

Modern China and Federalism

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The history of modern China follows a cycle of “decentralization-centralization-decentralization” of the central government. This historical phenomenon has resulted in much turbulence and instability in Chinese society in modern times. This article will analyze the causes of this phenomenon and propose a solution.

1. The “Decentralization-centralization-decentralization” model and reasons for its appearance

After 1860 the authority and influence of China’s local governments was on the rise. The central government constantly had to take local factors into account when making policy decisions, while local political figures took part in making policy decisions alongside the central government. Local decentralization campaigns grew in the late 1890s and culminated in the Reform Movement of 1898. The central government suppressed the movement for fear that the government’s policy-making power would be weakened and for a time the decentralization movement lost its momentum.⁽¹⁾

Local decentralization movements reared up again in China after 1900 and decentralization was a major political trend in the Revolution of 1911, led by Dr Sun Yat-sen, which ended the Qing Dynasty. During the revolution, members of the local political elite became the founders of the Republic of China. They enacted constitutional laws⁽²⁾ with federalist touches to protect their interests obtained in the revolution. But, Yuan Shikai (1859–1916), President of the Republic of

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⁽¹⁾ Xu Jilin, “History of Modern China” (Shanghai Sanlian Bookstore, 1995), pp. 74–103.

⁽²⁾ Fei Zhengqing, “Chinese History of Late Qing Dynasty” (Chinese Academy of Social Science Publishing House, 1980), p. 873 Xin Xiangyang, Great-nation Dukes (Daguo Zhuhou), Chinese Social Press, 1996, p. 44.

China (1912–16) and chieftain of the Northern Warlords, held that federalism could obstruct the construction of a modern China and adopted a series of centralizing measures. To oppose local forces' demands for decentralization, Yuan resorted back to monarchy. Yuan hoped to unify the country by using the monarchy's integral power to construct a nation.⁽³⁾ However Yuan overestimated the authority of the monarchy for the Chinese people and his efforts ultimately failed.

In the early stages, the Kuomintang (Nationalist Party) was a political party upholding federalism and a local decentralized system. However as it carried out its policy of "ruling the state by party", the Kuomintang eventually negated federalism featuring centralization. As well, in its initial stages, the Communist Party of China (CPC) also boasted federalist ideas. But after seizing state power in 1949, the CPC gave up federalism and chose to instead adopt a single-mode system. Henceforth, the practice of "not distinguishing between Party and government functions" enhanced the Party's centralization of state power.⁽⁴⁾

The cyclical historical model of "decentralization-centralization-decentralization" was a struggle between two ideals regarding state construction in modern China. China needs federalism to a certain extent, as China covers a vast territory with many regional differences and a large population. At the same time, China is a country that has held to the traditional concept of "great national unity" for more than 2000 years and its people share a common culture. Traditional Confucian culture provides a universality and cultural idealism for Chinese people, which federalism directly contradicts. Due to this Confucian background, many members of the Chinese elite could not fully accept the federalism of Europe and the United States.

In the period from the 1950s to the 1970s, China's political model was "Party taking the place of government administration and not distinguishing between Party and government functions" and its economic model was a planned economy. Under such a system, the CPC Central Committee and its local organizations had decision-making pow-

⁽³⁾ "History of Modern China", pp. 188–198.

⁽⁴⁾ Xie Qingkuei, "An Introduction to the System of China's Local Governments"(China Broadcast & TV Publishing House, 1998), pp. 148–151.

ers over administration and personnel arrangements at all levels of the state administrative organizations. As well, all government levels had to develop their economies in full accordance with the Central Committee's demands. In practice there was no room for the division of work between central and local authorities. During the period, a high degree of centralization did not suit the demand for economic development so a small-scale cycle of centralization-decentralization-centralization occurred in the economic field.

After 1949 China adopted a system of six large administrative regions. Each region, except North China, set up military and political committees to administer local governments on behalf of the central authorities. But, the central government soon found that the large administrative regions were vying for too much power. Consequently, this system was abolished and the central government rescinded the administrative powers over major industrial enterprises of the large administration regions in 1954. During the First Five-Year Plan (1953–57), the central government's fiscal revenues increased to 80% of the nation's total and expenditures rose to 75%.⁽⁵⁾

The high degree of centralization in this period resulted in lower administrative efficiency thereby hindering the development of local economies. As a result, Chairman Mao Zedong (1893–1976) decided to give local authorities more power in April 1956 with the guarantee that they would follow central government's guidance. A year later the central government transferred numerous enterprises directly under its administration to local authorities to improve industrial, commercial and financial administrative systems.⁽⁶⁾

Despite this decision, the centralization trend emerged once again in 1961. The management of China's economic matters returned to the central government, as the transference of management to enterprises' administration did not guarantee local interests and caused confusion. However, power was once again re-delegated during the cultural revolution (1966–76). The central government transferred 2,600 enterprises directly under its administration to local authorities in 1970. The in-

⁽⁵⁾ Ditto.

⁽⁶⁾ "Selected Works of Mao Zedong" (Volume 5) (People's Publishing House, 1977), p. 275.

dustrial production of the enterprises directly under the administration of the central government fell to 6% of the country's total.⁽⁷⁾

Although the decentralization-centralization-decentralization model was present in the relations between the central and local governments in the 1950s–70s period, the highly centralized system remained unchanged. The central government had extensive command powers and no definite laws stipulated the relations between the central and local governments. The competence of local governments was decided by the whims of central authorities and various officials. The central government had overall administrative power over appointments, promotions, examinations and punishment of local officials. In light of the Party's guiding principles, all power rested with the central government and a few select individuals.

This cyclical model of decentralization-centralization-decentralization is a major characteristic of state construction in modern China. In view of the modern constitutional history, China has been in the process of state construction from late Qing Dynasty up to present times. The central goal of China's state politics is to build China, a pre-modern nation, into a modern nation. Chinese political leaders have continually faced the opposing choices of centralization and decentralization when mapping out the lines of state construction since the late Qing Dynasty. The central government often would allocate power to secure the cooperation of local governments and society for the sake of reforms. However, the central government did not want to lose control over society and local authorities so after decentralization the central government would again centralized power. The repetition of this action resulted from diversification of China's politics and economy, as well as the single-mode system of China's state structure.

2. Deng Xiaoping and Federalism

Yuan Shikai, Chiang Kai-shek (1887–1975), Mao Zedong and Deng Xiaoping (1904–1997) all hoped to construct China under their authority. Yuan and Chiang hoped to build the country by relying on

⁽⁷⁾ Xie Qingkuei, *op cit*, p. 64.

central political elite, while Mao adopted a mass mobilization line and Deng looked to a semi-federal system.

After seeing the weaknesses of grass roots movements, Mao hoped to shake off the decentralization-centralization-decentralization model. Mao's ideal state model was a decentralized state of mass mobilization. Mao did not believe in the centralized system, despite the fact that he was at the helm of it. He hoped to build China into a modern state through mass mobilization, a hope resulting in the great leap forward campaign (1958) and the cultural revolution.⁽⁸⁾ Deng did not follow Mao's line of mass mobilization or the centralist line of bureaucratic apparatus, instead adopting a semi-federal mode to build the country. According to Deng's mode, the central and local governments jointly decide the competence of local governments through negotiations and consultations. Local governments are in a position to represent the central government and their competence is guaranteed by the constitution and laws.⁽⁹⁾

Since 1980 local governments have set up various privileged regions after negotiations with the central government. The special regions include national autonomous regions, special economic zones, open cities, port cities, open areas, duty-free areas and special administrative regions. As well, local authorities have vied for more privileges from the central government to increase their decision-making powers.

The development of a market economy indicates the central government and its bureaucrats have moved out of economic activities. Mao Zedong did not give interest to local bureaucrats, resulting in the failure of decentralization. Differing from Mao's practice, Deng adopted a full interest-inducible principle. The central government left the economic field and entrusted the management power of economic activities to local governments. The central government did not provide concrete modes, instead leaving local governments to draft various reform models and secure competence from the central government through negotiations.

⁽⁸⁾ Zheng Qian, "Mao Zedong's Road — Remaining Years" (China Youth Publishing House, 1993), pp. 73–74.

⁽⁹⁾ Wu Guoguang, "State, Market and Society" (Oxford University Publishing House, 1994), p. 79.

Deng Xiaoping created many federalism reform measures, such as financial federalism, which was established in 1994 when the central government introduced a system of tax distribution, a subsequent confirmation of the fiscal decentralization practiced after 1980. At the same time, the central authorities admitted local governments had legislative powers. The 1954 Constitution provided that the legislative powers belong to the National Congress alone. But the 1982 Constitution transferred part of the legislative powers to provincial level governments, after which many decisions on the transference of legislative powers have been made. In addition, the implementation of the policy of distinguishing between Party and government functions created exterior conditions for enlarging the competence of local authorities and developing federalism.

Even though China has carried out various federalism measures, such as those mentioned above, the introduction of federalism has evident obstacles because of the lingering ideology of “great national unity”, political and cultural centralism and the principles of democratic centralism.

3. Unification and Federalism

In the 1980s, the Communist Party of China started deliberating China’s reunification by peaceful means with federalism considered as an essential factor.

In accordance with the constitutional textbook, China is a centralized country with a single-mode system. But, after 20 years’ of reforms China’s state structure has undergone many changes. For instance, its centralized single-mode system has shifted to a local decentralized single-mode system. However, it is difficult for China to realize unification, even if its state structure has a single-mode system. This is due to Taiwan’s status as a local government under the framework of a single-mode system, a situation unacceptable to Taiwan. Due to the issue of Taiwan, China cannot realize peaceful reunification using a single-mode system.

The policy of “one country, two systems” began to take shape in 1980. This concept refers to that on the premise of maintaining one

China the state's main body insists on a socialist system while allowing some pockets of capitalism. This mode was designed for resolving the Taiwan problem but was firstly put into practice in Hong Kong and Macao. As for the reunification model, Deng Xiaoping said after reunification Taiwan will be allowed to reserve jurisdiction and an army, with no residence personnel, administrative officials or army being dispatched from the mainland. There is little difference between Deng's model and federalism. So we can say Deng's "one country, two systems" thought does not merely refer to the problem of a social system, but involves the form of state structure.

The return of Hong Kong and Macao to the motherland has spelled great changes to the single-mode system of China's state structure. Chinese constitutional scholars held that while keeping the single-mode system, China expanded the traditional competence of local governments. As a result, the Hong Kong Special Administrative Region (HKSAR), a local government of China, has far more powers than the states or provinces of a federal nation.

After Hong Kong and Macao returned to China, the basic laws of the two regions and other state laws should have been integrated. However, the basic laws of Hong Kong and Macao have no provisions that the legislative powers of the two regional governments should not be contradictory to the Constitution and state administrative rules and regulations. Furthermore, Hong Kong and Macao both retained legal legislative powers. Whereas, the country's other provinces, municipalities and autonomous regions only have legislative powers on local regulations. This shows the special administrative regions have enormous independent competence.

Some Chinese scholars maintain that relations between the nation's and Hong Kong's legislative powers are semi-subordinate and semi-independent, instead of full administration and control. Viewed in this way, China, under the system of "one country, two systems", has boasted some federal state features.⁽¹⁰⁾ The sovereignty of the central government is symbolic in Hong Kong and Macao as the central government has no power to interfere in tax collection, legislation and ju-

⁽¹⁰⁾ Wu Caishen, "An Introduction to the Law on Hong Kong Special Administrative Region", (Wuhan Publishing House, 1977), p. 164.

dicature in the two regions. Some Chinese scholars even hold that the structural form of the state with “one country, two systems” has key elements of the federal system.⁽¹¹⁾

Chinese constitutional science circles on the mainland also have stated the single-mode system is superior to a federal system and beneficial to economic development and national unity as a federal system is only a transitional state structure to the single-mode system.⁽¹²⁾

There are two suggestions on the ways to reunify China, one is to adopt the single-mode system and the other is a composite system, which includes both the federal system and confederate system. The mainland is the principal advocate of the first method while supporters for the second are non-mainland scholars, mainly from Taiwan.

The Chinese mainland insists on realizing reunification under the principle of “one country, two systems”, a situation unacceptable to Taiwan. Among various viewpoints, the “quartet alliance” put forward by Zhou Yangshan, a Taiwanese scholar, is noteworthy as it conforms to China’s reality and goes beyond the binary opposition of the single-mode system and the federal system.

Zhou holds that China’s current political and administrative divisions should be respected, which will be integrated later. In his opinion, currently there are four systems in China: a single-mode system, regional autonomy, one country two systems and a federal system. The first system exists in the relations between the central government and provinces and municipalities. The second system, a federal arrangement under the frame of single-mode system, exists in the relations between the central government and the autonomous regions. The third one is the model for Hong Kong and Macao. The fourth is the relations between the mainland and Taiwan. In the future China will be an alliance of the four systems. Naturally, this type of country will go beyond the concept of the nation we currently hold.⁽¹³⁾

⁽¹¹⁾ Lou Jie, “Chinese Culture and Peaceful Reunification of Motherland” (Wuhan Publishing House, 1999), p. 174.

⁽¹²⁾ He Huahui, “Comparative Constitutional Science” (Wuhan University Publishing House, 1998), p. 175; “Collected Works of Lenin” (Volume 3) (People’s publishing House, 1995); “Complete Works of Marx and Engels” (Volume 22) (People’s Publishing House), p. 275.

⁽¹³⁾ “China Times” on January 6, 2001.

Zheng Hailing's proposal is similar to Zhou' in that he divides the concept of "sovereignty" into "sovereignty" and "sovereign rights". With his proposal he hopes to solve the problem of reunification on both sides of Taiwan Strait.⁽¹⁴⁾

In light of Zheng's theory, both sides of the Strait are "two governments with sovereign rights" under the territorial sovereignty of "one China". Zheng said, territorial sovereignty and sovereign rights are one and the same in a unified country and the government exercises "sovereign rights" on behalf of the country. However, sovereignty and sovereign rights are distinct and separate in a divided country. Zheng holds that making this type of distinction will help solve the thorny problem of undivided sovereignty in international law as both sides of a divided country might have sovereign rights at home and abroad respectively. With this theory, no new nations would come into being if the governments of both sides acknowledge each other. In line with international laws, the legal sources of "state admission" and "government admission" vary. "State admission" refers to acceptance of a new country, i.e. admission of merger, separation, division and independence of a nation. "Government admission" refers to acceptance of a new government, namely admitting a new government is a legal representative of its ruled area.

Zheng believes that his theory can help eliminate confrontation between the two sides of the Strait. In his eyes the "one China" principle means that international society admits there is "one China" co-owned by both sides of the Strait. Admission of a Republic of China and a People's Republic of China by international society is to admit to two governments separately ruled by both sides.

After summing up the advantages of the state systems of the United States, Germany, Switzerland and the former Soviet Union, Zheng proposes the following concept to unify China: the mainland institutes an American-style vertical federal system wherein each province draws up its own constitution and enjoys autonomy without sovereignty. The provinces have both foreign affair rights and diplomatic rights, but these rights shall not become principals of interna-

⁽¹⁴⁾ Zheng Hailin, "Taiwan: Re-explanation on Sovereignty"(Strait Academic Publishing House, 2001).

tional law.

Hong Kong and Macao on the other hand should adopt a German and Swiss-style federal system in which the Hong Kong and Macao governments can conclude agreements involving regional problems and can join non-governmental international organizations in the name of “Chinese Hong Kong” and “Chinese Macao”. Although they would be given some diplomatic rights, as with the other provinces, these rights would not become the principals of international law.

The Taiwan area might adopt a confederate model like that practiced by the former Soviet Union in its initial period. The Taiwan government will be given “sovereign rights” and rights for self-defense and external negotiations, identical to Taiwan’s army and foreign affairs rights under “one China, two systems”. Taiwan could take part in international organizations in the name of “Chinese Taipei” but must keep to the stipulations set out by the “Chinese federal government” when exercising sovereign rights. Federal member states will jointly draft a uniform constitution for Federal China and define competence of the Chinese federal government and member states. The Chinese federal government will be the supreme organ of power, which can directly execute power to each member state and people. The federal government as well, only principal of international laws, will exercise sovereignty on behalf of its member states.

4. Federalism and China’s Future

In the history of modern China, anti-autocracy and the fight for realization of national unification led to the promotion of federalism. However, both developing the economy and realizing state unification are two important reasons for the rise of federalism. Financial federalism can increase local governments’ enthusiasm for developing the economy. Likewise, giving legislative powers to local authorities can guarantee the development of local economies. Besides, local governments constantly negotiate with the central government to expand their own competence on the grounds of developing the economy. Federalism, as a means of national unification, has realistic importance. In order to realize China’s peaceful reunification, federalism is an inevitable

option.

In addition, it is necessary for China to consider the introduction of key elements of federalism to realize effective rule and avoid confusion caused by the historical “centralization-decentralization-centralization” model.

This article nevertheless does not propose to establish a full European and American style federal China. When setting up the federalist system in China, China’s reality, culture and history must be taken into account in order to include the wishes and interests of the people.