

Some principles of governance in today's China:

- I have been asked to speak about governance, how China rules itself, and what it means for those of us who deal with it; I also want to use this opportunity to draw attention to factors that are as relevant for government officials, as business people, academics and just about anyone who wants to get things done in China;
- I could of course speak of formal governing frameworks: China has a national Constitution; it has a deliberative assembly, the National People's Congress; it has a representative assembly, the Chinese People's Political Consultative Congress; it has a developed judicial system, with hundreds of laws and a structure of courts, going all the way up to the Supreme People's Court; it has, in the State Council, a Cabinet and a massive national bureaucracy - 40 million public officials, according to the Ministry of Personnel; it has increasingly sophisticated regulatory systems dealing with everything from the environment to securities markets; it is decentralized, dividing China in 31 provinces and special administrative zones, including Hong Kong and Macao; it has mass media, national communications and transportation infrastructures; and so forth;
- but my purpose today is to approach China from the opposite end, get us down into the weeds, explain not the formal institutions and supportive infrastructure of governance, but rather some of the plumbing that underlies today's China, and makes the system function;
- my point in quoting from the two literary classics at the outset is that beneath institutional and legal frameworks, whose actual roles in China should not be confused with those of comparable institutions in Canada, there are more fundamental operational principles and practices which determine political governance and behaviour and in a real and a practical sense, are singularly important engines of decision making and policy implementation, not to speak of society and the individual;
- il existe une très belle citation en français qui illustre cette notion: Tandis que les philosophes cherchent à nous expliquer les grands principes qui soutiennent l'univers, la nature en maintient les rouages par la faim et par l'amour;
- à ces débuts de 21^{ème} siècle, ce n'est ni la faim, ni l'amour qui gèrent la Chine, mais d'autres forces et tendances sociales et politiques, également de grande envergure et d'importance, qui influencent fondamentalement la gestion de ce grand pays.
- il n'est pas mon objectif aujourd'hui de vous offrir une explication abstraite ou obtuse des fondements de la science politique chinoise; d'abord, j'en ai pas les moyens, et vous n'êtes pas là pour ça; permettez-moi cependant de faire quelques commentaires généraux avant d'offrir certains principes d'ordre éminemment pratique, quitte à vous proposer les moyens de gérer vos propres dossiers et affaires en Chine, et promouvoir les intérêts canadiens;
- there are a large number of principles and practices that I consider determining to governance in China; they are, necessarily, of varying importance; there are those that are so significant that we, as foreigners and as representatives of foreign organizations, cannot afford to ignore them; there are many for which passing familiarity is sufficient to get by;
- among the most important, which everyone in this room must recognize, let me sketch out the following:
 - the Leninist practices of the Communist Party of China.

- the pervasiveness of secrecy and the severe limits to transparency.
 - the tension between the Party's predisposition to rule-by-law (and its twin, rule in the absence of law), and the growing need for rule-of-law.
- these are, as we shall see, less than felicitous, in most cases, so I will also speak of other driving forces of governance, including:
 - the countervailing power of 'guanxi'.
 - reform and innovation.
 - nationalism.
- the comments I'll make are necessarily broad-brush, which of course means that they are not always true; but allow me to make my essential qualifying comments later;

The operating principles of the Communist Party of China

- the CCP is now 82 years old; it was established in 1921; controlled parts of rural China beginning in the 1930s; dominated large swaths of the land mass, and the population by the end of WWII; four years later, in 1949, it won the civil war and established the People's Republic of China. What is relevant to today's discussion can be simplified in the extreme: the CCP was at the outset and remains today a Leninist party.
- From Lenin, the Party adopted: extreme partisanship; action orientation; strong organization; militancy, discipline and centralization; unified thinking through development of "mass lines", a predisposition to strong leaders; and an absolute determination to control all aspect of the state, society and the economy. Its internal management is based on notions of democratic centralism which, since Deng Xiaoping's reforms, allows a degree of controlled, internal deliberations, but only top to bottom decision making.
- the Chinese Communist Party today traffics almost solely on this fundamental ideology; it is no longer bent on achieving communism, left for many generations hence; it is about practising and monopolizing power, and allowing no opposition nor, so far, meaningful civil society;
- its tools start with Party control over all formal state institutions, including the National People's Congress, the State Council, the government bureaucracy and the court system; it determines national, regional and local policy directions; all budgets and expenditures; and, crucially, millions of personnel decisions, from national leadership positions to local government staffing; it exercises strict control over four separate military and para-military organizations, starting with the PLA, to ensure that force is available when its power is not respected: Article 27 is understood to mean that military force is tasked first and foremost to protect the Party.
- the CCP maintains committees and branches in all government departments, state-run academic institutions, factories and enterprises; all private firms, including foreign invested enterprises are required to have such committees as well, although most don't; the Party has also directed the establishment of a whole new network of committees in residential neighbourhoods, to reach those who work where there are no Party branches, as well as with the armies of unemployed and retirees;
- and today, in 2003, the Party still maintains personal files on most Chinese citizens, not only Party members; most Chinese have a "dang 'an", a personal file maintained by Party officials, providing birth and family information, academic records, employment

information, marriage history and political record; Party officials can, if they choose, involve themselves in many important decisions in a person's life; individuals are not allowed to see their files;

- so, the Party's influence is as pervasive as its elaborate control systems and 67 million individual members allow;
- it is extremely important to be aware of this reality, because it is not obvious when strolling the boulevards of Shanghai, or being seduced by the marvels of the Forbidden City in Beijing or the Terre Cotta Warriors of Xian;
- it is not even obvious when working, on the ground in China, in Embassies or businesses:
 - you can be a foreign invested enterprise that, unawares, has a Party committee operating right in your midst, with staffs vulnerable to the pressures of dual loyalties, partners passing commercial secrets to government departments or your rivals, and low ranking company officials actually chairing the Party committee;
 - you can be a foreign entrepreneur trying to close on a trade deal, and not knowing whether your interlocutor is the person who can or cannot make the final decision or who, in a larger gathering, is actually calling the shots;
 - you can be advocating your Department's policy position to Chinese government officials, not knowing if the person you really want to influence is even in the room, or for that matter, works in the Chinese Ministry you are targeting; even the Chinese Minister may be junior to the usually unnamed Party Secretary;
 - you can be winning a court case on a commercial dispute, thanks to the involvement of a legally astute and honest judge, not knowing if the Party's local committee responsible to the CCP's Commission on Political Science and Law will let the decision stand and be implemented;
 - the Chinese system can sustain this seemingly dualistic system of separate Party and non-Party interlocutors by a number of means, but the most important include the fact that, at the most senior levels of government and state enterprises, officials hold both Party and institutional positions; secondly, the Party can keep most things it wants secret;
 - this brings me to the second important governing principle:

SECRECY AND TRANSPARENCY

- an essential instrument of control in all institutions is access to information; Leninist institutions are particularly attentive to this fact, and thus the default mode in the CCP is secrecy;
- there are many advantages to secrecy: for revolutionary and millennial political movements, it allows placing grand visions and overriding objectives at the forefront, and provides all those drawn to the movement the freedom to imagine whatever futures they like, spared as they are of the messiness of behind the scenes politics; it provides top leaders the scope to define their own images, keeping their flaws and foibles and manoeuvres well hidden; it keeps enemies in the dark as to the Leaders' real intentions; and it greatly facilitates top-down institutional management and discipline;
- today's CCP however is no longer revolutionary, or millennial; it is rather the prime vehicle for Party, bureaucratic, and regional elites, which are inter-changeable and inter-connected, to manage a vast country, according to their own lights; secrecy and barriers

- to transparency may no longer have a Bolshevik rationale, but they do serve to keep virtually all political manoeuvring and key policy making firmly behind closed doors;
- secrecy allows decision making to be reserved to a very small number of key players; it provides ample space to ignore, whenever needed, both the Party and national constitutions, domestic laws and regulations, publicly stated Party policies; it is an essential attribute for effective control of the judiciary;
 - it must also be recognized that secrecy and limits on transparency have another immense benefit: they deprive the kind of factionalism that almost destroyed the Party during the Cultural Revolution of the oxygen of public denunciation and character assassination, which have been among the most self-destructive features of Leninism, and Maoism, for that matter; debate and decisions are kept on the inside, well away from the public eye;
 - it can also be said that, when combined with CCP power and the monopoly on the tools and the use of force and repression, secrecy is a "force multiplier": it keeps the public uncertain as to the Party's real intent, when and how it might strike out, and for what reason; it thus becomes "the anaconda in the chandelier", to use Perry Link's apt phrase, the perfect instrument for promoting self-censorship and restraint; you don't have to use overwhelming force if enough potential adversaries think you might; (this strategy doesn't seem to work with the Iraqis)
 - does the power of secrecy affect anyone beyond human rights activists or the unnecessarily nosy? It certainly affects Canadian interests:
 - our major commercial strategies involving the sale of aeroplanes, nuclear reactors, environmental or architectural services for the 2008 Olympics and many others are hobbled by the absence of clarity on the intent and directions of policies, or even who is involved and when decisions will be taken;
 - political relations between ourselves and the Chinese can be derailed because effective policy is in the hands of unreachable senior Party figures, as opposed to the MFA or MOFTEC;
 - on a day to day basis, obtaining from government or Party officials meaningful information going beyond the most anodyne platitudes can be very difficult; self censorship can be most obvious in these daily encounters;
 - these types of problems also throw light on a third significant reality of governance in today's China: the weakness of the rule of law; lawful societies don't need a lot of secrets; indeed, lawful societies work best when transparency and access are the default mode, and secrecy must be justified.

RULE OF LAW

- according to Marxist doctrine, law is a tool of the ruling classes; Maoists, following Mao's dictum that China had miraculously skipped the capitalist phase and could plunge right into socialism, accordingly destroyed China extant legal structures; law schools were closed, books burned; they dispensed with a Ministry of Justice from 1959 to 1979; "justice" was in the baleful hands of popular committees of various sorts;
- but a 21st century state in a globalized world needs the predictability of public laws and a judicial system; accordingly, during the last 20 years, a new legal framework has needed to be built, a process that continues;

- popular Canadian and Western notions of rule of law and governance are so closely linked that we often see them as one and the same thing; to our lights, rule of law is not only about institutions and plumbing, it is about values, freedom and limits to the power of the state; rule of law "governs" - in ways that most citizens are unaware - the way we live;
- in some important respects, China is developing the infrastructure necessary to a legal system, as we understand it: the National People Congress does function as a legislative body, and has passed laws just in the last 5 years; it has needed to work in order to ensure consistency of laws with China's international legal obligations, such as those arising from the WTO;
- China is developing an administrative law system, to provide legal recourse to companies, individuals and increasingly groups to challenge acts of government;
- it is working to raise the level of professional competence and qualifications of judges, as well as the skills of the legal profession;
- these are producing results on the ground, and a general consensus that the overall legal system in China is improving, especially in matters of litigation between commercial entities;
- this is all positive, at least to the extent that it is real;
- however, the abiding reality is that China does not recognize the notions central to our understanding of law, as an instrument limiting government power; nor is there much evidence that the rule of law in China entails democracy and human rights or of giving priority to civil and political rights;
- indeed, the Party cannot abandon a Legalist orientation which is clearly aimed at "rule by law", as opposed to the very Western principles of "rule of law", which by definition would limit the power of government and Party;
- it goes much beyond this: Chapter II, articles 33-56 of the Constitution of the PRC on the fundamental rights and duties of citizens provide an impressive array of inviolable principles which, were they actually made available and defended by an independent judiciary, would provide freedoms which are fully comparable with ours;
- article 8 of the Constitution of the CCP states clearly that every Party member must "accept supervision by the masses inside and outside the Party" but no mechanisms exist to implement this, and any attempt by the "masses" outside the Party to 'discipline' Party members would be resisted with force;
- are we, as Canadians, government officials, business people, especially, affected by these realities of governance'? Yes we are;
- there is an increasing number of Canadian businesses involved in litigation in China; without making generalization to the merits of all of their cases, the reality is that in some cases, final judgements were adjudicated not on the basis of law, but political intervention; decisions favourable to the Canadian company are not implemented; incapacity by the defendant to pay damages can be due not to bankruptcy but the hiding of assets;
- seemingly unstoppable corruption among senior officials involved in border controls or the police lead to criminals and other undesirables entering Canada under false pretenses;
- Canadians care about human rights around the world and are offended when rights are violated; human rights exist in China, but they are constrained and subordinated to Party and state interests; they are routinely subject to the arbitrary actions by Party officials;

THE POSITIVES

- this quick snapshot of three defining features of contemporary governance in China suggest a vertically structured, top/down, suffocating police state, deprived of variety and the kind of messiness and anarchistic freedom essential to the dynamic, forward moving society which we all know, as a matter of fact, China has become;
- I have chosen to focus initially on the negative, because it important for this audience to carry, in their mental files under "China", some of the basic realities that China's citizens have to deal with, and which those of us, in and out of government, involved in managing aspects of the relationship, have to take into account; a wide-eyed, uncritical assessment of China is as inimical to our national, corporate, institutional and individual interests, as is the outdated image of China under Mao;
- because there are many features of contemporary China that put paid to Leninist governance ideals, as there are positive attributes of governance that provide vitality to society and forward momentum to the way China is governed;
- let me mention three of them briefly, as I expect that most of you in the audience are familiar with the concepts or at least their effects:
- the first I will mention is the notion of "Guanxi", and its impact on governance;

GUANXI

- there are entire books on the theories and practices of Guanxi; its centrality to Chinese society and civilization are among the first things one learns when coming to China; Guanxi finds its origins in Confucianism and its insistence that men and women have no independent existence outside the nexus of the family, society and the state; the resulting and operative considerations are many - including some that are clearly anti-democratic;
- but the positives include what is best described to Canadians as developing and nurturing connections, having professional and long-term relationships, using inter-personal networks arising from family connections, having studied at the same university or even high school, shared employment history, geographic origin, what have you; simply put, it is the healthy nature of most human beings to find commonality and appreciate other human beings, and the Chinese people share this disposition no less than in any culture;
- the origin of the Guanxi connections are less important, theoretically at least, then the dynamics of Guanxi and the benefits that are derived from them; Guanxi relationships provide facilitated entry; they reduce uncertainty, lower transaction costs; Guanxi relations can translate into anything from getting access in order to advocate for your interests, to swinging decisions in your favour;
- even if Guanxi relations arise from contact through membership in the same institutions, including the CCP itself, the resulting relationships themselves are not formally structured, and thus not susceptible to the kind of Leninist dirigisme that I have noted above;
- if the nurturing and supportive networks of Guanxi provided millions of Chinese with their principal, if not sole spiritual sustenance during the dark years of the Great Leap Forward and the Cultural Revolution, it was the reorientation of Chinese government policy towards reform and opening, beginning in 1978 under Deng Xiaoping that has ushered in the modern era;

REFORM AND OPENING

- "Gaijie Kaifang" - reform and opening, associated most directly with Deng Xiaoping since 1978; it is one of the first expressions one learns when studying Chinese, and the defining characteristic of today's China; it is so fundamental, and so all pervasive, that it is at the top of any list of today's governance drivers;
- you have all heard and some of you seen the results of the rejection of Maoist leftism and the phenomenal reorientation of China's polity: among other things, it has resulted in China becoming: the 6th largest economy in the world; the world's 5th largest trader; the largest recipient of FDI; from an inability to feed itself, China is now a net exporter of foodstuffs and much of the world's factory for consumer goods;
- economic reform and opening have become the defining, modern governance mode; WTO accession, it must be said, has played a key role in requiring of China new approaches to rules-based management; to transparency and regulation; to the right to appeal government decisions; to competition against entrenched political and economic interests;
- but 'gaijie kaifang' goes well beyond this: reform and opening have also liberated the Chinese to experiment and adopt new ways of re-ordering society; yes, the dang-an personal files are still the rule, but for Chinese working outside the state sector, they no longer have impact on the choices they make in their lives; the iron rice bowl protection of job, home and social services has been irretrievably broken, leading to labour markets, real estate markets and the privatization of education and health care; the Chinese in the economically dynamic regions are freer, and more prosperous, and more hopeful for the future than at any time in China's long history; over 10 million Chinese travelled abroad last year; they are not politically free, the way we understand it, indeed they are excluded from choosing their Leaders, but they feel free and are much more "liberated" today than at any time in their past;
- still, economic progress has to be sufficiently advanced, broad, and shared to allow a virtuous circle of middle class wealth and responsible citizenship to emerge, and become the defining and sustained Chinese reality;
- in the interim, China requires an internal dynamic that maintains enough stability for growth to catch up to expectations; we, as Westerners, believe that internal dynamic can only be provided by the retreat of the Communist Party, democracy, civil society, rule of law, and human rights; many Chinese would agree, but not all;
- this reflection allows me to return to the beginning of presentation, when I quoted from the Three Kingdoms, and the reference to the "Empire", to "China".

CHINA

- I will accept the argument that a reverence for the notion of "China" as something transcendent is less a principle of governance, than the ultimate rationale for governance; one hears references to the perpetuation of this mythic China among a surprising array of interlocutors, as we make our way around this vast country; protecting this "China" requires the postponement of democratization, because democracy and its insistence on individual rights would detract attention from the requirements of economic growth and development, or worse, destroy the essence of the country; this "China" must rightfully

find its place among leaders of nations; the survival of this "China" is the only good thing to come out of the Maoist madness of the 50s, 60s and 70s;

- in its worst manifestations, calls to protect this "China" can result in the xenophobia, and its use by an unscrupulous leadership;
- but at its best, it is a great motivator: appeals to build China have a resonance that is difficult for Canadians and other Westerners to appreciate; but one hears it not only from Party hacks or the politically unenlightened, but from students, as the reason for the pursuit of their studies; from business men and women as the reason to become rich; from intellectuals as the glue to hold China together; from artists, as a source of their inspiration;
- it may not be a tool of governance, but it has the power to direct the great enterprise that is building a new China; and of course, that was the purpose of the Revolution to begin with.

CONCLUDING COMMENTS

- there are other operating principles, that I do not have the time to describe: the push and pull between the Centre - Beijing - and the provinces – a fixture of government and politics throughout the country; the effect of the absence of Party or government accountability to the ruled; the bureaucratic impulse, and so forth.
- My comments have necessarily focused on ‘the systems’ – governance, history, traditions and so forth;
- What is missing from this narrative however is the immediate, personal, dynamic, humorous, immensely enriching and never to be forgotten pleasure of interacting with the Chinese people on a daily basis, from the highest of officials to the most insightful intellectuals to cab drivers and the shopkeepers whose goods we admire and take home. At the beginning and end of the day, this is what we temporary visitors will remember and cherish the most. What a privilege it is to have this kind of opportunity in life.