

# Understanding China's Rising Rights Consciousness\*

Peter Lorentzen<sup>†</sup> and Suzanne Scoggins<sup>‡</sup>

## Abstract

Claims that China's people are exhibiting a rising "rights consciousness" have become commonplace, with some suggesting this phenomenon is driving political change. Yet it is often unclear what the concept means, leading to ambiguous or contradictory conclusions from field research. In order to create a basis for more systematic analysis, we develop a rational choice framework that characterizes three different factors that could lead to rights-conscious behaviour: changing values, changing government policies, and changing expectations of the behaviour of others. What rising rights consciousness implies for social stability can vary dramatically, depending on which change is at work. Rights consciousness resulting from changes in values or in shared expectations of behaviour is destabilizing for the CCP's continued rule, whereas rights consciousness derived from government policies has a stabilizing effect. While in practice these can be interrelated in complex ways, empirical research would benefit from greater attention to these distinctions.

**Keywords:** China; rights consciousness; stability; social unrest; rational choice; authoritarian resilience

In recent years, the growth of "rights consciousness" has become a common explanation for a variety of related changes in the behaviour of ordinary Chinese people, including an increased propensity to strike, to engage in public protest, or to take legal action against more politically or economically powerful bodies.<sup>1</sup> Prominent scholars across disciplines believe this rising rights consciousness has driven important political changes and may even propel China towards democracy. Historian Merle Goldman credits rising rights consciousness as "one of the major changes in the last two decades of the twentieth century."<sup>2</sup> Legal

\* Research support for this article was provided by the Center for Chinese Studies, the Institute for East Asian Studies and the Institute for International Studies at UC Berkeley, and the Hoover Institution. The authors wish to thank Leo Arriola, Pradeep Chhibber, Ruth Collier, Mary Gallagher, Rongbin Han, Yue Hou, Lianjiang Li, Simeon Nichter, Jack Paine, Kevin O'Brien, Elizabeth Perry, Alison Post, Ariel Yun Tang and Wen-hsin Yeh for helpful comments on earlier drafts of this paper.

<sup>†</sup> University of California, Berkeley. Email: [lorentzen@berkeley.edu](mailto:lorentzen@berkeley.edu) (corresponding author).

<sup>‡</sup> University of California, Berkeley.

1 Becker 2012; Goldman 2005; Lai 2010; Richburg 2010; Yang, Guobin 2005.

2 Goldman 2005, 2.

scholar Jerome Cohen writes that, without substantial reforms “courts are unlikely to satisfy the rising rights-consciousness of China’s dynamic society.”<sup>3</sup> Political scientists Thomas Bernstein and Xiaobo Lü suggest that the “impetus for democratization” will begin with “rising rights consciousness,” and speculate that “such rising consciousness [will] lead to fundamental changes,”<sup>4</sup> while Minxin Pei states even more directly that rights consciousness has become a crucial driver of “democratic resistance.”<sup>5</sup> Journalists have also picked up on the concept and have echoed the conclusions of academics, even going so far as to assert that “rights consciousness is spreading through the country like wildfire.”<sup>6</sup>

Clearly, the concept of rights consciousness resonates with what a variety of observers are seeing on the ground in China. Yet, despite or perhaps even because of its wide use, the term suffers from a lack of conceptual clarity. What distinguishes a person or a populace with rights consciousness from one without? Is rights consciousness in China a phenomenon to explain or an explanation for other phenomena?

While the concept of rights consciousness has been in use for some time, only in the past few years have scholars begun to address it directly as an object of study, using a variety of methodologies.<sup>7</sup> Elizabeth Perry draws from history to show that, despite very different slogans, recent protests share common features with social unrest in earlier periods, contending that there is no new “rights consciousness,” but rather a consistent “rules consciousness.”<sup>8</sup> Lianjiang Li, Linda Wong, and Jie Chen have each found evidence of rights consciousness in their survey research.<sup>9</sup> Ching Kwan Lee and Yonghong Zhang argue, based on field interviews, that rights consciousness emerges from bargaining between officials and protesters.<sup>10</sup> This paper enters the discussion by using the logical tools of rational choice theory to provide a clearer conceptualization of what “increasing rights consciousness” means on the ground in China. This allows us to analyse the concept more systematically, helping us to understand what evidence might distinguish one form of rights consciousness from another and to assess each form’s prevalence. A clear conceptualization provides a foundation from which to evaluate the current and potential impacts of rights consciousness on Chinese society. In particular, it sheds light on the forces behind China’s political evolution thus far and the related (although more speculative) question of what China’s future may hold, giving insight into the question of whether or not the growth of rights consciousness is a harbinger of significant changes to come.

To be concrete, we treat rights consciousness as a greater willingness by an aggrieved individual or group to make a claim for redress on the basis of a

3 Cohen 2006, 3.

4 Bernstein and Lü 2003, 251.

5 Pei 2010, 24.

6 Ching 2006.

7 Influential early uses include Zweig et al. 1987 and O’Brien 1996.

8 Perry 2007; Perry 2010.

9 Li 2010; Wong 2011; Chen 2013.

10 Lee and Zhang 2013, 1490.

“right.” This general conception captures most of the examples of rights consciousness mentioned above – presenting a petition, launching a lawsuit, joining a protest, and so forth.<sup>11</sup> We present a simple analysis of the choice to make a rights claim and argue that the various explanations for rights consciousness reflect emphases on different factors influencing this choice. We then extend the analysis to bring into focus additional considerations that have been under appreciated in the debate until now.

In brief, we argue that growing rights consciousness could come from three very different sources: changes in values, changes in state policies regarding rights, and changes in shared expectations about behaviour. A change in values is a straightforward explanation, and perhaps the one in most common use: Chinese people did not value certain rights in the past but are now, in some cases, willing to challenge the state to protect or acquire said rights. In contrast, growing rights consciousness arises from a change in policies if it reflects citizens’ awareness that the state has granted them new rights or has made it known that certain rights-based claims have a greater chance of succeeding than in the past. Rights-conscious behaviour as a result of a change in shared expectations means a new willingness to make rights claims because of a perceived social consensus that a group will stand up collectively when a right is violated. Importantly, this consensus and the resultant behaviour can change even without changes in any citizens’ values or in government policy. We illustrate each of these forms of rights consciousness using high-profile cases of rights claims in China.

The nature and origins of the changes underlying the increase in rights consciousness have important implications both for our understanding of how China’s politics have or have not changed in the post-Mao era and for our expectations of what the future may hold. Rights consciousness arising from changing values seems to pose the promise or threat of a change to the current system. Rights consciousness from changing state policies, by contrast, should have a primarily stabilizing effect. Rights consciousness coming from changes in shared expectations, however, may hold the greatest risk to the regime, as it can change rapidly and unexpectedly. Past discussions of rights consciousness in China largely fail to distinguish between different underlying motivations for rights claims. By focusing on the different potential drivers of rights-conscious behaviour, we hope to create the basis for a new, more systematic analysis of a muddy concept.

### **Three Sources of Rights-Conscious Behaviour**

To structure the rest of the discussion, we provide a general framework that encompasses the different factors that might lead to greater rights consciousness. Analysts have invoked increasing rights consciousness to explain why people

11 Since such acts are rare, survey research generally examines attitudes that might affect the propensity for such behaviour. However, we believe the underlying goal is still to understand the motivations and prospects for rights-conscious acts.

choose to defend or claim some right by challenging the state, such as through a lawsuit or public protest; what we seek to explain is the greater frequency of such acts. To understand all the key elements of this claim-making, as well as the motivations surrounding it, we abstract from the specific kinds of behaviour and simply focus on the decision of whether or not to make such a claim. This allows us to parse out the possible reasons behind claim-making and gain insight into the differing forces that might be behind rising rights consciousness.

To think about claim-making in rational choice terms, we first need to understand what choices are available, what likely outcomes are associated with each choice, and the claim-maker's preferences over these outcomes. A rational actor will only make a claim if he or she expects to benefit in some way. Take, for example, the workers who went on strike in 2010 at the Honda transmission factory in the Nanhai 南海 district of Foshan 佛山 city, Guangdong.<sup>12</sup> In rational choice terminology, this collective decision to strike suggests that the workers believed the *expected net benefit* of making their claim for higher wages was positive. That is, they thought they would gain something by striking. In the Nanhai case, they were right. The workers' two-week strike ended in victory, with Honda agreeing to increase salaries by approximately 24 per cent.<sup>13</sup> The workers' expected net benefit can be broken down into three parts: the probability their claim would succeed, which we denote as  $p$ , the benefit of striking (the raise they hoped to get), denoted as  $b$ , and the cost of making the claim (such as the beatings some strikers received), denoted as  $c$ . The expected net benefit for a claim can then be written as  $pb - c$ . This approach can be used to assess a wide variety of rights claims. Each of the values,  $p$ ,  $b$  and  $c$ , may vary depending on who is making the claim and how it is made, as well as the substance of the claim. If we observe people making some kind of claim against the state more frequently than they did in the past, that suggests that  $pb - c$  has increased, so we must explain which of these factors has changed and why.

### *Changing values*

The  $pb - c$  framework is not only useful for a materialistic cost-benefit analysis; the theory of rational choice applies equally well to decisions with benefits that are less tangible. This brings us to the first possible source of increasing rights consciousness: a change in values. When scholars speak of rising rights consciousness, they most often talk about it in terms of changing values, whether implicitly or explicitly. In this framework, individuals make claims because they believe it is the right thing to do. In one of the earliest Chinese discussions of rights consciousness, Liang Qichao 梁启超 argued that rights consciousness (*quanli sixiang* 权利思想) is embodied in the example of a noble warrior defending his honour to the death: "He cannot stop himself due to the formless, psychic pain that he feels

<sup>12</sup> Bradsher and Barboza 2010.

<sup>13</sup> Barboza 2010.

on being invaded, oppressed, or insulted.”<sup>14</sup> The difference between the rights-conscious warrior and a person without rights consciousness is that the latter does not feel the same psychological harm Liang’s warrior experiences when his rights are violated, nor the corresponding benefit he gains from successfully defending his rights. Merle Goldman implicitly adopts this definition when she argues that a “growing sense of rights consciousness, particularly of political rights,” was the reason Chinese people increasingly “challenged the party’s policies through their actions as well as their ideas” despite being “continually persecuted, detained, and even imprisoned for their actions.”<sup>15</sup>

To incorporate this conception of rights consciousness into our framework, we can break down the benefit of successfully claiming a particular right into material and psychological components, where the psychological component captures the internal benefit of defending one’s values. We can write the benefit as  $b = b_P + b_M$ , where  $b_P$  is the psychological benefit and  $b_M$  is the objective material benefit.<sup>16</sup> For instance, China’s *weiquan* 维权 (rights protection) lawyers rarely profit from their cases, but care passionately about the legal values they aim to uphold.<sup>17</sup> In other cases, these desires may be mixed. Take, for example, the family at the centre of the riots in Shishou 石首, Hubei.<sup>18</sup> Sceptical that 23-year-old Tu Yuangao’s 涂遠高 fall from a third floor window was a suicide, Tu’s family rallied the community to prevent the police from taking Tu’s body for cremation, and demanded the right to know what really happened. Their decision to challenge the local government may have been motivated by a desire to get greater compensation for his death, but it also reflected the psychological satisfaction that they hoped to get from seeing justice done for their son. It was this search for the truth that touched a chord with the tens of thousands of riot participants who had no relation to the deceased.<sup>19</sup>

The size of these psychological benefits may change over time, reflecting changing values. In 1965, construction began for the Panzhihua 攀枝花 Steel Mill in Sichuan that is now the largest steel plant in western China. Despite the disruption and environmental degradation caused by the project, there is no evidence of resistance by the families who inhabited the village where the plant was built.<sup>20</sup> Instead, construction went as planned, and the air and water around the plant remain severely polluted to this day. By contrast, when a paraxylene plant in an industrial zone within Ningbo 宁波 municipality was approved for expansion in 2012, 200 residents of a nearby village took to the streets to protest, blocking

14 Liang 2001, 8.

15 Goldman 2005, 2, 6.

16 This psychological benefit might be the upholding of traditional values of fairness or of newer values more akin to Western notions of natural rights. For instance, Pils finds that petitioners in Beijing are often motivated by traditional notions of justice, although she argues they have a similar “moral core” to Western notions of rights. Pils 2011.

17 Fu and Cullen 2008.

18 Moore 2009.

19 Clem 2009.

20 Shapiro 2001, 150–56.

intersections and demanding that officials stop the project. The dispute escalated into a full-scale conflict, with police beating and dousing protestors with tear gas and villagers responding in kind by hurling rocks and bricks.<sup>21</sup>

The potential material harm to the villagers' health and livelihoods in both instances was substantial. Yet, in 1965, the villagers did not rise up while in 2012 they did. Under the value change hypothesis, the difference would be that the villagers in 1965 accepted this environmental damage as their lot in life, perhaps as a necessary sacrifice for the good of the nation, while the villagers in 2012 felt the pain of Liang Qichao's rights-conscious warrior. Believing that their inalienable rights to have their voices heard and to protect their health and property had been infringed, they would have been willing to rise up even without any change in the probability ( $p$ ) that they would achieve their goal of blocking the plant, and despite the violent reprisals they suffered at the hands of the state (a large cost  $c$ ). The value of defending their rights made the costs bearable. Thus, in this framework the increase in rights-conscious behaviour would indicate that more people experience greater psychological benefit,  $b_P$ , for a larger number of possible rights than they did in the past, leading more of them to make claims against the state. Minxin Pei argues along these lines, stating that increasing rights consciousness could be "the cause for a dramatic fall in the public tolerance of the practices of the regime that in the past were accepted with resignation."<sup>22</sup> This change in values might also result from a changed perception about the instrumental value of defending a right. Lianjiang Li adopts this interpretation in defining rights consciousness as "a combination of awareness of the necessity for protection from *central* rule-making authorities and eagerness to acquire such protection through direct or indirect participation in rule-making."<sup>23</sup>

If values are indeed shifting in a way that leads to greater defence of civil and political rights and this trend can be expected to continue, this has destabilizing implications for the current regime. The more that people are willing to demand that their rights be honoured and the broader the set of rights that they come to value, the harder it should become for the current Chinese Communist Party-led authoritarian regime to continue in its present form. Initially, individuals and groups may only make claims that are highly likely to succeed, such as for the enforcement of existing and explicit central government policies; however, as the value they place on their rights increases, they become more willing to make rights claims even when their odds of success are slim and the costs are great.<sup>24</sup> Thus, for those interested in predicting (or at least making relatively well-informed guesses about) China's future, there are several key questions: has there

21 Jacobs 2012.

22 Pei 2010, 32.

23 Li 2010, 54.

24 Mathematically, recall that an individual will make a claim if  $p(b_P + b_M) - c > 0$ . The larger  $b_P$  becomes, the broader the range of values for  $p$  and  $c$  for which this inequality will hold true.

in fact been such a value shift? If so, what caused this value shift and will it continue? Finally, can the regime find ways to manage this without losing power?

### *Changing policies*

A second potential source of increased rights consciousness is changing government policy. In this interpretation, the Chinese state grants new rights to ordinary people and their rights consciousness is simply their knowledge of this new reality. In her study of labour disputes, Mary Gallagher finds that “[t]he state is supplying legal institutions, and it is creating demand for them.”<sup>25</sup> Elizabeth Perry similarly contends that the willingness of ordinary Chinese to make rights-based claims is driven by “top-down signals emanating from the state” rather than “some novel expression of proto-democratic citizenship or state vulnerability.”<sup>26</sup> But, if the state’s new willingness to grant rights is the primary source of the changes we observe in China, then referring to people’s responses to changing policies as “growing rights consciousness” would be misleading. The change would not stem from the way they think about or value their rights. Rather, it would result from their recognition of a change in the way ruling elites will respond to rights claims.

In our framework, this means that the change in an individual’s willingness to make a claim is not driven by changes in the psychological value placed on successfully defending a right (the value  $b_p$ ), but rather by a changed estimate of the probability that such an attempt will succeed (the value  $p$ ) or of the costs ( $c$ ) that the attempt would incur. Furthermore, these odds of success primarily depend on the government’s policy (implicit or explicit) regarding how it will react to such claims. If this characterization is correct, the important change (if any) is in government policies, not in people’s consciousness of their natural rights. This changed estimate of  $p$  could result from changes in the formal laws, as happened in the mid-1990s when rural people protested against violations of a new centrally mandated cap on fee collection at 5 per cent of rural residents’ average income.<sup>27</sup> However, since the PRC has long had rights on paper that were not honoured in practice, changed perceptions about the likelihood that such rights will be honoured could be just as important. For instance, survey evidence suggests that workers increasingly resolve labour disputes through legal avenues because state-controlled media have convinced them that such claims will be treated sympathetically,<sup>28</sup> even though, in practice, claimants are often disappointed with the outcome.<sup>29</sup>

Policy changes may also effectively honour rights that do not exist on paper. For instance, those protesting against the paraxylene plant in Ningbo had no

25 Gallagher 2006, 799. Chen and Tang 2013 echo this conclusion.

26 Perry 2007, 21.

27 O’Brien and Li 2006.

28 Stockmann and Gallagher 2011.

29 Gallagher 2006, 799.



legal standing to disrupt traffic or assault the police, and the plant had reportedly met all environmental requirements. Yet, rather than condemn the protest as an illegal demonstration, a *People's Daily* commentary made the supportive statement that, "behind the people's intense expression is the disrespect shown for their rights."<sup>30</sup> The policy-based framework suggests that these protesters were not just passionate and lucky – rather, they had correctly interpreted cues from the response to similar anti-paraxylene protests in Xiamen 厦门 and Dalian 大连 to indicate that the probability of getting high-level support for, or at least acquiescence to, their rights claim was different in 2012 than it was in Panzhuhua in 1965.

To the extent that rights claims are policy driven, describing them as resulting from "rights consciousness" can be misleading since it suggests that the action is occurring in the minds of ordinary people rather than in the decisions of Party elites. Labelling changes in reaction to policies as "rights consciousness" contributes to the lack of clarity about the concept and pushes empirical research in the wrong direction, since it directs our attention away from the key question of the reasons for the original change in policy.

Moreover, if government policy is the source of rights-conscious claim-making, the growth of rights consciousness might actually reflect government decisions that enhance the regime's stability rather than take away from it. We offer a simple formalization that will clarify how this somewhat counterintuitive logic works. Suppose an aggrieved group now faces three options: accepting the status quo, making a narrow claim, or engaging in a broader or more disruptive challenge to the regime. By a narrow claim, we mean well-defined demands that can be satisfied without any deeper systemic change, presented in a relatively non-disruptive fashion. Attempts to seek personal redress through the legal system, such as those documented by Gallagher,<sup>31</sup> would be the clearest example of this, but even protests, more commonly viewed as an undesirable form of instability in China and other authoritarian regimes, could also be fundamentally narrow. For example, the central demand of the Ningbo protests was the halting of a specific industrial development: a chemical plant. The people of Ningbo could have argued that the paraxylene plant was emblematic of the Party's insensitivity to popular opinion and demanded that the regime not only remove the officials responsible but also institute competitive elections for their posts. Yet they did not embark on broad challenges like these.

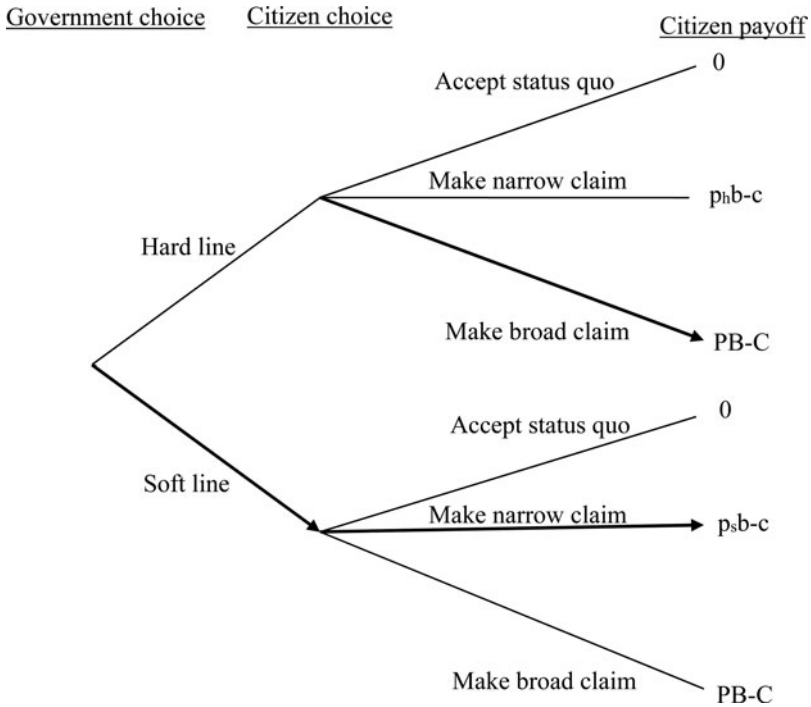
Just as we discussed with regard to value change, both a narrow claim and a broad challenge will have an expected net benefit. To distinguish between the factors affecting the expected net benefit for broad challenges rather than narrow claims, we will use upper-case letters for the first, making the expected net benefit  $PB - C$ , while leaving  $pb - c$  to refer to the expected net benefit of the narrow claim. Using the paraxylene plant example, the expected net benefit of a narrow claim like stopping construction plans for the plant and removing the officials

30 Jin 2009. Author's translation.

31 Gallagher 2006.



Figure 1: **Game Tree of Government–Citizen Interaction**



responsible for green-lighting it, expressed as  $pb - c$ , is under the control of the government. As discussed above, the state can increase the probability that the claim will succeed,  $p$ , either formally, by promulgating new laws and regulations protecting environmental rights, or informally, by being more sympathetic to certain claims. It can reduce the costs,  $c$ , by publicizing new regulations and making it easier and safer to petition higher levels of government, penalizing local authorities who beat or jail protesters, establishing and publicizing laws and regulations supporting certain claims, and so forth. We simplify matters by assuming the government has only two choices – a hard-line strategy in which attempts to make narrow claims are suppressed or even ignored, keeping  $p$  at a lower value  $p_h$ , or a soft-line or rights-granting strategy, with  $p$  set to a higher value  $p_s$ .

How does the government make this choice about  $p$ ? The logic of game theory suggests that it will do so in anticipation of how aggrieved individuals will respond, which we can represent with the game tree in Figure 1. The regime’s primary concern will be with people who are sufficiently aggrieved that they would always choose to make a claim, even a broad claim, rather than accept the status quo, that is, for whom  $PB - C > 0$ , so we will restrict our attention to them. In order to forestall such broad claims, a soft-line or rights-granting strategy must offer a success probability  $p_s$  high enough that aggrieved people will find it worth making narrow claims, that is, that  $p_s b - c > PB - C$ . Similarly, a hard-line strategy is any that sets  $p_h$  low enough that  $p_h b - c < PB - C$ .

For example, suppose a group of factory workers is sufficiently aggrieved that it finds the status quo unacceptable. Following the game tree with the above assumptions, the workers will make the choices indicated by the darkened lines on Figure 1. No matter what, they will make a claim, either a narrow one, such as for improved pay or working conditions, or a broad one, such as for the right to form an independent labour union. If the government has indicated through its public propaganda and its treatment of previous similar protests that it has chosen a hard-line policy, then the workers know that  $p_h$  is low – i.e. their chance of succeeding with a narrow claim is slim. They will therefore be tempted to make a broad claim. The chance of success when making such a claim,  $P$ , is also low since it would constitute a major shift in state–society relations that the regime is unlikely to countenance, but, by the same token, the benefit  $B$  would be much higher than the narrow claim's benefit  $b$ . In this instance, the workers, unable to accept the status quo and knowing that a narrow claim will not benefit them much and is likely to fail, will take a chance and make a broad claim. Formally, this means  $PB - C > p_h b - c$  and  $PB - C > 0$ .

If the government instead has indicated that it has chosen a soft-line policy by publicly supporting certain narrow rights claims, our workers will make a different decision. Because of these prior cases, they believe a narrow claim is likely to succeed, or  $p_s$  is high. Under this scenario, the workers will ask for improved pay or working conditions, even though the benefit  $B$  of a broad claim is still higher than the benefit  $b$  of the narrow claim. For these workers, the old adage about a bird in hand being worth more than two in the bush holds true. Formally, this means  $p_s b - c > PB - C$ .

Of course, the government would prefer to have everyone choose to accept the status quo, but it must make its choice between a hard-line or soft-line policy knowing that the workers will react according to their own best interests (as they understand them) and make a claim regardless. A hard-line policy that forbids even narrow claims is risky because it pushes the workers into making broad claims that the regime is unwilling to countenance, while a rights-granting policy is appealing because it entices the workers into making narrower claims that do not pose a fundamental challenge to the existing system. In this model, rather than being a dangerous force pushing at the regime from below, what is labelled as “rights consciousness” is actually just a recognition of the government's rights-granting policy, which itself has primarily stabilizing effects.

This conception of rights consciousness resembles two others extant in the literature but goes beyond them in important respects. Elizabeth Perry argues that what has been called “rights-conscious” behaviour merely reflects a centuries-old “rules consciousness,” emphasizing the continuity with past eras in which citizens could make narrow claims as long as they were careful to couch their claims in regime-approved language.<sup>32</sup> In their theory of “bargained authoritarianism,”

32 Perry 2007, 2010.

Ching Kwan Lee and Yonghong Zhang also assign an important role to the state in shaping “rights consciousness,” contending that workers and officials jointly construct a notion of “rights” *after* a protest has begun, through a negotiating process. However, neither theoretical construct offers an explanation for why rights-claiming activities have become so common in China over the past 20 years, a question central to our understanding of China’s present and future.

### *Changing shared expectations*

We now consider a third reason why rights-conscious behaviour might become more common even without any change either in values or government policy. To do this, suppose that the likelihood a claim succeeds depends on the decisions of other people to support it. The key consideration for an individual in choosing to make a claim then becomes his or her belief about what actions others will take in response. Moreover, other people will only support the claim if they believe they will not be alone in doing so. Where this is true, different outcomes are possible even without any changes in either ordinary people’s desire to defend a right or the government’s willingness to honour it. Instead, what game theorists refer to as multiple equilibria may be possible. Either there will be a commonly-held expectation that rights claims will receive broad public support, and they will be made (one equilibrium), or there will be a commonly-held expectation that this will not occur, and they will not be made (the other equilibrium). These are referred to as equilibria in game theory because, given the anticipated actions (or non-actions) of everyone else involved in the interaction, each individual has no incentive to do something different. In this conceptualization, rights consciousness is neither an increased consciousness of one’s own desire to have a right nor is it consciousness of the government’s willingness to grant a right, but rather it is consciousness of how other members of society will respond to a rights claim. The literature on rights consciousness in China has largely ignored this aspect of political behaviour, yet because societies can shift rapidly from one equilibrium to another, we argue it is potentially one of the most important embodiments of rights consciousness in terms of broader implications for political change.

While this consideration could be incorporated into the model of individual choice used above by treating a change in expectations as simply another reason why the likelihood of a claim succeeding ( $p$ ) might increase, the tools of game theory enable us to make some additional important observations. In this game, the aggrieved individual first decides whether or not to make a claim. If he or she makes no claim, then nothing happens and the game ends. If he or she makes a claim, then other members of society must decide whether or not to support him or her. Unlike in our earlier analysis, the success of the claim depends on the level of support it receives – specifically, the number of other members of society who choose to support it. The claim succeeds only if the

government feels compelled to respond because a sufficient number of people support it.<sup>33</sup>

As a concrete example, we might consider the Weng'an 瓮安 riots of 2008. The family of a teenage girl who was found dead in a river contested the government's claim that she had committed suicide, suspecting officials of covering up a rape and murder. Thousands took to the streets to support the family, burning the police headquarters and smashing public security vehicles.<sup>34</sup> In response, the government removed the local Party and government heads and conducted further investigations into the girl's death.<sup>35</sup>

The payoffs for the claimant (the girl's family) are the same as outlined before, so the criterion for willingness to make a claim against the state is still that the expected net benefit be positive. However, we now assume that the claim will succeed for certain ( $p = 1$ ) if enough members of society support it, and will fail ( $p = 0$ ) otherwise. Thus, the key determinant of an individual's willingness to stand up for a right will be that individual's expectations about what these other potential supporters in society will do. This could change even if his or her own values or passion for defending the right remained the same and without any change in government policy. So, for example, the willingness of the family to challenge the first conclusion about their daughter's death may have reflected an expectation that many would not just share their outrage but, crucially, would turn out on the street to support them.

This hinges, however, on expectations about the behaviour of other members of society – such as the thousands in Weng'an who had most likely never met the girl yet still came out to support her family's claim. What was the structure of the game from their perspective and what influenced their decisions? First, a successful claim will have some value to any individual, regardless of whether he or she participates, which we will call  $V$ . This represents the social value of a successful claim, such as the shared pleasure of seeing a wrong righted or perhaps the expectation that a precedent has been set that will protect others in similar situations in the future. In addition, anyone who supports the claim will incur a personal cost  $c$  such as the risk of injury or the cost of time spent protesting instead of working. However, these supporters will also receive a personal benefit with value  $v$  if the claim succeeds, such as a personal sense of accomplishment for having done the right thing or the approval of others who admire the supporter for taking a stand. If  $v > c$  for at least a minimum critical mass of people,  $M$ , then the only thing affecting whether someone will choose to support the claimant is how many others are expected to do the same. If the expectation is that this critical mass will turn out, that potential supporter will want to turn out and take part

33 This discussion applies equally to narrow or broad claims, so we do not distinguish between them here.

34 For one summary of these widely reported events, see Reuters. 2008. "China jails rioters, criticises officials," 14 November.

35 He and Shi 2008.

Table 1: Payoffs for Potential Supporters of a Claim

No. of other supporters:	Fewer than $M-1$	$M-1$	$M$ or more
Support	$-c$	$V + v - c$	$V + v - c$
Don't support	$0$	$0$	$V$

Notes:

$M$ : critical mass of supporters necessary for the claim to be successful;  $c$ : personal cost;  $V$ : shared benefit if the claim is successful;  $v$ : personal benefit for participating in a successful action.

in the successful action. If not enough are expected to turn out, the potential supporter will simply stay at home.

The game from the perspective of potential supporters is represented more formally in Table 1. First, suppose that the cost is less than the shared benefit for these people and there are at least  $M$  of them, meaning a potential critical mass of support exists. For any one of those people, if that person believes that fewer than  $M - 1$  other people will support the claim, then he or she will not choose to support it. However, if a person believes that at least  $M - 1$  will also choose to support the claim, then he or she will be willing to support it because with this support the person knows the claim will succeed. What this means is that, conditional on a claim having been made, two outcomes are possible in equilibrium. Either no one will support the claim, knowing it will fail for lack of support, or all potential supporters will support it because they know it will succeed.

Given this, the aggrieved (such as the Weng'an girl's family) will wish to make a claim if the broader society will support it, but will not otherwise. Thus, there are two possible equilibria for this overall game. In the first, no supporters would plan to turn out, since each correctly assumes that no one else will turn out. This in turn implies that the aggrieved will not stand up for the violated right in the first place. In the second equilibrium, all potential supporters choose to turn out because of their mutually self-fulfilling expectations that many others will also turn out. Anticipating this, the aggrieved person will proceed to make the initial claim.

While real life is never quite that tidy, these two equilibria capture a reason for increasing rights consciousness that may be just as important as any shifts in people's values or in government strategy. A society could be viewed as rights conscious if the first equilibrium holds for a larger number of rights. That is, all people are willing to challenge certain injuries that they suffer because they know others will support them in this challenge. In contrast, a non-rights-conscious society would be one in which people acquiesce to most forms of mistreatment because they know that any attempt to challenge such mistreatment would be a solitary, costly and wasted effort. Note that the difference between these two societies is not in government policy, people's values, or any material factor. Instead, it resides entirely in their mutually self-fulfilling expectations about each other's behaviour. In that sense, it is very much a matter of their "consciousness," but in a different form from those discussed above.

For rights consciousness of this kind to spread, the key is not that individuals change how much they value their rights or that they learn about changes in de facto government policy towards these rights, but that they shift their shared expectations of each other's behaviour. Broadly speaking, there are three ways this can come about. The most obvious and effective way is to form an organization. The members of the organization can then come to a collective understanding about what rights they are willing to fight for and then act together when an opportunity arises. Thus, a growth in large-scale independent organizations (whether NGOs, political parties or unions) is one potential driver of rights-conscious behaviour. Another way is through the mass media. If people learn through the news about instances of mass action on behalf of a right, then it sends a signal that such mass action is to be expected and perhaps even relied upon by those who experience similar rights violations. Thus, freer news reporting on protests or other collective actions can facilitate a shift from one equilibrium to another. However, this is most effective if it is widely known that many others have seen the same news and have therefore formed the same expectations, which means that this may be less effective in a highly diversified media environment. The third way to form shared expectations is through unofficial person-to-person communications. While it can take longer to establish a shift in shared expectations through personal channels, it is possible if over time certain viewpoints are expressed repeatedly and become taken for granted. This happened in a very low-tech way in East Germany in 1989, when what started as small demonstrations on a certain square in a particular city rapidly grew in size, eventually leading to the peaceful downfall of the regime.<sup>36</sup> The spread of technologies such as text-messaging and the internet make it even harder for a regime to halt this kind of communication, meaning that the spread of telecommunications technologies could also facilitate a shift towards a rights-conscious equilibrium.<sup>37</sup>

Where does contemporary China, where a large-scale equilibrium shift has yet to occur, fit in this picture? Most frightening from the perspective of an authoritarian regime like China's is that a shift of equilibrium can occur very rapidly because it does not require a change in people's values or in their objective circumstances. In China, riots like the one in Weng'an usually fizzle out after the regime applies the right combination of force and concessions, but sometimes they keep going. Indeed, an equilibrium shift nearly happened during the 1989 protests in Tiananmen Square and around the country, and it appears to be what occurred later that same year in Eastern Europe, as well as in the Arab Spring of 2011. If the equilibrium shifts only with regard to relatively innocuous rights – narrow ones the regime might want to support for its own reasons – there is little threat; if equilibrium expectations form around fundamental political rights, the result would be highly destabilizing.

36 See Lohmann 1994; also Kuran 1991.

37 For an in-depth discussion of the impact of the internet in China, see Yang, Guobin 2009.

## Spillovers and Interactions

While we have framed them starkly for analytical purposes, changes in values, government policy or equilibrium beliefs are not mutually exclusive explanations for rights-conscious behaviour.<sup>38</sup> Rather, they should be thought of as something akin to Weberian ideal types. In practice, they can overlap or be interrelated in complex ways.

For example, prior to 2005, people could be denied government employment in many provinces if they were infected by the hepatitis B virus (HBV). When a job applicant who was rejected because of his HBV status in 2003 attacked two officials in Zhejiang province, killing one, 400 people signed a petition asking for clemency.<sup>39</sup> Although he was executed, the community of HBV-positive citizens became increasingly active after this, submitting petitions to the central government and bringing lawsuits when job candidates were discriminated against.<sup>40</sup> By 2005, the Ministry of Personnel and the Ministry of Health issued a new recruitment policy standard stating that HBV-positive status could no longer be used to reject applicants for government jobs.<sup>41</sup> Clearly, the growth of this rights-conscious activism was not a response to direct government encouragement. Real bottom-up value change seems to have been at work – whereas HBV-positive people and their families might previously have accepted this discrimination, they gradually came to the view that their stigmatization was unfair and better treatment was worth fighting for. However, it also seems clear that they (correctly) judged the regime to be more receptive to such anti-discrimination claims than it might have been in the past – a policy change, if not one explicitly aimed at this particular form of discrimination. A shift in equilibrium also played a role, facilitated by the spread of the internet, as HBV-positive individuals found fellow sufferers and other allies online.<sup>42</sup>

In this example, the different sources of rights consciousness are simply intermingled or overlapping. However, rights consciousness of one type might also promote the others. For example, a group of sex workers organized a small protest in 2010 demanding legalization of prostitution. This protest directly opposed current law and had not been encouraged by any level of government, making it a relatively pure case of values-driven rights conscious claim-making. Yet, it appears to have been inspired by the general openness to rights-based claims and discourse that the regime has shown in other settings.<sup>43</sup> That is, while a government policy effectively granting more rights in some areas may have been the initial driver of rights-conscious behaviour, it may have the unintentional side effect of raising the psychological value ordinary Chinese place on other rights (even those not yet granted formally or informally by the government).

38 O'Brien 2013.

39 Yan and Zhao 2003.

40 Huang 2003.

41 Yang, Guangbin 2009.

42 Huang 2003.

43 Boittin 2013.



To the extent that this takes place, it would provide support for Minxin Pei's contention that "falling repression produces greater resistance mainly as a result of rising rights consciousness among the oppressed."<sup>44</sup> Returning to Figure 1, a rights-granting policy that allows narrow claims to succeed with probability  $p_s$  might initially have a stabilizing effect, leading aggrieved individuals to make narrower claims the government can satisfy. However, over time the granting of narrow rights could change individuals' perceptions of the value of having more fundamental rights, increasing  $B$  to a level where  $PB - C > p_s b - c$ , and make them increasingly willing to raise broader, destabilizing claims. For instance, the Nanhai Honda workers were not particularly unusual among workers in Guangdong's foreign-invested enterprises in striking for improved pay.<sup>45</sup> However, they accompanied their demands for a pay increase (something quite common in strikes or worker protests throughout the region) with a demand for their union to be directly elected by and accountable to the workers.<sup>46</sup> One might argue that after seeing some workers strike successfully for material objectives, the Nanhai Honda workers came to recognize and value the role an accountable labour union might play as their advocate.

A rights-granting policy might also lead to value change if the government's apparent promotion of "rights" does not live up to its promises. That is, suppose rights promotion increases the psychological value of the rights implicit in both narrow claims and broad challenges ( $b$  and  $B$ ), but is not in practice accompanied by an increase in  $p_s$ , the probability of narrow claims succeeding. While ordinary people might initially become more willing to make narrow claims because they believe the state propaganda that  $p_s$  has become lower, they would eventually revise that belief over time as they observe multiple unsuccessful attempts to make claims either by themselves or by others. If the value they place on having their rights respected has increased enough, then rather than accepting the status quo they might switch to making broader claims that are more threatening to the state. Fu and Cullen report that some *weiquan* lawyers who initially pursue a moderate approach become radicalized when they decide that the regime's commitment to legal rights is more limited than they thought,<sup>47</sup> a possibility foreshadowed by O'Brien and Li's suggestion that the "rightful resistance" they describe in rural China could become a serious threat to the state "if rightful resisters come to doubt not only the Centre's ability to deliver on its promises, but also its desire to do so."<sup>48</sup>

Granted rights may also affect equilibrium selection even if values have not changed. First, if the government indicates that it will not stand in the way of

44 Pei 2010, 52.

45 Chinalaborwatch.org. 2010. "The strike wave," 30 October, <http://www.chinalaborwatch.org/news/new-305.html>. Accessed 14 June 2014.

46 Clntranslations.org. 2010. "The Nanhai Honda strike and the union," 28 July, <http://www.clntranslations.org/article/56/honda>. Accessed 14 June 2014.

47 Fu and Cullen 2011.

48 O'Brien and Li 2006, 126.

collective actions in pursuit of narrow claims, this lowers the cost of participating and helps potential supporters coordinate their actions. For example, the government has recently publicized the success of narrow claims against local government corruption. By widely reporting the disciplining of public officials, such as the sacking of the mayor of Zhuanghe 庄河, Liaoning, who failed to address local residents' protests against local corruption, the door is opened for similar claims elsewhere.<sup>49</sup> Second, if the aggrieved choose to make narrow claims and announce their loyalty to the state while doing so, this might reinforce the social expectation that they will only engage in state-sanctioned collective actions. This perhaps underlies Perry's suggestion that, "Even in the absence of a deeply rooted belief in state legitimacy ... popular compliance may work to promote the stability of authoritarian regimes."<sup>50</sup> An alternative, however, is also possible. Since coordination is the key to switching to an equilibrium with rights consciousness from one without, the constant discussion of "rights" might provide a kind of cover under which people can change their shared understandings of behaviour.

## Conclusion

The proliferation of references to "rights consciousness" has contributed to the fuzziness of the concept, leading to starkly different claims about what rising rights consciousness is and what it means for Chinese politics. We have sought to clarify the discussion by focusing on rights consciousness as an explanation for the decision to stand up for a right. Doing this helps us to distinguish between three different sources of what, on the surface, might appear to be the same "rights-conscious" behaviour: changing values, changing government policy, and changing shared expectations about societal responses. Disaggregating the concept in this way puts the focus back on the individual for whom the rights matter and allows for a more concrete analysis that can be empirically assessed. It also allows us to understand why rising rights consciousness could have *stabilizing* effects if it reflects changes in beliefs about government policy, but *destabilizing* effects if it is driven by changes in values or in expectations about how other members of society will respond. In practice, the different sources of rights consciousness may spill over into one another and their interrelations can be complex. Nonetheless, this should not be taken as an excuse to lump all forms of rights consciousness together under one heading or to argue that the distinctions between them are unimportant. Careful, theoretically informed empirical research is needed to disentangle the different aspects of rights consciousness in order to understand which prevail in different settings and how they interrelate if we hope to understand where China is and where it is going.

49 News.bbc.co.uk. 2010. "China mayor dismissed for ignoring corruption protests," 26 April, <http://news.bbc.co.uk/2/hi/asia-pacific/8643615.stm>. Accessed 14 June 2014.

50 Perry 2010, 14.

As with anything in China, while there is tremendous variation across issues and geographic regions, our own view is that policy change has been the most important factor leading to the broad-based spread in rights-conscious behaviour, although value change and shifts in equilibrium are also in evidence. But, this conclusion is far from certain. We hope that the analytic framework presented here will serve to guide further empirical research in this area, in particular by challenging researchers on the ground to investigate more carefully what the “rights-conscious” behaviour they observe really means. This will require consideration not just of rights claims that are made but also those that are not, and an understanding not just of individuals’ espoused values or survey responses but also their expectations for how the state would respond to a rights claim, how other members of society would react, and how they themselves would react to claims made by others. If the groundwork has been laid for a broad-based shift to a truly rights-conscious equilibrium in which even broad rights claims will receive widespread support, the possibility remains that dramatic change could occur with very little warning.

**摘要:** 关于中国民众“权利意识”日益提高的提法已经是老生常谈了。有些研究认为这一现象正在促进中国的政治变革。然而,“权利意识”这一概念本身却常常缺乏清晰的所指,由此带来实证研究中的含混和分歧。为了给进一步的系统研究提供基础,本文提出了一个基于理性选择理论的框架来理解中国民众维权行为背后的三大动因:价值观念的变化,政府政策的变化,以及个体对维权行为社会反响预期的变化。因其背后动因的不同,“权利意识”上升对政治稳定的影响可能完全迥异。由价值观念变化或由个体对维权行为社会反响预期的变化而引发的“权利意识”可能撼动政治稳定;反之,由政府政策变化引发的“权利意识”则有利于维护稳定。因此,尽管这三种动因实际上可能同时存在并相互关联,对其进行概念上的区分将有助于实证研究。

**关键词:** 权利意识; 维稳; 社会抗争; 理性选择; 威权主义韧性

## References

- Barboza, David. 2010. “Workers in China accept deal, Honda says,” *The New York Times*, 4 June.
- Becker, Jeffrey. 2012. “The knowledge to act: Chinese migrant labor protests in comparative perspective.” *Comparative Political Studies* 45(11), 1379–1404.
- Bernstein, Thomas, and Xiaobo Lü. 2003. *Taxation without Representation in Contemporary Rural China*. New York: Cambridge University Press.
- Boittin, Margaret. 2013. “New perspectives from the oldest profession: abuse and the legal consciousness of sex workers in China.” *Law & Society Review* 47(2), 245–278.
- Bradsher, Keith, and David, Barboza. 2010. “Strike in China highlights gap in workers’ pay,” *The New York Times*, 28 May.
- Chen, Fung, and Mengxiao Tang. 2013. “Labor conflicts in China: typologies and their implications.” *Asian Survey* 53(3), 559–583.

- Chen, Jie. 2013. *A Middle Class without Democracy: Economic Growth and the Prospects for Democratization in China*. Oxford: Oxford University Press.
- Ching, Frank. 2006. "No place for dissenting views," *South China Morning Post*, 30 August.
- Clem, Will. 2009. "Social, not personal, grievances causing mass unrest, report says," *South China Morning Post*, 22 December.
- Cohen, Jerome. 2006. "China's legal reform at the crossroads." *Far Eastern Economic Review* March 169, 23–27.
- Fu, Hualing, and Richard Cullen. 2008. "Weiquan (rights protection) lawyering in an authoritarian state: building a culture of public-interest lawyering." *The China Journal* 58, 111–127.
- Fu, Hualing, and Richard Cullen. 2011. "Climbing the *weiquan* ladder: a radicalizing process for rights-protection lawyers." *The China Quarterly* 205, 40–59.
- Gallagher, Mary. 2006. "Mobilizing the law in China: 'informed disenchantment' and the development of legal consciousness." *Law and Society Review* 40(4), 783–816.
- Goldman, Merle. 2005. *From Comrade to Citizen: The Struggle for Political Rights in China*. Cambridge: Harvard University Press.
- He, Yunjiang, and Yucen Shi. 2008. "Guizhou Weng'an xian weishuji he xianzhang bei mianzhi" (Weng'an county Party secretary and governor to be removed from office), *Xinhua*, 4 July.
- Huang, Guangming. 2003. "Zhongguo yigan diaocha" (China's hepatitis B investigation), *Southern Weekend*, 25 December.
- Jacobs, Andrew. 2012. "Protests against Sinopec plant in China reach third day," *The New York Times*, 28 October.
- Jin, Cang. 2009. "You Shishou shijian kan zhengfu ruhe yingdui qunti shijian" (What Shishou says about how the government deals with mass events), *People's Daily*, 24 June.
- Kuran, Timur. 1991. "Now out of never: the element of surprise in the East European revolution of 1989." *World Politics* 44(1), 7–48.
- Lai, Hongyi. 2010. "Uneven opening of China's society, economy, and politics: pro-growth authoritarian governance and protests in China." *Journal of Contemporary China* 19(67), 819–835.
- Lee, Ching Kwan, and Yonghong Zhang. 2013. "The power of instability: unraveling the microfoundations of bargained authoritarianism in China." *American Journal of Sociology* 118(6), 1475–1508.
- Li, Lianjiang. 2010. "Rights consciousness and rules consciousness in contemporary China." *The China Journal* 64, 47–68.
- Liang, Qichao. 2001. "On rights consciousness." In Stephen Angle and Marina Svensson (eds.), *The Chinese Human Rights Reader: Documents and Commentary 1900–2000*. New York: M.E. Sharp, 8.
- Lohmann, Susanne. 1994. "The dynamics of informational cascades: the Monday demonstration in Leipzig, East Germany, 1989–91." *World Politics* 47(1), 42–101.
- Moore, Malcom. 2009. "Tens of thousands of Chinese fight the police in Shishou," *The Telegraph*, 22 June.
- O'Brien, Kevin. 1996. "Rightful resistance." *World Politics* 49(1), 31–55.
- O'Brien, Kevin. 2013. "Rightful resistance revisited." *The Journal of Peasant Studies* 40(6), 1051–62.
- O'Brien, Kevin, and Lianjiang Li. 2006. *Rightful Resistance in Rural China*. New York: Cambridge University Press.
- Pei, Minxin. 2010. "Rights and resistance: the changing context of the dissident movement." In Elizabeth Perry and Mark Selden (eds.), *Chinese Society: Change, Conflict and Resistance* (3rd ed.). New York: Routledge, 32–56.
- Perry, Elizabeth. 2007. "Studying Chinese politics: farewell to revolution?" *The China Journal* 57, 1–22.
- Perry, Elizabeth. 2010. "Popular protest in China: playing by the rules." In Joseph Fewsmith (ed.), *China Today, China Tomorrow: Domestic Politics, Economy and Society*. Lanham, MD: Rowman and Littlefield, 11–28.

- Pils, Eva. 2011. "Taking *yuán* seriously: why the Chinese state should stop suppressing citizen protests against injustice." *Temple International and Comparative Law Journal* 25, 285–327.
- Richburg, Keith. 2010. "Labor unrest in China reflects changing demographics, more awareness of rights." *Washington Post*, 7 June.
- Shapiro, Judith. 2001. *Mao's War against Nature*. Cambridge: Cambridge University Press.
- Stockmann, Daniela, and Mary Gallagher. 2011. "Remote control: how the media sustains authoritarian rule in China." *Comparative Political Studies* 44(4), 435–467.
- Wong, Linda. 2011. "Chinese migrant workers: rights attainment deficits, rights consciousness and personal strategies." *The China Quarterly* 208, 870–892.
- Yan, Fei, and Zhao Zhongpeng. 2003. "Zhejiang xuesheng Zhou Yichao sharen an kaiting 400 ren lianming qiu fawai kaien" (400 people sign joint petition seeking clemency for Zhejiang student Zhou Yichao), *Morning Post*, 23 June.
- Yang, Guangbin. 2009. "Gongmin canyu he dangxia Zhongguo de zhidao biange" (Citizen participation and governance reform in contemporary China). *Shehui kexue yanjiu* 1, 18–30.
- Yang, Guobin. 2005. "Environmental NGOs and institutional dynamics in China." *The China Quarterly* 181, 44–66.
- Yang, Guobin. 2009. *The Power of the Internet in China: Citizen Activism Online*. New York: Columbia University Press.
- Zweig, David, Kathy Hartford, James Feinerman and Deng Jianxu. 1987. "Law, contracts, and economic modernization: lessons from the recent Chinese rural reforms." *Stanford Journal of International Law* 23, 319–364.