PART I

Introduction
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Chinese legislatures and political change

Chinese legislatures have had a short and turbulent history. First established in the final decade of the Qing Dynasty (1644–1911), popular assemblies have rarely acquired considerable power, persisted for long, or drawn the attention of foreign scholars. The national legislature set up under the Communists is no exception. Since its founding in 1954, the National People’s Congress (NPC) has “traversed a winding and tortuous road of development,”1 with more than its share of detours and wrong turns. A period of legislative activity and reform in the mid-1950s ended suddenly when a series of policy shifts reversed a trend toward institutionalization and reliance on law. For two decades, political campaigns, from the Anti-Rightist Movement (1957–8) to the Great Leap Forward (1958–60) to the Cultural Revolution (1966–76), interrupted legislative development and ultimately drove the NPC into inactivity. For the last ten years of Mao Zedong’s life, a legislature whose ancestry was in the “revisionist” Soviet Union and the “capitalist” West had no place in the Chinese political system; it was ignored and scorned, called a “rubber stamp” or a “phony organ of idle talk.”2

Then, in the autumn of 1976, Mao died. His passing ushered in a new era in Chinese politics – one that brought a reassessment of past policies and a series of political reforms, including revival and strengthening of the NPC. Beginning in 1978, party leaders convened people’s congresses each year and encouraged lively debate. Legislative committees were reestablished and NPC involvement in law making, oversight, representation, and regime-support activities reached and surpassed the level of the mid-1950s. Even after the promulgation of a new constitution in 1982 and the military suppression of 1989, discussions continued on the proper role of a legislature in a socialist, one-party state and reform proposals continued to appear.

Few western scholars, however, have investigated legislative renewal or its implications, save as one small part of the political reform program.3 What
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can be learned from direct focus on the NPC, its demise and its rebirth remains to be explored.

An indicator of change

Legislative development (or decay) is a component of political change.4 In nations with weak legislatures just as in those with strong legislatures, growth or decline of an assembly’s institutional importance alters the pattern of rule. In socialist systems in particular, the health of a legislature reveals much about the state of mass-elite relations and the division of tasks among government organs. When a socialist legislature is impotent or ignored, law making, supervision, representation, and regime-support activities are dispensed with or carried out elsewhere. When a legislature is rising and active, it assumes a range of responsibilities and may serve as a testing ground to develop and refine techniques of rule. In China, the NPC’s ups and downs have coincided with changes in the policy-making environment and have heralded (or reflected) changes in the way leaders interact with the citizenry and with each other. Throughout its history, the NPC has been a window on evolving party–society and party–state relations that has shed light on the broad character of the Chinese polity – how open or closed it is, how exclusive or inclusive it may be becoming.5

In one institution in miniature, the forces of change and continuity have met. At different times, reform or reaction has prevailed. But the underlying question, posed at the end of the Qing dynasty and still troubling to this day, has remained the same: What must be done to build China into a strong and prosperous nation? Through our legislative window, three separate but intersecting alternatives can be discerned.

First, the path of liberalization. Advocates of liberalization in modern China have achieved prominence on several different occasions – in the 1910s, during the Hundred Flowers Movement in the mid-1950s, in the early years of the post-Mao thaw, and for a short period prior to Zhao Ziyang’s 1989 removal. In the legislature, their ascendancy has been marked by lively criticism and calls for structural reform. Liberal reformers, at various times, have sought to limit central power and to transform the legislature into an institution with an established role in policy making. They have envisioned outside control over leaders and regular influence over policy: they have aimed to build a legislature that has the ability to veto misguided policies and the power to remove incompetent or corrupt leaders. They have sought to strengthen the nation by diffusing power. When permitted to do so, liberalizers have urged leaders to be more responsive and have championed
electoral reform and elite accountability; they have supported close legislator–constituent ties and active representation of individual, partial, and national interests. Despite repeated setbacks, several generations of liberal-minded reformers have periodically reintroduced the idea of popularizing autocratic rule and allowing limited political competition. Though never strong in numbers, advocates of liberalization have galvanized the nation with bold proposals and have explored the outer bounds of permissible debate.

A second option discussed for many years has been that of rationalization. Less far reaching than liberalization, rationalization involves routinizing and legalizing political power and circumscribing the authority of individual leaders. Proponents of this strategy have emphasized fixed legal codes, formal rules, and a “rational division of labor” among government organs. They have recommended clarifying jurisdictions to prevent overconcentration of power and to increase government efficiency. Less interested in diffusing power than liberalizers, rationalizers have focused on increasing the capabilities of the state and institutionalizing political power. They have sought a predictable and orderly political system in which the duties and rights of government officials and ordinary citizens are clearly spelled out in regulations and laws. In the legislature, they have been particularly concerned with managing intraelite relations and have stressed the importance of law making and government supervision. The rationalizing impulse has been evident at various times in the modern era, and was a strong current for much of the 1990s.⁶⁶

A third course, relevant only to China under communist rule, can be considered under the rubric of “inclusion.” Inclusion, as Kenneth Jowitt uses the term, refers to measures adopted by the leaders of a one-party, Leninist state that institutionally acknowledge social diversity and grant limited access and influence to nonparty forces, but do not require functioning electoral machinery or imply any right to organized opposition. Inclusion might be thought of as a promise to be consulted – a right to a presence in policy making, if not always a regular, guaranteed role. It involves enlarging the united front’ and institutionalizing legitimacy – using the legislature (as well as other organizations) to integrate the political community and to organize it around one-party rule. It entails heading off antisystem ideas by cooptation rather than coercion and expanding the internal boundaries of the regime to preempt political challenges and protect party rule.⁷ Over the years, the NPC has been a prime venue to witness changing approaches to inclusion. At times, the leadership has used the NPC to exclude the putative “enemies of socialism” and to pursue class-based pro-
grams. At other times, the legislature has been used to win over these same enemies, when their cooperation was deemed necessary to realize leadership goals.

Periodically, all of these options – liberalization, rationalization, and inclusion – have come onto the agenda in ways that touched the legislature. Appropriate reforms have been suggested, accepted, rejected, revoked, and reconsidered. Two steps forward have been followed by one step back – or three steps back. By tracing legislative change, we gain insight into the trajectory of Chinese political development and consider recurring choices that confront leaders of an illiberal polity as they seek to modernize. From one position in the political system, we assess where the nation has been and where it may be heading.

A preview of the argument

The position of the NPC on the eve of Zhao’s fall suggested conditional steps toward rationalization and inclusion, combined with continuing rejection of liberalization. Despite notable efforts to reduce capriciousness and to broaden the base of the regime, the reforms of the 1980s did little to increase political competition or to institutionalize responsiveness. In the NPC, legislators often discussed improving one-party rule; few suggested ending it. A legislator’s ability to press minority views or to agitate for individual, group, or sectional interests continued to hinge on leadership sufferance rather than right or unquestioned custom. Long-standing structural obstacles to legislative liberalization (including unfree elections; large chamber size; brief, infrequent plenary sessions; and weak committees) remained partly in place, and legislative functions (e.g., propaganda, education, socialization, mobilization), entrusted under Mao, continue to be embedded in the NPC’s structure and in the minds of Congress leaders and other elites. Legislative influence, as in the past, was granted only when it was broadly supportive and the NPC existed to provide informal consultation rather than formal restraint. Reforms had not recast the NPC into a popular, representative assembly; those who anticipated such a transformation had lost sight of the realities of party rule and the entrenched historical, structural, and ideological obstacles that impede Chinese legislative change.

Though Deng and his associates firmly rejected liberalization several times during the 1980s, they expressed concern with rationalization through efforts to regularize policy making and to guarantee policy implementation. This shift was visible in the NPC in organizational changes that (1) strengthened the NPC Standing Committee and expanded its scope of action, (2) increased
specialization, procedural regularity, and full-time staff, and (3) improved internal organization. The NPC of the 1980s devoted proportionately less time to symbolic, educational, informational, and mobilizational functions and more time to law making and supervision. Although the legislature rarely rejected executive proposals or initiated bills, the NPC and its committees occasionally drafted legislation, often revised and edited it, and always oversaw the drafting process. The Standing Committee, Law Committee, and Legislative Affairs Commission, in particular, assumed an active role in clarifying and elaborating general directives and in modifying laws to ensure their feasibility and implementation.

After decisions were made and promulgated, legislators frequently criticized state bureaucrats and conducted inspection tours of policy implementation. The NPC began to act as a clearinghouse, often a proxy for the party, that gathered information on local and central departments that were not implementing policy and that defined and supervised handling of unconstitutional and illegal behavior. Information was channeled to decision makers to help them refine their directives and to improve local compliance. The objective of rationalizing law making and supervision was to reduce arbitrariness, hastiness, and nonconformity, and to check overoptimism and sloganeering; the hope was that the legislature could play a part in restoring balance and stability to a system whose motive forces had long been imbalance and instability.

At the same time, Deng-era NPC representative and regime-support activities indicated selective adoption of inclusionary approaches. Movement toward inclusion was evident in the use of the NPC to broaden the united front and to institutionalize legitimacy. Members of formerly disparaged social groups were encouraged to speak out and spirited debates were allowed in exchange for consent to one-party rule and willingness to propagate party policy. The composition of the NPC and its committees was changed to include additional scholars, technical experts, rich peasants, and “tails of capitalism.” By allowing social and economic elites to meet with high cadres and to express dissatisfaction, the party was seeking to show that it could incorporate a variety of societal interests — that the united front included all loyal citizens and that advantages accrued to those who accepted party rule. By allowing legislators to undertake representative activities, including obtaining benefits for individual constituents and requesting redistribution of resources to regions or social groups, reform leaders, particularly Zhao Ziyang and Hu Yaobang, displayed a more sophisticated understanding of strategies that generate legitimacy among the skeptical, the alienated, and the apathetic and of means to organize the political community around the
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principle of one-party rule. In exchange for a right to disagree and to articulate group interests, first generation post-Mao leaders expected deputies to penetrate society, to build legitimacy, and to contribute to system maintenance. Reformers offered members of key social groups inclusion to soften demands and to preserve an illiberal state. Limited inclusion thus appeared as a substitute for liberalization, not as a sign of it.9

Since 1954, the legislature, an emblem of liberal democratic rule, has been struggling to find a place in an illiberal and undemocratic state. To understand the significance and consequences of this undertaking, we must explore how historical events, past decisions, ideological propensities, organizational arrangements, and functional imperatives shaped the NPC and determined its role. We must understand the repertoire of choices available to several generations of national leaders and the ways in which history, structure, and function have interacted to make some forms of institutional and systemic change more likely than others.10

A note on method

Nelson Polsby outlines two approaches commonly used to study legislatures and legislative activities. Functionalists look across the political system for agencies and occasions on which law making is performed. Structuralists focus on the legislature itself and enumerate the many functions legislatures actually account for.11 Functionalists discuss legislatures incidentally, albeit in a rich and complex mesh of institutional interrelationships. Structuralists investigate legislatures systematically, but with scant reference to other organizations engaged in similar work. Both approaches are functionalist in an important sense—they look for functions performed by institutions. Neither, however, is particularly well suited to identify institutional and systemic change; one provides a cross section at a given moment, the other lacks a sense of system.

Students of socialist legislatures often adopt a structural approach, emphasizing the internal organization of a legislature and the functions it performs—including rule making, representation, and a host of regime-support activities. Though a natural and necessary first step, an exclusively structural orientation reveals what a legislature does but not how important it is to the political system. We can agree that the legislature plays a role in mobilizing non-elites and in integrating and legitimizing the polity without understanding what particular contribution it makes to achieving ends simultaneously pursued in many places and ways. In William Welsh’s view, single-minded focus on the legislature itself encourages portrayal of other institutions in
terms of their relationship to the legislature rather than their role in the allocation of values:

The overall impression is what one might receive from being sequentially presented with small bits of a large photograph, arranged in no particular order and presented in no particular sequence. The picture is all there, but some segments of it have been enlarged dramatically, whereas others have been reduced. There is no frame or schema that can be used to put the pieces of the picture back in their proper places. 12

Putting legislatures back into a functional and processual context, however, is not without problems, frequently of a reductionist nature. The dangers of a strict functionalist approach are well known. Over twenty years ago Michel Crozier wrote:

Functionalists always run the risk of indulging in a self-deceiving, conservative, and complacent commentary on the status quo. When analyzing the tendency to remain stable and to perpetuate itself manifested by a complex set of interrelationships they often forget how a system has developed and why it will ultimately have to change. . . . Functionalists usually forget to discuss why, when, how, and under what circumstances strains that had heretofore reinforced the hold of the central pattern become too burdensome for it and force it to transform itself or even disappear. 13

In studying the NPC, functionalism would draw us to a series of "yes-no" questions on rule making, mostly answered "no." We would primarily learn what the NPC was not. Directed away from questions on history, ideology, and structure, we could not assess the institutional impact of the legislature; moreover, we could "analyze how change has been integrated within the system, but not how the system itself could change." 14

Exploring many functions carried out by one institution or one function carried out by many institutions is not sufficient. Both structural and functional approaches give incomplete answers to the question of how the legislature performs assorted functions in a political system in which many bodies share responsibility for the same tasks.

An integrated historical-structural study of legislative activity and legislatures investigates all functions associated with legislatures and all structures associated with legislative activities. Analysis across institutions complements analysis of the history, ideologies, structure, and power relationships within each institution. Only through such an approach can we explain how the NPC fits into the political system and why and how it performs certain functions at certain times. Only by combining features of structural and functional approaches, and adding an oft-lacking longitudinal dimension to both, can we uncover the contradictions inherent in Chinese legislative theory and practice and the possibilities for change stirring within.
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The analysis to come only follows this research plan in broad outline, because examining all the NPC’s rivals in their full complexity, over time, is beyond my scope. Nonetheless, sections on ideological constructs and systemic relationships (Chapters 4, 5, 7, and 8) supplement a basically structural approach, help explain the causes of NPC decay and destruction (Chapters 3 to 5), and prepare the stage for study of the legislature’s revival and transformation (Chapters 6 to 8). The aim is to round out the picture sketched by NPC history (Chapters 2, 3, and 6) and internal organization (Chapters 4 and 7) with two snapshots of the legislature’s position in the political system – one in Mao’s China (Chapter 5), and one in Deng’s China (Chapter 8). This method does not do full justice to change, nor treat it as the continuous function that it is. It does, however, isolate trends and illuminate the “strains that uphold the central pattern” – strains that made the NPC what it was from 1954–76 and predicated the direction, speed, and magnitude of changes since.

An historical-structural analysis involves study of a legislature’s past, including periods of decline and impotence. Due attention to weakness reveals historical, structural, and ideological constraints and shows the many gradations within the category illiberal legislature. It also provides a baseline against which strengthening can be assessed – small, but significant, efforts to upgrade the legislature are not lost in a sea of unrealistic comparisons. A weak legislature’s past brings to light opportunities missed, reforms discussed but not implemented, and reforms implemented but not maintained; this is important because yesterday’s nonissues and “almost issues” often reappear as today’s agenda for reform.15

Study of history also uncovers the events that shaped the way elites think about legislatures – events that opened certain avenues of development, and closed off, or at least made much less likely, other avenues. Historical analysis clarifies the genetic stock of an institution and shows how making one choice at time t can impede or facilitate making a second choice at time t + 1.16 Historical analysis shows how the past channels and constrains change: how it presents options, creates habits, and teaches lessons. Though history does not supply definitive causal links, it continually imposes on the present and reminds us of the culture into which the NPC was thrust. It helps us perceive the context in which institutions operate and the inefficiencies that slow or prevent the attainment of a lasting equilibrium.17 Researching the NPC’s past (and that of earlier assemblies) illuminates the contradictory expectations present at the legislature’s founding and the external jolts that affected its development. Study of the NPC over time also shows that change is often transitory and must be reaffirmed if it is to persist.
Structural analysis complements historical analysis. Structural analysis entails discussion of the Leninist Chinese political system and the Stalinist legislature established in 1954. It brings to the fore a web of institutional relationships and communist precepts that circumscribe legislative development – some of which are changing, some of which are not. Structural analysis draws attention to organizational impediments within the NPC, which over the years prevented it from becoming an effective political actor. It highlights the institutional manifestations of past choices and the prevailing systemic and ideological background against which change occurs. Structural analysis, broadly construed, delimits boundaries and a framework for action, and it suggests obstacles that must be overcome if the NPC is to carry out the tasks it is now assigned.

In the final analysis, a changing legislature attests to a changing polity. The NPC is embedded in an historical and structural context and it is part of the change of that context; it is a product of functional demands of the past and a survivor into a present whose functional imperatives are quite different. Altered legislative involvement in law making, supervision, representation, and regime support signals a systemwide redivision of political tasks. Knowing a legislature’s role in a maturing, socialist system, we better understand the system and the forces for change brewing within.