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Rightful Resistance

The words “popular resistance” typically bring to mind images of negation, usually of the legitimacy of something, and actions by people who lack recourse to institutional politics. When considering examples of popular resistance, we are drawn to accounts of marginalized workers and peasants rejecting the claims of political and economic elites – of efforts by the poor and weak to upset the plans of those with more power and status. Whether it is furtive, everyday resistance to changes in village norms and charitable practices, or open defiance of national rule, it is uninstitutionalized acts that spring from a deeply felt (if sometimes artfully undeclared) denial of legitimacy that tend to attract attention.

Much popular resistance surely fits this description. Struggles to tame political and economic power are often waged by the utterly excluded and rest on feelings of disavowal, even outrage. At the same time, however, other episodes of resistance exhibit a somewhat different logic. Contentious politics is not always a story of neatly divided antagonists, with representatives of the state or dominant classes posed on one side and members of the popular classes on the other. Sometimes resistance depends on the discontented locating and exploiting divisions within the state. In these circumstances, setting up subordinates (in society) in opposition to superordinates (in the state) can obscure how people actually go about warding off appropriation and political control. Thinking in terms of two parties can be especially misleading in those cases when aggrieved persons employ government commitments and established values to persuade concerned elites to support their claims. When receptive officials, for instance, champion popular demands to execute laws and policies that have been ignored elsewhere in the hierarchy, unexpected alliances often emerge and simple dominant-subordinate distinctions break down. On these occasions, popular resistance operates

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partly within (yet in tension with) official norms; it depends on a degree of accommodation with a structure of power, the deft use of prevailing cultural conventions, and an affirmation – sometimes sincere, sometimes strategic – of existing channels of inclusion.

More than a decade ago, Jeffrey Herbst (1989: 199) pointed to the importance of opportunities afforded by the wider environment to dissatisfied members of the popular classes. He advised against turning the state into a “forbidding monolith” and recommended recognizing that “certain institutional arrangements and political goods may be particularly amenable to the type of political pressure that only weak, unorganized groups can bring to bear.” At about the same time, James Scott (1990: 101, 106) called attention to forms of resistance that occur “within the official discourse of deference,” inasmuch as they rest on ethical claims legitimated by official ideologies. Such resistance, Scott explained, can hamstring elites because it is couched in the language of loyal intentions; it can reveal when members of powerful groups have dared to take liberties with the symbols in which they are most invested. Meanwhile, other students of contentious politics have used terms such as “in-between forms of resistance” (Turton, 1986), “consentful contention” (Straughn, 2005), “reformist activism” (Anderson, 1994), and “reasonable radicalism” (McCann, 1994) to describe petition drives in Thailand and East Germany, struggles to reclaim appropriated land in Latin America, and the use of antidiscrimination laws to agitate for equal pay in the United States. What is to be made of individuals or groups who dispute the authority of certain political authorities and their actions while affirming (indeed relying upon) other authorities and established values to pursue their ends? How should we understand contentious acts that are intended both to open channels of participation and to make use of existing channels, that straddle the border between what is usually considered popular resistance and institutionalized participation?

This chapter begins the task of defining rightful resistance, first rather abstractly, then on the ground in rural China and elsewhere. Rightful resistance is a form of popular contention that operates near the boundary of authorized channels, employs the rhetoric and commitments of the powerful to curb the exercise of power, hinges on locating and exploiting divisions within the state, and relies on mobilizing support from the wider public. In particular, rightful resistance entails the innovative use of laws, policies, and other officially promoted values to defy disloyal political and economic elites; it is a kind of partially sanctioned protest that uses influential allies and recognized principles to apply pressure on those in power who have

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failed to live up to a professed ideal or who have not implemented some beneficial measure.

Rightful resisters normally frame their claims with reference to protections implied in ideologies or conferred by policy makers. Because they often demand little more than scrupulous enforcement of existing commitments, theirs is a contention based on strict adherence to established values. In their acts of contestation, which usually combine legal tactics with political pressure, rightful resisters typically behave in accord with prevailing statutes (or at least not in open violation of them). They forgo, for example, violence or other openly criminal behavior,¹ which might weaken their standing and alienate their backers. Instead, rightful resisters assert their claims largely through approved channels and use a regime's policies and legitimating myths to justify their challenges. Rightful resisters act as if the instruments of domination that usually facilitate control can be turned to new purposes; they have an aspirational view of government measures and elite values and recognize that the very symbols embraced by those in power can be a source of entitlement, inclusion, and empowerment (in other contexts, see Goldberg, 1986: 14–15; Matsuda, 1987; McCann, 1994: 232–33).²

Rightful resistance resembles other forms of popular contention, though at some remove. Like a full-fledged social movement, rightful resistance involves a collective, public challenge, based on common purposes and group solidarity (Tarrow, 1998: 4). It also harks back to Gramsci's (1971: 229–39) "war of position," in that it involves probing for vulnerabilities in a facade of power, and because it offers the marginalized a way to work the system to their minimum disadvantage (Hobsbawm, 1973: 13). In their search for patrons, rightful resisters also bear some likeness to "rebels in the name of the tsar" – Russian peasants who employed the myth of the tsar-deliverer to mobilize others, protect themselves, and reject claims made by "faithless" officials (Field, 1976). At the same time, rightful resisters have a certain affinity with "everyday resisters" (Scott, 1989: 8) insofar as their challenges are opportunistic and measured and because, at least at first, they almost always lack the organizational resources and collective consciousness shared by members of well-formed groups.

¹ We exclude violent acts by definition, although rightful resistance can escalate into violence, after, for instance, repeated failures or local repression.

² On the use of official symbols and practices as a base for protest in China, see Perry (2003a: xxiii), Thornton (2002), and Wasserstrom (1992: 135–36).

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As should be clear, however, rightful resistance is not simply a specific kind of social movement, everyday resistance, or not-so-naïve monarchism. Unlike a typical social movement, rightful resistance is often episodic rather than sustained (Tarrow, 1998: 4–5), within-system as much as extra-institutional (Burstein, Einwohner, and Hollander, 1995: 277; Gamson, 1990; McAdam, 1982: 25; but cf. Goldstone, 2003: 2), and local or regional rather than national or even transnational (Tarrow, 2005; Tilly, 1986: 392). Unlike rebels in the name of the tsar, rightful resisters stop short of violence and are not limited to wishfulness and willful misinterpretation of imaginary protections. Their insubordination is in fact nurtured by authoritative pronouncements, and they have evidence (or at least good reason to believe) that powerful and sympathetic advocates exist. And unlike everyday resisters, rightful resisters seek rather than avoid the attention of elites: whereas foot dragging, poaching, sabotage, and other “weapons of the weak” are invariably quiet, disguised, and anonymous, rightful resistance is invariably noisy, public, and open. Rightful resisters aim to mitigate the risks of confrontation by proclaiming their allegiance to core values rather than by opting for disguised dissent. Indeed, because they work the territory between officials and challenge misconduct using an approved discourse, rightful resisters do not subscribe to the view that “the state and its laws are typically inaccessible, arbitrary and alien” (Scott, 1989: 28). To the contrary, they have learned how to exploit the potent symbolic and material capital made available by modern states. Rightful resistance is thus a product of state building and of opportunities created by the spread of participatory ideologies and patterns of rule rooted in notions of equality, rights, and rule of law. It derives as much from the “great tradition” of the powerful as the “little tradition” of the powerless and is a sign of growing rights consciousness and a more contractual approach to political life. It appears as individuals with new aspirations come to appreciate common interests, develop an oppositional consciousness,³ and become collective actors in the course of struggle.

For rightful resistance to emerge, discontented community members must learn that they have been granted certain protections, often in the course of prior “contentious conversation” (Tilly, 2002: 111–22). For it to be effective, its practitioners must craft effective tactics, mobilize followers, and win a measure of sufferance, even support, for their contention. That

³ On the development of an oppositional consciousness that only partly rejects a would-be hegemonic consciousness, see Morris (1992: 363–64).

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rightful resisters often engage in deliberately disruptive but not quite unlawful collective action inevitably attracts the attention of officials responsible for preserving order and administering justice. That they use the vocabulary of the regime to advance claims can help them locate advocates among the powerful and may afford a measure of protection when their plans go awry.

Rightful resistance, with its slightly oxymoronic sound, is the quintessential “critique within the hegemony” (Scott, 1990: 106). Those who pursue it act as if they take the values and programs of political and economic elites to heart, while demonstrating that some authorities do not. They launch attacks that are legitimate by definition in a rhetoric that even unresponsive authorities must recognize, lest they risk being charged with hypocrisy and disloyalty to the system of power they represent (see Scott, 1990: 90–107; Straughn, 2005).

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Rightful resistance can appear in many settings; it happens, however, that the concept was derived from research in the Chinese countryside. In the next part of this chapter, we turn to examples of collective action in rural China to shed light on the claims, origins, and dynamics of rightful resistance. Individually, each episode illuminates at least one feature of rightful resistance.⁴ Together, they trace what can happen when villagers frame their claims around Communist Party policies, state laws, and official values; solicit assistance from influential allies; and combine legal tactics with collective action to defend their “lawful rights and interests” (*befa quanyi*).

Rightful Claims

The roots of Chinese rightful resistance lie in the rich soil of central policy. To appreciate how the programs of an unaccountable national leadership provide openings for rightful resisters, the term “central policy” must be understood in its broad, Chinese sense. Central policies, in this usage, include essentially all authoritative pronouncements, ranging from Party documents, laws, State Council regulations, and leadership speeches

⁴ Given the sensitivity of rural contention and the limitations of Chinese sources, full ethnographic detail for each episode was not always available.

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to editorials by special commentators in prominent newspapers. Central policies can be both as general as “guidelines” (*fangzhen*) that cadres should “develop the economy” or be “clean and honest” or as specific as regulations prohibiting local fees from exceeding 5 percent of a village’s net per capita income the previous year (Nongmin chengdan feiyong, 1991; see also Bernstein and Lü, 2003: 167–68). At the same time, central policies may be formally ratified, like the State Constitution, or only informally publicized, like Deng Xiaoping’s remark that “some people should be allowed to get rich first.” The scope of central policy in China thus encompasses what constitutes law in most other nations but also reaches into far murkier realms, such as pledges made by officials on inspection tours, Party propaganda, and the “spirit of the Center” (*zhongyang jingshen*).

In the Chinese countryside the number of grievances amenable to rightful resistance has been rising. In contrast to the early reform era, discontented villagers increasingly cite laws, regulations, and other authoritative communications when challenging all sorts of cadre malfeasance, including misconduct related to economic appropriation, grass-roots elections, village finances, land use, cadre corruption, and the use of excessive force (Bernstein and Lü, 2003; Cai, 2003; Guo, 2001; Howell, 1998; Jennings, 1997; Li and O’Brien, 1996; Liu, 2000; O’Brien, 2002; Wedeman, 1997; Zweig, 2000). They often claim a right, for instance, to withhold grain tax payments because they have not received fertilizer or diesel fuel that government authorities were contractually obliged to provide (Shixin haiyao feili, 1993). On even firmer ground, rightful resisters sometimes point to regulations limiting “farmers’ burdens” (*nongmin fudan*) to fend off unapproved fees or demands for grain that exceeds amounts previously agreed to (Bernstein and Lü, 2003). In one of the poorest villages in Henan’s Sheqi county, for example, a group of plucky villagers presented county officials with State Council regulations distributed by the prefectural government when protesting thirty-seven fees that far exceeded the 5 percent limit (Cheng Tongshun, 1994: 11–12). The complainants’ unspoken threat was that if county officials dared to rebuff them, they would take their case up the hierarchy and insist that prefectural officials enforce central regulations they themselves had publicized.

Contractual ways of thinking and a growing fluency in rights talk appear to underlie much of the rightful resistance present in rural China (Brandstädter and Schubert, 2005; S. Chan, 1998; Diamant, Lubman, and O’Brien, 2005; Interviews 4, 11; He, 2005: 217; Jakobson, 2004; Jing, 2000; Johnson, 2004; Liebman, 1998; O’Brien, 2001, 2002; Pei, 1997; Tanner,

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1994; Zweig, 2000). Censorious villagers are demanding fidelity to values and rights embodied in the contract responsibility system of farming (which has been promoted by the central government since the early 1980s), and they are finding fault with local power holders who fail to respect the sanctity of agreements (Blecher, 1995: 106; Zweig, 1997: 151–82). These exacting critics know that the Center seeks to encourage economic growth and head off unrest by creating webs of mutual obligation, and they are prepared to hand over whatever grain, taxes, and fees they lawfully owe, provided the local representatives of state power treat them equitably, respect their rights, and deliver on promises made by officials at higher levels.

When, however, grass-roots leaders neglect the letter of the law or sidestep limits on their discretion, eagle-eyed villagers are quick to step in and to accuse them of engaging in prohibited behavior. Aggrieved farmers say things such as, “Failing to carry out the ‘three-linkage-policy’ [concerning supply of agricultural inputs] amounts to unilaterally breaking a contract. I have the right not to pay the grain tax. You have broken the contract, so how can you ask me to honor it?” (Shixin haiyao feili, 1993: 41). Or, “central policy says that after farmers fulfill their contractual obligations, we can sell our grain freely on the market, so why don’t you obey? If you don’t listen to the Center, then we won’t listen to you. . . . Why do you always oppose the Center? Why do you always oppose us? Are you cadres of the Communist Party?” (Tang Jinsu and Wang Jianjun, 1989: 4). Employing authorized symbols to pose inconvenient rhetorical questions, these villagers wrap their resistance in sweet reason and tender impeccably respectable demands; at the same time, their rebukes reflect growing rights consciousness and a claim to equal status before the law.

In addition to inspiring challenges to unauthorized financial demands, a contract-based understanding of accountability is also apparent in China’s rural areas as villagers turn a disapproving eye toward “unqualified” (*bu hege*) cadres and the undemocratic methods by which they are often selected. Delegations of rightful resisters, for example, frequently lodge complaints about rigged village elections, demand greater responsiveness, and request the removal of imperious local leaders (Howell, 1998: 103–4; Li, 2001; Liu, 2000: 30–34; Jennings, 1997: 366; O’Brien, 2001, 2003; O’Brien and Li, 2000, *Zhongguo Jiceng Zhengquan Jianshe Yanjiuhui*, 1994). Relying mainly on the Organic Law of Villagers’ Committees (1987, revised 1998) and provincial regulations governing its implementation, some villagers make much of procedural violations (e.g., snap elections, stuffed ballot

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boxes, nomination abuses, annulled elections) concerning one of the more delicate issues in rural China: rules mandating how the village political elite is constituted.

While infractions of laws that stipulate election procedures, fee limits, land use, detention limits, and so on are generating rightful resistance in many locations, Chinese villagers also base their challenges on Party policies that have not been formalized in legislation. These include, for example, a circular on transparency and democratic management of village affairs, which entitles villagers to make claims related to financial disclosure (Zhonggong Zhongyang Bangongting and Guowuyuan Bangongting, 1998, June 1: 1); cadre responsibility systems, which set targets for cadres but also oblige them to respect villagers' rights (Edin, 2003; O'Brien and Li, 1999; Wedeman, 2001; Whiting, 2001: 100–18); minutely detailed village compacts and codes of conduct, which codify rights and responsibilities and provide standards for cadre supervision (Anagnost, 1992: 178; Bøckman, 2004; O'Brien, 1994b: 43–44);⁵ and birth control regulations – not the policy itself, which is of course impervious to rightful resistance, but improper favoritism in allocating village-level quotas and other enforcement issues, such as the use of coercion, arbitrary fines, and the destruction of homes (O'Brien and Li, 1995; White, 2003: 189).⁶

⁵ Such rules are, of course, also designed to control ordinary villagers. On the “10 Stars of Civilization,” see Thøgersen (2000: 138–40) and O'Brien (2004). Village compacts date back to the eleventh-century Neo-Confucian ideas of Lü Dafang and were promoted by Wang Yangming in Jiangxi during the sixteenth century as a way “to ameliorate social duress or political unrest” (Bockman, 2004: 7). Village compacts in late imperial China often stipulated tax regulations, corvée labor responsibilities, timber rights, and so on. During the Ming and Qing dynasties, the reading aloud of imperial edicts (at periodic meetings held to discuss compacts) made many villagers aware of central policies (Bockman, 2004; also Elizabeth Perry, personal communication, 2005).

⁶ In December 2001 a national law on population and birth planning was finally enacted. Although it states that officials must “enforce the law in a civilized manner, and must not infringe upon citizens' legitimate rights and interests” (art. 4), and calls for punishments for “abusing citizens” (art. 39), analysts (e.g., Winkler, 2002: 395–98) have noted that it does not fully define “legitimate rights and interests” or provide strong enforcement mechanisms. Popular contention surrounding this law has begun to occur. In rural Linyi, Shandong province, for example, a collective lawsuit was filed in 2005 against local authorities who demanded that families with two children permit one parent to be sterilized. A self-trained lawyer pressed the villagers' case until he was seized in Beijing by local authorities and spirited back to Linyi. Prior to the activist's detention, Yu Xuejin, a senior official with the National Family Planning Commission, applauded the villagers for asserting their rights and said that the practices they described in their lawsuit were “definitely illegal.” He added that, if the 2001 Law's provisions on “informed consent” had been violated, “I support the ordinary people. If they need help, we'll help them find lawyers” (Pan, 2005, August 27; Pan,

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All these protections offer ready-made rationales for demanding rights offered by the Center but denied at lower levels. When such well-grounded appeals do not meet with success, however, another set of somewhat more equivocal commitments provides a different sort of ammunition – usually less potent, but occasionally quite effective. Since the 1980s, villagers have been linking their claims with seemingly halfhearted campaigns “to clean up the government” (*lianzheng*), “to struggle against corruption” (*fan fubai douzheng*), “to build socialist democracy” (*jianshe shehuizhuyi minzhu*), “to build a country ruled by law” (*jianshe fazhi guojia*), and even to promote “citizenship rights” (*gongminquan*)⁷ and “to protect human rights” (*baohu renquan*). Venturing forth in the name of unimpeachable ideals and in response to the Center’s “call” (*haozhao*), they use the regime’s own pledges to assail corrupt, predatory, and coercive cadres. At the same time, some villagers have also given new life to Maoist norms and buzzwords by summoning “communist values” to support demands that cadres “work hard and live plainly” and be willing to “serve the people” (Interviews 4, 6, 7, 8, 35). Acting now in the name of loyalty to the revolution and its founder, they “search for the real Communist Party” and level charges against “commandist” and grasping cadres who “oppress the masses” and are not “authentic communists” (e.g., Interviews 7, 22, 36, 37; Wang Wanfu, 1992: 33).⁸

Origins and Dynamics

Rural resistance is, of course, far from new in a nation where peasant rebellions have occurred for thousands of years and no decade since the fall of the Qing Dynasty has been entirely free of rural unrest (Bernhardt, 1992; Bianco, 2001; Perry, 1984, 1985; Thaxton, 1997; Unger, 2002: 49–72; Wong, 1997; Zweig, 1997: 130–50). Even more germane to our discussion, petitioning and appeals have long been elements in the Chinese

2005, September 7). Whether this law leads to an upsurge of rightful resistance surrounding reproductive policy remains to be seen.

⁷ This discourse is particularly relevant to rightful resistance (Goldman and Perry, 2002; Gray, 2001; Keane, 2001; McCarthy, 2000; O'Brien, 2001; Parris, 1999; Solinger, 1999).

⁸ Perry (2003b: 266, 270) underscores protest legacies that date to the Cultural Revolution and a “continuing reverence for certain Maoist values.” Thornton (2004: 87–104) focuses on contemporary, rural tax resisters who have mounted “protest[s] that invoke the revolutionary language and class-based oppositions of the Mao era.” Among state-owned workers, the laid-off, and retirees in China’s cities, claims based on the “sacred rights” of the past are even more common (F. Chen, 2003; Hurst and O'Brien, 2002; Lee, 2000, 2001; but cf. Blecher, 2002).

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repertoire of contention (Esherick and Wasserstrom, 1990; Minzner, 2005; Rankin, 1982; Ocko, 1988; G. Zhou, 1993), and it was Mao himself who launched mass campaigns against corrupt and unreliable grass-roots cadres and said “to rebel is justified” (Perry, 2003b). Throughout history, resourceful protest leaders have been conscious of central government rules and adept at seizing on official rhetoric – whether framed in terms of Confucianism or class struggle – to press claims against local power holders. In late imperial China, for example, tenants sometimes used government rulings as grounds to withhold rent payments, and villagers also objected to taxes when they felt local authorities had ignored proper collection procedures and were likely to back off when faced with complaints. Such challenges typically rested on appeals to equity and fairness, focusing on how the tax burden was apportioned or adjusted for harvest conditions and on the use of biased measures and conversion ratios (Bernstein and Lü, 2003: chap. 2; Wong, 1997: 235–37).⁹ Some of these claims were even based on explicit references to tax codes and other government regulations (Bernhardt, 1992; Bianco, 2001).

Still, the rural rightful resistance we focus on in this book is not merely a recrudescence of routines that have existed since time immemorial, or an echo of the mobilized participation of the Maoist era, or a simple borrowing of legalistic tactics pioneered by Chinese workers and intellectuals.¹⁰ For it is only with recent socioeconomic and political reforms that country folk have begun to blend traditional tactics with self-directed, legalistic, and arguably proactive struggles to assert their lawful rights and reconfigure

⁹ Although this book highlights the upsurge in rights-based contention in recent years, rules consciousness and a sensitivity to the power of government discourse are, of course, not unprecedented in China. In the Laiyang tax revolt of 1910, for example, peasants considered the regular rates to be fair enough and employed them to fend off irregular levies. Like the rural complainants of a later era, their resistance was not purely a reactive effort to restore what they had. Beyond demanding the removal of exploitative tax farmers, the Laiyang protesters “also proposed a system to help ensure that corrupt power was not regenerated – namely, the public election of new functionaries to administer reform programs” (Prazniak, 1980: 59).

¹⁰ Perry’s (2003b: 265–66, 274) position is complex. Despite her emphasis on “continuations,” she agrees that recent unrest is also partly a by-product of post-Mao reforms. Heilmann (1996) underscores the adaptation of old repertoires to new concerns and shows how borrowing slogans and tactics from the government arsenal to express heterodox views was a common tactic during the Cultural Revolution. We agree that Maoist practices set the stage for the partly institutionalized, partly legitimate resistance evident today, not least by altering popular expectations, inspiring innovation at the edge of the repertoire of contention, and making villagers more likely to act up when faced with official misconduct.