and state administrative organs of municipalities directly under the central government. The State Council also has the power to alter or annul decisions and orders made by governments of municipalities directly under the central government.

Governments of municipalities directly under the central government implement local laws, regulations, and decisions of the people’s congresses and their standing committees of the municipalities, are responsible for and
report on their work to the people’s congresses and their standing committees. People’s congresses and their standing committees in the municipalities have the power to supervise the work of the governments of municipalities, change and annul inappropriate decisions and orders of municipal governments. Municipal governments have the right to exercise unified leadership over the work of the districts, cities, counties, townships, and towns and exercise unified administration over the economic, social, and cultural affairs in areas under their respective jurisdictions.

Provinces and municipalities directly under the central government have governors, vice governors, mayors, vice mayors, secretaries-general, directors of departments (or bureaus), and commissions.

Provincial governors, vice governors, mayors, and vice mayors are elected by the people’s congresses of the provinces and municipalities. Within two months after their election, provincial governors and municipal mayors shall nominate secretaries-general and directors of departments, bureaus, and commissions to people’s congresses of the provinces and municipalities for appointment, and report to the State Council for the record. When the people’s congresses in provinces or municipalities are not in session, the appointment and removal of individual vice mayors are carried out by the standing committees of the people’s congresses.

When the people’s congresses in provinces or municipalities are not in session, the appointment or removal of individual vice governors or vice mayors are carried out by the standing committees of the people’s congresses. Provincial and municipal governments serve a term of five years.

5.2.3 Sub-Provincial and Prefectural Administrations

In addition to provincial-level administrations, China has sub-provincial (fu shengji) and prefectural (diji) administrations. City governments with sub-provincial ranking refer to governments of relatively large cities whose economic plans are separately listed in the national planning, whose administrative status is lower than that of a full provincial government and which are not administratively controlled by provincial governments. At present, China’s sub-provincial ranking cities are Shenyang, Dalian, Changchun, Harbin, Jinan, Qingdao, Nanjing, Ningbo, Hangzhou, Xiamen, Wuhan, Guangzhou, Shenzhen, Xi’an, and Chengdu.

Prefectural-level cities are large and medium-sized cities not including sub-provincial level cities. Normally, they are cities with a non-farming population of more than a quarter of a million. Furthermore, the seats of cities have a non-farming population of more than 200,000 each, and their industrial production value exceeds 2 billion yuan. They have a relatively advanced tertiary industry whose production value is more than that of the first industry, and makes up more than 35 percent of the GDP in these cities. The revenue in their local budget is beyond 200 million yuan and they have grown into centers of a number of cities or counties.4

Governments of prefectural-level cities consist of mayors, vice mayors, secretaries-general, and directors of bureaus and commissions. Mayors and vice mayors are elected by the people’s congresses of the cities. When the people’s congresses are not in session, the appointment and removal of individual vice mayors are carried out by the standing committees of the people’s congresses.

Governments of prefectural-level cities serve a term of five years.

These governments are responsible for and report on their work to the people’s congresses and their standing committees at the same level. They are responsible for and report on their work to provincial-level governments and accept the unified leadership of the State Council at the same time. They direct the economic, cultural, and administrative work of their cities. They also direct the administrative affairs of their entire regions and the work of the counties and county governments in areas under their jurisdiction.

Governments of cities where provincial or autonomous regional governments are located and large cities recognized by the State Council may formulate their administrative regulations in accordance with the law and administrative regulations of the State Council. The system of placing counties and county-level cities under the administration of prefectural-level cities means establishing an administrative organ between the province and counties (county-level cities). This mechanism requires the prefectural-level city to have the dual functions of administering both rural and urban areas. The main models of this mechanism are:

- To merge the administrative office of a prefecture with the government of the prefectural-level city where the office is located to establish a new prefectural-level city government to administer the counties and county-level cities
- To incorporate a number of counties and county-level cities in the vicinity of a prefectural-level city into the administration of the latter which previously did not administer the counties
- To elevate the status of county-level cities or towns into prefectural-level cities, or turn the organs of the administrative office directly into the organs of the prefectural-level city, so as to establish a prefectural-level city government to administer counties and county-level cities.

4. Source: http://www.china.org.cn/english/Political/28842.htm. Accessed on November 14, 2011.
5.2.4 County-Level Administrations

County governments are local governments established in rural areas. County governments administer the governments of townships, ethnic townships, and towns. They may also establish neighborhood offices. When necessary, county governments may, upon approval of provincial, autonomous regional, or municipal governments, set up district offices as their agencies.

In areas implementing the system of prefectoral-level cities administering counties and county-level cities, and in ethnic self-governing areas, county governments receive leadership from prefectoral-level city or autonomous prefectoral governments. In areas where prefectoral-level cities are not established, and in the four municipalities directly under the central government (i.e., Beijing, Tianjin, Shanghai, and Chongqing), county governments receive direct leadership from provincial, autonomous regional, or municipal governments.

County-level cities normally grow from towns within a county or are established in place of what was originally a county which has now been dissolved. These are places with a relatively strong rural administrative color. Governments of county-level cities administer governments of townships, ethnic townships, and towns. Neighborhood offices may also be established under their leadership. Governments of county-level cities are mainly in the following two categories:

A. In areas without an administrative office, they receive leadership directly from provincial or autonomous regional governments

B. In areas implementing a system of prefectoral-level city administering the county and county-level city, or in ethnic self-governing areas with county-level city governments, they receive leadership from the prefectoral-level city or the autonomous prefectoral government.

District governments are urban governments established in districts in municipalities directly under the central government, sub-provincial-level cities, and prefectoral-level cities. They receive leadership from the governments of municipalities directly under the central government, sub-provincial-level cities, and prefectoral-level cities.

District governments consist of urban district and suburban district governments. Urban district governments are located within the urban districts and function as grassroots governments in urban areas. They may have agencies in the form of neighborhood offices. Suburban district governments, naturally located within suburban areas of cities, administer governments of townships, ethnic townships, and towns. They may also establish neighborhood offices.

Governments of counties, county-level cities, and districts are composed of county governors, vice governors, mayors, vice mayors, district heads, deputy heads, and directors of bureaus or sections. County governors, vice governors, mayors, vice mayors, district heads, and deputy heads are elected by the people’s congresses of the counties, cities, and districts. When the people’s congresses of the counties, cities, and districts are not in session, the standing committees of the people’s congresses may decide on the appointment and removal of individual vice governors of counties and vice heads of districts and vice mayors. Governments of counties, county-level cities, and districts serve a term of five years.

5.2.5 Grassroots Administrations

Governments of townships, ethnic townships (both referring to rural areas), and towns (urban centers in rural China) are grassroots governments in rural areas. They receive leadership from governments of counties, autonomous counties, county-level cities, and districts.

A township, ethnic township, or town government has a head and several deputy heads. The head of an ethnic township government must be a citizen of an ethnic minority origin. Heads and deputy heads of townships, ethnic townships, and towns are elected by the people’s congresses in the townships, ethnic townships, and towns. Governments of townships, ethnic townships, and towns serve a term of three years.

It is the prefectoral-level governments’ duty to establish and decide the geographic division of townships, ethnic townships, and towns. People’s governments of townships, ethnic townships, and towns carry out the resolutions of the people’s congress at the corresponding level, as well as the decisions and orders of the state administrative organs at the next higher level. They also conduct administrative work in their respective administrative areas.

Local people’s governments at various levels are responsible for and report on their work to the state administrative organs at the next higher level. Local people’s governments at various levels throughout the country are state administrative organs under the unified leadership of the State Council and are subordinate to it. Local people’s governments at and above the county level direct the work of their subordinate departments and of people’s governments at lower levels, and have the power to alter or annul inappropriate decisions of their subordinate departments and of the people’s governments at lower levels.

In addition, there are also systems of governance that operate beneath the various levels of state administration described above. These are the village committees (cunweihui) in rural areas and the resident committees (juweihui) in urban areas. The village committees deal with all administrative matters, including budgets, public services, order, welfare, and dispute resolution (see Figure 5.3).

In contrast to their attitude with regard to levels of government that are considered part of the state, the
authorities have shown some willingness over the past two decades to countenance direct elections to these committees. There have been attempts to introduce direct elections to village committees. These innovations were part of wider efforts to restore some form of governance at village level. Urban residents’ committees usually cover anywhere between 100 and over 1,000 households. Reformers have suggested that urban electoral reform should begin with direct elections.

5.3 LEGAL SYSTEM

5.3.1 Legislation with Chinese Characteristics

The current Chinese Constitution was adopted for implementation by the 5th Session of the 5th National People’s Congress (NPC) on December 4, 1982. Amendments were made to the Constitution at the 1st Session of the 7th NPC on April 12, 1988, the 1st Session of the 8th NPC on March 29, 1993, and the 2nd Session of the 9th NPC on March 15, 1999, respectively. It is clear that the leadership of the CPC is stressed in the Constitution. Also, the guidance of Marxism-Leninism and Mao Zedong thought is regarded as the proper intellectual framework and ideology for leading the country to a socialist state under the people’s democratic dictatorship.

The National People’s Congress (NPC) is deemed to be the ‘highest organ of state power’ in Article 57 of the Constitution of the People’s Republic of China (1982). The NPC is partially composed of a permanent body called the Standing Committee of the NPC (Articles 57 and 65–69). The NPC is the unicameral body vested with the authority to establish the laws in China pursuant to Article 58. Deputies to the NPC are elected to their positions for five-year terms (Art. 60). Some powers of the NPC are to amend the Constitution, enact laws, elect the President and Vice President of the PRC, elect the Chiefs of the Supreme People’s Court, decide issues of war and peace, and they also have various removal powers (Arts 62–63). When the NPC is not in session, the Standing Committees can enact amendments and additions to laws passed by the NPC (Art. 89).

China’s legislation is also created at more local levels by the people’s congresses of provinces, autonomous regions, municipalities, prefectures, and cities. The Constitution
provides the structure, authority, and duties of the Local People’s Congresses in Articles 95–111. All of the local regulations that are passed by these lower people’s congresses must comply with the Constitution, laws passed by the NPC, and the people’s congresses above each of the local congresses in the hierarchy.

The judicial system of the PRC is established in Articles 123–135, and consists of the people’s courts, the Supreme People’s Court, the people’s procuratorates, the Supreme People’s Procuratorate, military procuratorates and other special people’s procuratorates. Article 129 refers to the people’s procuratorates as ‘state organs for legal supervision’. There is a hierarchy within the court structure from the top down: the Supreme People’s Courts, the Higher People’s Courts, the Intermediate People’s Courts, and the Basic People’s Courts (see Figure 5.4).

The duties of each of these Courts are as follows:

- The Supreme People’s Court has the original jurisdiction over cases that have been assigned to it by law, or over cases that it decides it should try. It has jurisdiction over appeals or protests from the Higher People’s Court and Special People’s Courts.
- The Higher People’s Courts have the jurisdiction in the first instance in cases assigned by law, or transferred from lower courts; major criminal cases which impact the entire province. The Courts also hear cases of appeals or protests against judgments and orders of lower courts.
- The Intermediate People’s Courts have, in the first instance, the jurisdiction in some cases, including those transferred from basic people’s court; major cases dealing with foreign parties; counter-revolutionary cases, criminal cases subject to a sentence of life imprisonment or death; cases where foreigners have committed crimes. They also hear appeals and protests.
- Basic People’s Courts are local-level courts to adjudicate criminal and civil cases of first instance. Excluded from jurisdiction are criminal cases carrying a penalty of death or life imprisonment, as well as certain foreign civil cases. The courts can request that more important cases be transferred to a higher court.

At present, the Basic People’s Courts are comprised of thousands of courts at county level. There are hundreds of Intermediate People’s Courts at prefectural or municipal level and 31 Higher People’s Courts located in the provinces. Additionally, there are a number of specialized courts, for example, those dealing with railway transportation, forest affairs, the People’s Liberation Army (PLA), and maritime issues.

Litigants are generally limited to one appeal, on the theory of finality of judgment by two trials. Cases of second instances are often reviewed de novo as to both law and facts. Requests for appellate review take the form of appeals and protests (in criminal cases). Appeals are lodged by parties to the case, defendants, and private prosecutors. Protests are filed by the procuratorate in criminal cases, when it is believed that an error has occurred in the law, or facts, as determined by the judgment or order of the court of first instance. In civil cases the procuratorate does not possess a right to file a direct protest, but it can initiate adjudication supervision via a protest. Adjudication supervision refers to a type of discretionary ‘post-final’ decision review, which may occur in certain situations in criminal cases.

### 5.3.2 Legalization Without Democracy

For most of the past thousands of years, the Chinese legal system was based on Confucian ideology that emphasized ethics and relationships between the people and their leaders. Disputes were settled through relationship-based methods such as mediation. The court system was undeveloped and rarely used. After 1949, a Marxist-Leninist overlay was constructed, which was also to some extent mixed with traditional adherence to Confucian-based conflict mediation. It was not until the economic reforms of the late 1970s that a true institutional legal system was introduced, mostly to deal with the demands of the growing economy. As the CCP scrambled after 1978 to train lawyers and codify laws, business law took precedence over laws pertaining to civil liberties and individual freedoms. Despite an enormous growth in the legal industry, the system is today still grossly lacking in its neutrality, capacity, and mandate, especially in poor and remote areas in China.
Most importantly, China’s legal system lacks neutrality. The CCP approves all court appointments, and judges are technically responsible to the Party, not to the people (see Box 5.1). From the Basic, Intermediate, Higher Level People’s Court, and Supreme People’s Court, the CCP hand is evident. The CCP’s Political and Legal Committee has the power to intervene in deliberations, and even to overturn verdicts issued. In addition, the infrastructure lacks capacity. For example, there is one lawyer per 10,000 people in China (the ratio is one lawyer per 550 people in the United States).\(^5\) And finally, in many Western democracies, the ultimate arbiter of a law’s constitutionality is the court system. In China, this function becomes muddled and the CCP apparatus often rules on the interpretation of its own laws.

Recently, there have been some reforms with substantive democratic content – including, for example, village elections. However, this has been unevenly implemented and often fails to live up to hopes for open and contested elections, and reaches only the most local of posts. The electoral law for village-level administrations is still weaker as an instrument of democracy, as are procedures for the indirect selection of higher-level people’s congresses. The imperfectly implemented village elections law and the elections that have been held under the law allow much bounded participation, monitor potentially explosive peasant discontent, and strengthen the capacity of the regime. These ‘elections serve these functions by sometimes weeding out the most ineffective and despised agents of the regime and by recruiting new cadres who can command popular support as well as their superiors’ confidence’ (deLisle, 2008, p. 198).\(^6\)

Most tangible reform in China’s legal system has taken place in the area of civil litigation. These primarily concern business disputes associated with China’s rapid economic modernization in which people seek protection and redress from a wide array of abuses committed in the pursuit of economic competitive advantage: patent infringement, business transactions that are not honored, individuals who have been displaced by private and state-directed construction, and labor disputes, to name a few. Since 1978, prompted by the need to provide a safe environment for foreign capital, the CCP has increasingly codified business laws and sought to train its lawyers and judges to deal effectively and efficiently with the growing civil and commercial caseload. With the current system skewed toward resolving business-business and state-business disputes, the individual plaintiff is often at a significant disadvantage.

Other avenues open to individuals who feel they have complaints against the state include the petition system, mediation, and protests – however, none of these options are as effective as in the Western nations. The petition system auspiciously provides an avenue by which individuals can lodge complaints about treatment they have received from the government, other individuals, or private companies. Remember, in China the hand of the state is involved everywhere, visibly and invisibly, even when disputes seem to involve private companies. There are few private companies that do not have some form of government subsidization and/or regulation.

Another alternative to the court system includes mediation, which has been described as only somewhat effective, and for which there is not adequate capacity to process all disputes. Some instead turn to protests, mainly in rural areas where they get local attention; protesters are often disbanded, and their complaints never communicated to high-level decision-makers. And finally, an important alternative to litigation (one that is used to powerful advantage elsewhere) is severely lacking in China: free media. Many

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5. Source: ‘The Legal System in China.’ Available at http://worldsavvy.org/monitor/index.php?option=com_content&view=article&id=113&Itemid=176. Accessed on November 15, 2011.

6. See O’Brien and Li (2000), Wang (1998), and Paler (2005) for more detailed analyses.
scandals and disputes are settled in other countries simply because they find their way to the newspaper or other public outlets. Perpetrators are shamed and agreements are negotiated. Without recourse to a free press, the Chinese are denied access to a key avenue for airing grievances.

The most important distinction between how China and many other countries deal with criminal defendants is in how they perceive presumption of guilt. In the West, criminal suspects are presumed innocent until proven guilty, and generally cannot be arrested and charged without sufficient evidence of wrongdoing. When a suspect does go to trial, it is the duty of the prosecution to prove his/her guilt beyond reasonable doubt. Abuses exist within these systems, but the underpinnings favor the individual defendant against the state until guilt is proven.

For a long period of time in China, suspects have been assumed guilty by the system and must be proven innocent. This is a critical distinction; suspects face incredible hurdles in proving their innocence; and China’s appeals system similarly favors the prosecution. Freedom from unreasonable search, seizure, torture, and detention, as well as the right to a fair trial are major demands placed on China by the human rights community worldwide. The CCP aims to build the legal infrastructure of the country and has embarked on this in its technocratic manner of studying the laws of other countries and carefully codifying its ‘Chinese characteristics’. However, many of the abuses occur at the hands of local and provincial officials among whom corruption is rampant and over whom the central CCP is able to exercise little control. When central CCP elites have been able to detect abuses and arrest responsible officials, the press is ordered to showcase progress for their own people and to outside critics.

Without adequate transparency within the CCP, or within the legal system in which CCP officials wield a heavy hand, reform will be difficult. While the CCP has promised that there will be movement on both laws and procedures, ordinary people in China still believe that the situation on the ground has not changed significantly. As in other areas, reform in the legal system has often served only a safety valve function – more cases processed, more complaints heard, yet the outcomes remain largely unchanged. Whether these small reforms result in real change depends on whether there are enough interested parties who bring about true democratic progress in the PRC. For now, though, there are many who believe that such small venting in the system actually serves to strengthen the authoritarian state.

5.4 (DIS)ADVANTAGES OF CHINA’S POLITICAL SYSTEM

5.4.1 Authoritarianism, Chinese Style

Since China undertook its reforms in 1978, the Chinese economy has grown at an average rate of nearly ten percent a year. As of 2010, China’s per capita GDP was already twelve times greater than it was three decades ago. Obviously, for the past three decades, the country’s economic development has been reliant upon an unconventional approach – a combination of mixed ownership, basic property rights, and heavy government intervention.

The term ‘Washington Consensus’ was initially coined in 1989 by John Williamson to describe a set of ten specific economic policy prescriptions that he considered should constitute the ‘standard’ reform package promoted for crisis-wracked developing countries by Washington-based institutions such as the IMF, the World Bank, and the US Treasury Department. It is sometimes used in a narrower sense to refer to economic reforms that were prescribed just for developing nations, which included advice to reduce government deficits, to liberalize and deregulate international trade and cross border investment, and to pursue export led growth (Williamson, 1989).7

In 2004, Joshua Cooper Ramo, the former foreign editor of Time magazine, in his book entitled The Beijing Consensus, argues that there is a new ‘Beijing Consensus’ emerging with distinct attitudes to politics, development, and the global balance of power. Ramo argues that China offers hope to developing countries after the collapse of the Washington Consensus. China has provided, more or less, a more equitable paradigm of economic take-off for poor countries. According to Ramo, ‘[the Beijing Consensus] constitutes the new agenda for contemporary development thinking, replaces the widely-discredited Washington Consensus, an economic theory made famous in the 1990s for its prescriptive, Washington-knows-best approach to telling other nations how to run themselves’ (Ramo, 2004, p. 4).

To develop this further, Stefan Halper, in his book The Beijing Consensus: How China’s Authoritarian Model Will Dominate the Twenty-First Century, argues that China has provided a welcome non-judgmental alternative to many nations with domestic, social, and economic conditions that are similar to China itself. This new approach to foreign aid, combined with admiration for China’s economic success, is boosting its world influence, as well as access to energy and other natural resources. Meanwhile, China’s autocratic leadership, which shows no sign of liberalizing, has set the foundation for future economic successes; by contrast, US economic progress seems hindered by its democratic processes (Halper, 2010).

On March 10, 2010, Singapore’s www.zaobao.com published an article entitled Comparative Politics: Why is China Superior to the West in the Political System? (Song, 2010). In this article, the author points out that the great achievements of China result from its effective political system, which could pave a completely different way to

7. The Washington Consensus was most influential during the 1990s. Since then, it has become increasingly controversial.
modernization, named the China Model. The author summarizes six major advantages of China’s political system, as follows.

The first advantage is that under the one-party system, China could formulate a long-term plan for national development and ensure stabilization of its policies without being affected by the alternation of parties with different positions and ideologies.

The second advantage lies in its high efficiency, and promptly effective reaction to emerging challenges and opportunities, especially in response to sudden and catastrophic accidents. The author gives the following examples: Terminal No. 3 of the Beijing Capital International Airport built for the Beijing Olympics was finished in three years, which is not enough time for the approval process in the West. In 2008, after the Wenchuan earthquake that hits once in a generation, China impressed the whole world by its quick response and efficient post-disaster reconstruction.

The third advantage is China’s effective containment of corruption in the social transition period. It is generally accepted that economic prosperity and social transition were usually accompanied by large amounts of corruption throughout human history. However, the author argues that, compared with India and Russia in the same period, China has had far less corruption.

The fourth advantage is a more responsible government in China. For example, in democratic societies, many officials are elected with fixed terms, and they then will not fall out of power before the end of their term unless they break the law, make wrong decisions, or take no action. Once their term expires, they will not be blamed for any problem. In China, however, the Principal Officials Accountability System is gradually improving, and officials must be responsible for their incompetence, negligence of duty, or mistakes at any time.

The fifth advantage lies in its personnel training and Cadre-Selection System and avoiding the waste of talented people. In many Western nations, presidents and governors are elected; but in China only those who have rich and successful working experiences at the lower or local levels can be selected to be higher-ranked officials. Therefore, the author argues that China’s selection of cadres from the lower to a higher level and conscious personnel training is superior to the West’s election system.

The last advantage is that one party can truly represent the whole people. Under the Western multiparty system, each party represents different interest groups. But in China, since the reform and opening up, economic policies have been made by the CCP without special bias in favor of any interest groups.

5.4.2 Chinese Political Sustainability

However, the Chinese political and economic systems are far less perfect than what was just described above. In fact, over the last 30 years, the Chinese economy has moved unmistakably toward the market doctrines of neoclassical economics, with an emphasis on prudent fiscal policy, economic openness, privatization, market liberalization, and the protection of private property (Yao, 2010). Since the beginning of its open-door policies, China has benefited increasingly from global interdependence and the modern world’s free flow of goods, capital, and people. However, with those benefits have also come the responsibilities of accountability and transparency. China’s party-state system has exposed the dearth of political dynamics.

Since the CCP lacks legitimacy in the classic democratic sense, it has to seek performance-based legitimacy instead. So far, this strategy has succeeded. And there was a proliferation of high-rise buildings and massive construction projects (the Three Gorges Dam, the Olympics Complex, the high-speed rail system, and so on). However, this also resulted in declining health care (hospitals, like schools, also became money-making centers for local bureaucrats), illegal expropriation of farmers’ land, and more corruption, all of which have led to increasing social disorder among peasants who are finding themselves worse off (Huang, 2008). On the other hand, cadres’ pay has increased rapidly, which has, as an example in 2010, induced thousands of college graduates to compete for a single government post.

The Severe Acute Respiratory Syndrome (SARS) epidemic which spread throughout China in April 2003 exposed some of China’s institutional weakness. Yet the greatest impact of the SARS crisis may be on China’s antiquated political system. Chinese mismanagement of the outbreak has plainly exposed just how far political reform has lagged behind economic development. Beijing’s long concealment of the truth is exposing political faultiness by simultaneously weakening the economy and damaging the government’s credibility. The crisis has undermined traditional supporters, aggravating old demographic strains, and emboldening detractors to make more assertive protests against government policy. While the growing pressure from a more demanding public and an increasingly interdependent world has forced China to re-evaluate its political and socioeconomic policies, the extent of any resulting political reform depends upon whether or not the enhanced incentives for accountability and transparency among public officials override the traditional incentives for party and factional loyalty.

8. From November 2002 to 2003, SARS infected over 8,000 people in 30 countries and killed more than 500. In addition to the human toll, it was inflicting significant economic damage across Asia. Besides Hong Kong, which was among the worst hit, GDP growth rates in Taiwan, Singapore, and Thailand were also lower in 2003. Nowhere was SARS having more impact than on mainland China, where the disease started. – Guo (2007, p. 104).
FIGURE 5.5 Social and political capacities, China and the world. Source: Created by author based on Kaufmann et al. (2008) for (a) and (b) and the Worldwide Governance Indicators (available at http://info.worldbank.org/governance/wgi/pdf/wgidataset.xls. Accessed on October 25, 2011) for (c). Details on the data sources, the aggregation method, and the interpretation of the indicators, can be found in the methodology paper of Kaufmann et al. (2010).

Note: The y-coordinates denote the degrees of ‘control of corruption’ and ‘voice and accountability’, respectively (100 = maximum level; 0 = minimum level).
Obviously, there are signs that the Chinese model will not last because of the growing income inequality and the internal and external imbalances it has created. The CCP’s free-market policies have led to increasing inequalities in China, both between different groups of people and among regions. For example, China’s overall Gini coefficient – a measure of income inequality in which zero equals perfect equality and one absolute inequality – reached about 0.50 in 2010, which is higher than most of the other economies (see Figure 8.2 of Chapter 8). In addition, China also has the highest urban-rural income gap in the world. As the Chinese people demand more than economic gains as their income increases, it will become increasingly difficult for the CCP to contain or discourage social discontent.

China’s astronomic growth has left it in a precarious situation, however. Other developing countries have suffered from the so-called middle-income trap – a situation that often arises when a country’s per capita GDP reaches the range of $3,000 to $8,000, the economy stops growing, income inequality increases, and social conflicts erupt. China has now entered this stage, and it still remains unclear how this will affect the Chinese economy and society in the long term. At present, the Chinese government has tried to manage popular discontent by implementing

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**Box 5.2 Documentary**

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People’s Republic of China

Dear Sirs:

On behalf of the Scholars at Risk Network, I am writing to inquire about Dr. Guo, who until recently served as professor at the Beijing Graduate School of China University of Mining and Technology ("CUMT").

The Scholars at Risk Network is a non-governmental organization based at the University of Chicago with members at more than 70 universities and colleges in the United States and partners worldwide. Scholars at Risk is dedicated to protecting the human rights of scholars and to raising awareness, understanding of and respect for the principles of academic freedom and its constituent freedoms of thought, opinion, and expression—freedoms essential to any healthy academic community and civil society generally. In cases such as this one, Scholars at Risk inquires on behalf of an individual scholar.

We received allegations about Dr. Guo’s employment situation at CUMT, information which alleges an unwillingness to allow him to seek positions at other universities, or to accept offers received from several other prestigious academic institutions in China. We are writing to request your help in clarifying the situation. We would appreciate your responding to our letter and providing whatever information you deem appropriate.

According to the information we received, Dr. Guo had tried to accept an invitation to Peking University in 1996. Shortly thereafter, his wife’s employment at CUMT was terminated. We understand she had been working there since 1981. We are also led to believe that in March 2002 Dr. Guo had been offered employment at the Chinese Academy of Sciences, and that CUMT had originally consented to his departure, but later the consent was rescinded. These allegations, if true, raise serious concerns about Dr. Guo’s ability to conduct his work and to freely and openly exchange ideas and information with colleagues at other institutions. It is unclear to us at this point, however, whether the allegations are in fact true and, even if true, whether the situation is specific to Dr. Guo or is suggestive of a larger problem affecting many scholars. We therefore respectfully ask for your help in clarifying the situation.

Thank you for your urgent attention to this matter. We look forward to your reply.

Very truly yours,

Robert J. Quinn
Director

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various programs that could quickly address early signs of unrest, such as re-employment centers for unemployed workers, migration programs aimed at lowering regional disparities, and improvement of infrastructure, health care, and education in rural areas. Those measures, however, may be too weak to discourage the emergence of powerful interest groups seeking to influence the government (Yao, 2010).

5.5 FURTHER IMPLICATIONS

While China’s current political system has been driving its economic growth strongly (to be discussed in Chapter 8), it has also led to the development of a series of socioeconomic problems. However, the large surge in income inequalities was not the only unwanted result of the Chinese-style reform. The worsening of social and political pressure during the 1990s and the 2000s is another example. For example, China’s ‘control of corruption’ score was more than 50 in 1996 (see Figure 5.5(a)) but it dropped to only 30 in 2007; between 1996 and 2002 its score in terms of ‘voice and accountability’ was among the lowest of all the nations considered by the World Bank (see Figure 5.5(b)) and there is no sign of improvements between 2002 and 2007 (see Figure 5.5(c)). Without good reason, China’s party-state political system lacked the informational and incentive roles of democracy that, working mainly through open public discussion, could be of pivotal importance for the reach of social and public policies.

Technically, China has not had an independent judiciary or a legal system that operates outside the influence of the ruling CCP. This is the so-called socialism with Chinese characteristics and the one that distinguishes China from Western democracies in which the court system is a critical component of the checks and balances placed on the other branches of government. In fact, China’s lack of an independent judicial system exacerbates all the other fault lines running through the authoritarian state; there simply is no effective recourse available to individuals whose interests are harmed by the excesses of CCP officials, laws, and institutions. This situation is particularly serious in China’s rural, marginal areas. The time when the average individual seeks a forum in which to officially air grievances and pursue some form of justice in China has yet to come (see Box 5.2).

Before ending our discussion about the characteristics of China’s political and administrative systems, let’s finish our account of the story told by Hanfeizi at the beginning of this chapter:

* Feeling it strange, the Duke sent a man to ask Bianque for the reason. ‘Well, an ailment lying in between the skin and the muscles remains on the surface, and so external application with warm water and ointment can cure it,’ said Bianque, ‘If it sinks into muscles, acupuncture will do good; if it resides in the stomach and the intestines, a decoction of herbs will take effect. But when the sickness penetrates into the bone marrow, it becomes fatal and nothing can be done about it. Now, as the Duke has come to that last stage, I have nothing to recommend.’ Five days after that, the Duke felt pains and ordered his men to look for Bianque, but to find that he had fled to the state of Qin. Soon afterwards, the Duke died.

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