

The Rule of Law and Economic Development
---A Case Study of China

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Introduction

The relationship between law and economic development has been a central concern of modern social theory, providing a significant point for the analyses of Marx, Durkheim, and Weber¹. In the 1970s, law and society scholars drew on these traditions to inform international development policy in what was then called the "Law and Development Movement."² Today, the relationship of law and economic development is again at the very forefront of development policymaking, as government agencies, international organizations, and the non-profit sector advocate the need for strengthening the rule of law in developing countries.

A large literature links the establishment of the rule of law to economic development.³ Most of these literature argue that the emergence of the modern world and capitalist economy was depending on the prior existence of the rule of law. The absence of a strong rule of law is one of the principle reasons why poor countries can't achieve higher rates of growth.

In the postwar period, there is a resurgence of law with renewed interest in the rapid growth of economies in East and Southeast Asia. By most accounts, law has not played a major role in these Asian countries' economic growth. Scholars have placed more emphasis on particular policies, institutions, and cultural underpinnings rather than on law itself. Most authors who have taken up the question of the rule of law and economic growth have framed their analyses of the rule of law in largely instrumentalist terms, highlighting the relationships between law and market efficiency, democracy, and human rights.⁴ In this regard, the study of the rule of law in Asia has followed the dominant tendency in legal studies more generally, that

¹ Weber 1954; Durkheim, 1983

² Weber 1954

³ For an overview of this literature, see Haggard, S; MacIntyre, A; Tiede, L, "The rule of law and economic development" *Annual Review of Political Science*, 2008, Volume 11, Issue 1; see also Stephen Knack and Philip Keefer, "Institutions and economic performance: cross-country tests using alternative institutional measures," *Economics and politics*, 11/1995, Volume 7, Issue 3

⁴ Fukuyama, 2014, p.356

is, it has focused on questions about how the operation of the law intersects with political and economic processes and serves as a site of contest between competing interests, whether of state power or individual rights, domination or equality, justice or market rationality.

Most of the law, political, and economic scholars⁵ link the rule of law to the economic growth, indicating that a rational legal system played a crucial role in the economic development of by allowing individuals to order their transactions with some predictability. However, China plays an important counterexample to the findings in this literature: its legal system is not well developed, yet it has one of the fastest growing economies.

This paper intends to ask why China has prospered economically despite having a weak rule of law. In order to achieve this goal, the paper will be separated into four sections. The first section provides an overall review of the conception of rule of law and informal institutions, including history and definition. The second section indicates the rule of law in China is especially weak, in explaining the short history of the rule of law in China as well as the enforcement of law is of low quality; section three answers the question why China could achieve such a high-speed economic growth with such a low quality of law. The answer will ground to the role of informal institutions in compensating for the weakness of formal institutions and how they bring effects to the economic growth; the last section concludes the paper and provides direction for further research.

Research Question and Hypothesis

The central question in this research paper is: why China has prospered economically despite having a weak rule of law. And the hypothesis is, the rule of law institutions are not necessarily essential for the economic growth. Rather, the positive role played by the informal

⁵ See Weber 1954, Fukuyama, 2012

institutions will compensate the weak of formal institutions and provide support to the economic growth.

Literature Review

Max Weber (1954) was one of the first to draw a connection between law and economic development.⁶ Weber attribute Europeans' economic development to two main factors: cultural values, in particular a Protestant worked ethics; and its institutions, especially its legal system.⁷ According to Weber, an economic factor in a market economy needs predictability and certainty to be able to achieve the benefits of their efforts and investments.⁸ And it is the rule of law provides that predictability and certainty. The first generation of law and development scholars drew on Weber's sociology to conclude that, because rational law played an important role in the early development of capitalism, modern-day policymakers concerned with sustaining the conditions of economic growth should promote the rule of law.⁹ Neoclassical growth theories predicted that poor countries would grow faster than wealthy countries because of technological advances and diminishing returns to capital in developed countries.¹⁰

Douglass North (1981,1990), one of the most famous historian economist argue that enforceable property rights and fair rules for competition allow individual entrepreneurs and the most efficient firms to secure the benefits of their labors, while reducing the states' capacity for expropriation.¹¹ Inspired by North and the years of supportive role of legal institutions in economic growth, the new movement of law developed in the 1990s.¹² Globalization theory is the most significant theory in the new movement and argued that the globalization has bring

⁶ See Rheinstein 1954

⁷ Peerboom, 2002, p. 451

⁸ Weber, 1954, p.234

⁹ Trubek,1972

¹⁰ Barro 1997, p.1

¹¹ North 1981,1990

¹² Peerboom,2002, p.453

pressure to developing countries to reform their formal institutions in order to adapt the international pace and attract foreign investment. And a legal institution will offer equal treatment and protection to foreign and domestic investors.¹³

Francis Fukuyama (2011) also devotes a great effort in conducting the relationship between the rule of law and economic development. Francis Fukuyama argue that when connect the rule of law to economic growth, it is refers to “modern property rights” and “contract enforcement.” The theory by which the two tenets connect to economic growth is straightforward. A legal machinery is needed to secure these two tenants.¹⁴

As to the study of rule of law and economic growth in China, different scholars hold different perspectives in viewing this issue. According to Francis Fukuyama, the rule of law in China is quite weak. In fact, there was an active hostility to the idea of law embedded in traditional Chinese culture.¹⁵Fukuyama explains his argument by saying that in China, Confucians believe that human life should be regulated by “morality” instead of formal rules.¹⁶ The Confucians believe the reliance on written laws or formal regulations were too strict and inhuman to generate good outcomes. Although later there emerged the legalist school who bring large contrast to the Confucians ideology, China is always more an “amalgamation” of the Confucian ideology. Thus, it is not surprise that there is no solid law system in China. The puzzle Fukuyama raised is, why China could achieve such a high-quality economic growth with such a low quality of rule of law.

Some other scholars draw a line of criticism argued that the emphasis on formal institutions is actually ignore the crucial role of culture, ideology, networks and more important,

¹³ *The Word Bank, 1999:7*

¹⁴ *Fukuyama,2011, p.248*

¹⁵ *Fukuyama, 2014, p.358*

¹⁶ *ibid*

informal institutions.¹⁷ Dam Kenneth¹⁸ argues that the rule of law is not essential for economic activity. In every country goods and services are exchanged against money. In fact in some of the poorest countries, the level of economic activity in local marketplace is intense truly something to marvel. And yet this exchange takes place without law playing a significant role.¹⁹ Gretchen Helmke and Steven Levitsky (2004) build a framework on the interaction between formal and informal institutions. Argued that informal institutions can work either positively or negatively to boost or constrain formal institutions. The way that informal institutions use to shape formal institutional outcomes is by creating or strengthening incentives to comply with formal rules.²⁰ Informal rules shape formal institutional outcomes in areas such as legislative politics,²¹ judicial politics,²² party organization,²³ campaign finance,²⁴ regime change,²⁵ federalism,²⁶ public administration,²⁷ and state building.²⁸ Allen et al (2005), among many others, even argue that “China is an important counterexample to the findings in the law, institutions, finance and growth literature: neither its legal nor financial system is well developed, yet it has one of the fastest growing economies”²⁹. Allen et al. (2005) suggest that it was the alternative role played by informal institutions (based on reputation and personal relationships), financing, governance, and supported the growth of the financial sector in China.

¹⁷ Upham 1994; Carol Jones 1994

¹⁸ Kenneth, 2006

¹⁹ Dam, Kenneth W. 2006

²⁰ Helmke and Levitsky, 2003, p. 726

²¹ Mershon 1994; Desposato 2003.

²² Helmke 2002; Van Cott 2003; Bill Chavez 2004.

²³ Freidenberg and Levitsky 2002; Langston 2003; Levitsky 2003.

²⁴ Della Porta and Vannucci 1999; Samuels 2003.

²⁵ Collins 2002a, 2002b; Ottaway 2003.

²⁶ Way 2002.

²⁷ Della Porta and Vannucci 1999; Hamilton-Hart 2000; Colignon and Usui 2003.

²⁸ Darden 2002; Grzymala-Busse and Jones Luong 2002; Tsai 2004.

²⁹ Allen et al. 2005, p. 57

Methodology

The concentration of this paper is to examine the reason why China could achieve a high-speed economic growth despite having a weak rule of law. To do that, this paper will use a historical analysis combined with a detailed study about China's development of rule of law and informal institutions. In answering the puzzle that why China has prosperous economically despite having a weak rule of law, I argued that it is the role of informal institutions which compensate the weak formal institutions and fortify the economic growth eventually.

This paper is based on Gretchen Helmke and Steven Levitsky's framework³⁰ on the interaction between formal and informal institutions. According to them, formal and informal institutions interact in a variety of ways. And they developed a typology aimed at capturing these relationships. See table below:

*Figure 1: A typology of informal institutions**

Outcomes	Effective formal institutions	Ineffective formal institutions
Convergent	Complementary	Substitutive
Divergent	Accommodating	Competing

* Helmke and Levitsky, 2003, p.728

Helmke and Levitsky argue that there are four types³¹ of informal institutions based on how they interact with formal institutions. They are: (1) complementary informal institutions; (2) Accommodating informal institutions;(3) substitutive informal institutions; and (4) competing informal institutions.

According to them, informal institutions could work either positively or negatively to support or constrain formal institutions. Proponents of informal institutions treats informal institutions as functional, or problem solving, in that they provide solutions to problems of social

³⁰ Helmke and Levitsky, 2003, p.726

³¹ *ibid*

interaction and coordination, which enhance the efficiency or performance of formal institutions.³² While opponents treat informal institutions as dysfunctional, or problem creating. Clientelism, corruption, and patrimonialism are said to undermine the performance of formal democratic, market, and state institutions.

As can be seen from the figure above, formal institutions were divided by effectiveness; thus, we have effective formal institutions and ineffective formal institutions. And there are two outcomes of the interaction between formal institutions and informal institutions: convergent and divergent. The upper left corner in the figure above combines effective formal institutions and convergent outcomes, saying when effective formal institutions and informal institutions have a convergent outcome, the informal institutions can be called as Complementary informal institutions. According to Helmke and Levitsky, such institutions “fill in gaps” either by addressing contingencies not dealt with in the formal rules or by facilitating the pursuit of individual goals within the formal institutional framework. These informal institutions often enhance efficiency. Examples include the myriad norms, routines, and operating procedures that ease decision-making and coordination within bureaucracies, and judicial norms that facilitate the work of the U.S. Supreme Court.³³ The accommodating informal institutions worked when effective formal institutions and informal institutions have divergent outcomes. These informal institutions create incentives to behave in ways that alter the substantive effects of formal rules, but without directly violating them; they contradict the spirit, but not the letter, of the formal rules.³⁴ On the right side of the figure above, we may see how informal institutions interact with ineffective formal institutions. In these cases, formal institutions are not efficient or enforced, and the coexistence between ineffective formal institutions and informal institutions are

³² *Ullman-Margalit 1978; Axelrod 1986.*

³³ *Helmke and Levitsky, 2004, p.728*

³⁴ *Helmke and Levitsky, 2004, p.729*

substitute and competition. When ineffective formal institutions and informal institutions have convergent outcomes, the substitutive informal institutions achieve what formal institutions were designed, but failed, to achieve.³⁵ When ineffective formal institutions and informal institutions have divergent outcomes, the competing informal institutions occurred. These informal institutions structure incentives in ways that are incompatible with the formal rules: to follow one rule, actors must violate another.³⁶ These competing informal institutions include clientelism, clan politics, and corruption.

The sources of literature and dataset I examined are as follow:

- Primary sources -- the substantial literature readings of Chinese Governmental (and CCP) documents, readings of related literature and dataset on the rule of law and comparative studies, which include scholarly articles and books, and various texts written in Chinese.
- Secondary sources -- media reports, state (and CCP) leaders' speeches, scholar's presentations, and official and semiofficial publications on relevant topics such as domestic politics, economic development, foreign strategy, international cultural exchange, etc

Section I An Overview of the Conception of “Rule of Law” and “Informal Institutions”

Before turning to later sections, the concept of the “rule of law” and “informal institutions” merit closer examination.

Rule of Law

The history of rule of law can be traced to the civilization of Greece and early England. Plato, one of the most famous philologists wrote, “the state in which the law is above the rulers,

³⁵ *ibid*

³⁶ *ibid*

and the rulers are in the inferior of the law, has salvation, and every blessing witch the Gods can offer.”³⁷

Kenneth Dam argues that the rule of law concern two spheres of institutions and legal rules:

*The first one is with the state, especially with the relations among its structural parts---namely, the executive, the legislature, the judiciary, and regulatory agencies. Under this first heading an important issue is how those structural parts relate to the country at large; where economic development is at issue, the concern is with economic actors in the economy, including not just human beings but also corporations and other economic entities. The second sphere has to do with the interaction among those economic actors. There the focus is on the content of the legal rules, not only subject by subject but also the ways the rules fit together in a legal system.*³⁸

Randall Peerbloom admits that the rule of law, like other concepts, is an “essentially contested concept.”³⁹ And he further argues that the definition of “rule of law” could be divided into two types: thin and thick.⁴⁰ A thin definition stresses the formal or instrumental aspects of rule of law---those features that any legal system allegedly must process to function effectively as a system of law, regardless of whether the legal system is part of a democratic or nondemocratic society, capitalist or socialist, liberal or theocratic.⁴¹ On the contrast, thick definition begins with the basic elements of a thin concept of rule of law but then incorporate elements of political morality such as particular economic arrangements (free-market capitalism, central planning, etc.), or conceptions of human rights (liberal, communitarian, “Asian values,” etc.). Thick rule of law can be further subdivided according to the particular substantive elements that are favored.⁴²

³⁷ *Plato 1952, p.682*

³⁸ *Dam, 2006, p.15*

³⁹ *Peerbloom, 2002, p.2*

⁴⁰ *Peerbloom, 2002, p.3*

⁴¹ *ibid*

⁴² *ibid*

Francis Fukuyama also gives illustration of the rule of law. He argues that the “rule of law in its deepest sense means that there is a social consensus with in a society that its laws are just and what they preexist and should constrain the behavior of whoever happens to be the ruler at a given time. The ruler is not sovereign; the law is sovereign, and the ruler gains legitimacy only insofar as he derives his just powers from the law.”⁴³ And he further pointed out that the distinction between law and legislation is critical to understand the rule of law itself. In the idea of Fukuyama, he thinks “the law is a body of abstract rules of justice that bind a community together.”⁴⁴ It is to say that the law was believed to be fixed by an authority higher than any human legislator. While legislation “corresponds to what is now called positive law and is a function of political power, that is, the ability of a king, baron, president, legislature, or warlord to make and enforce new rules based ultimately on some combination of power and authority.”⁴⁵ According to him, the rule of law is only exist when the individuals holding political power bound by the law, and “if those with legislative power want to make new laws, they must legislate according to the rules set by preexisting law instead of their own volition.”⁴⁶

Informal institutions

“Institutions” are the formal and informal rules and norms that organize social, political and economic relations. ⁴⁷In North’s words, “as mechanisms of social interaction, institutions manifest in both formal institutions, such as the U.S. Congress, or the Roman Catholic Church, and, also, in informal institutions, reflecting human psychology, culture, habits and customs, and encompassing subjective experience of meaningful enactments”. ⁴⁸Carter argued that formal

⁴³ Fukuyama, 2012, p.262

⁴⁴ Fukuyama, 2012, p. 245

⁴⁵ Fukuyama, 2012, p.246

⁴⁶ *ibid*

⁴⁷ North, 1990, p.1

⁴⁸ North, 1990, p.2

institutions are explicitly set forth by a relevant authority and informal institutions are generally unwritten societal rules, norms, and traditions.⁴⁹

Claudia R. Williamson argues that “informal institutions are private constraints stemming from norms, culture, and customs that emerge spontaneously.⁵⁰ They are not designed or enforced by government”.⁵¹ Informal institutions could also be understood as (the usually unwritten) social norms, customs or traditions that shape thought and behavior.⁵² Helmke and Levitsky also provide a systematic answer to the application of informal institutions:

The term informal institution has been applied to a dizzying array of phenomena, including personal networks, clientelism, corruption, clans and mafias, civil society, traditional culture, and a variety of legislative, judicial, and bureaucratic norms. We propose a more precise—and analytically useful—definition of informal institution. It should capture as much of the universe of informal rules as possible, but it must be narrow enough to distinguish informal rules from other, noninstitutional, informal phenomena.⁵³

According to Helmke and Levitsky, more important than knowing what informal institutions are is to distinguish between formal and informal institutions. Four distinctions are worth noting. The first is, informal institutions are not weak institutions, “informal” is not equal to “weak.” In fact, a lot of formal institutions are ineffective and widely ignored. And the weakness of these formal institutions does not necessarily imply the presence of informal institutions. Second, informal institutions should be distinguished from “informal behavioral regularities”.⁵⁴ In Helmke and Levitsky’s words, not all patterned behavior is rule-bound or rooted in shared expectations about others’ behavior, and behavior regularities may be a product of variety of incentives. To give an example, dressing up in attending a friend’s funeral

⁴⁹ Carter 2016

⁵⁰ Williamson 2009

⁵¹ Williamson, 2009, p.372

⁵² Leftwich & Sen, 2010; Berman, 2013

⁵³ Helmke and Levitsky, 2004, p.726-727

⁵⁴ Helmke and Levitsky, 2004, p.727

ceremony is an informal institution, where as dressing up in attending yoga class is behavior regularity. In the latter case, dressing up in a yoga class may only made the person uncomfortable, but not bring social disapproval or sanction. Thus, Helmke and Levitsky argue that to be considered an informal institution, a behavioral regularity must respond to an established rule or guideline, the violation of which generates some kind of external sanction. Third, informal institutions should be distinguished from informal organizations. Just as formal institutions should be distinguished from formal organizations, informal institutions should be distinguished from informal organizations as well. Informal institutions include clans, mafias, personal networks, customs and so on. While informal organizations are interlocking social structure that governs how people work together in practice. It is the aggregate of norms, personal and professional connections through which work gets done and relationships are built among people who share a common organizational affiliation or cluster of affiliations. Last, informal institutions should be distinguished with the concept of culture. Culture plays a significant role in shaping informal institutions, and it is difficult to draw a line between these two. Thus, Helmke and Levitsky decide to cast informal institutions in relatively narrow terms by “defining informal institution in terms of shared expectations rather than shared values”.⁵⁵

Section II The Rule of Law in China

The Short History of Rule of Law in China

A large number of scholars have agreed that China essentially had no legal system when the economics reforms began in 1978. During the ancient Imperial period (time before 1911) the legal system in China was largely a penal system, and the use of law to settle private disputes was less common than in other countries.⁵⁶ With the creation of the People’s Republic of China

⁵⁵ *Helmke and Levitsky, 2004, p.728*

⁵⁶ *Peerenboom,2002,pp.36-43*

(PRC) in 1949, the notion of law was emerged but especially weak. The Culture Revolution period (1966-1976) is a “ten-year catastrophe” in China’s history that the “rule of law” is completely overwhelmed by “rule of man.” Under Mao’s slogan such as “to revolt is justifiable” or “smash the public security organs, prosecutorial organs and people’s courts,”⁵⁷ the legal system was destroyed completely. Within these ten years, the “*Fazhi*” (rule of law) is entirely subjected to “*Renzhi*” (rule of man), which means citizens’ rights were taken away by the ruling class, and many citizens and government officials were prosecuted and put in jail with out any formal crimes or legal violation.

Beginning in 1978, with Deng Xiaoping’s presidency in the leading group, a legal reform effort was launched. Its purpose was an announced shift “from class struggle and political campaigns to economic development and modernization”.⁵⁸ The 1982 constitution struck a rule-of-law theme by stating that the constitution “is the fundamental law of the state and has supreme legal authority...No organization or individual is privileged to be beyond the Constitution or the Law.”⁵⁹ This theme was generalized in 1999 amendments to the constitution, which called for the country to “be built into a socialist country based upon the rule of law.”⁶⁰ In 2004, the constitution was further amended to protect property. According to the amendment, the written laws are “in accordance with law, protects the rights of citizens to private property and to its inheritance, and the state shall make compensation for the private property expropriated or requisitioned.”⁶¹

Nowadays, China has been placing significant importance on law, a quote from Chow could approve China’s changing attitude towards the rule of law:

⁵⁷ *Cai and Wang, 2010, p.5*

⁵⁸ *Chow, 2003, p. 75*

⁵⁹ *Chow, 2003, p. 77-78*

⁶⁰ *Quoted in Chow, 2003, pp. 77-78*

⁶¹ *Constitution of People’s Republic of China, as amended in 2004, Article 13.*

*Beginning in 1978, with Deng Xiaoping's presidency in the leading group, a legal reform effort was launched. Its purpose was an announced shift "from class struggle and political campaigns to economic development and modernization" (Chow, 2003, p.75) The 1982 constitution struck a rule-of-law theme by stating that the constitution "is the fundamental law of the state and has supreme legal authority...No organization or individual is privileged to be beyond the Constitution or the Law."*⁶²

Even though China's legal institution increased in playing a more important role in the politics and economic, the lack of solid foundation of law system couldn't be compensated by this. Thus, it is still convincing to conclude that the rule of law in China is quite weak.

The Low Quality of the Enforcement of Law in China

Another criteria in examining the weak of rule of law in China is through the enforcement of law. Even though China gained an increasing emphasis on law, it does not necessarily indicate that the enforcement of law is of high quality. The reason, if appropriate to say, is because (1) the strong role played by Chinese government and the Chinese Communist party; (2) the weak of Chinese state capacity; (3) the absence of judicial independence in the Western sense.⁶³

As to the influence of Chinese government and Chinese Communist Party (CCP) on the legislative institution, Fukuyama gives a clear illustration about the government and CCP's superior to the rule of law. According to Fukuyama,

*In the contemporary China, the Chinese Communist Party (CCP) does not accept the authority of any other institution in China as superior to it or able to overturn its decision. Although the PRC has a constitution, the party makes the constitution rather than the reverse. If the current Chinese government wanted to nationalize all existing foreign investments and return to Maoism, there is no legal framework preventing it from doing so. The Chinese government chooses not to do so out of self-interest, which seems to be regarded by most parties as a sufficiently credible assurance to future good behavior".*⁶⁴

⁶² Chow, 2003, p.77-78

⁶³ Nexus, p 250

⁶⁴ Fukuyama, 2011, p.248

It might be a little exaggerate to say no one could prevent the CCP if they want go back to Maoism. However, the main idea of Fukuyama is there is no superior system could regulate the CCP, and if this situation continued, there will never be a strong and solid rule of law in China.

The second point concerns state building, especially state capacity. The state bureaucracy is an important pillar of state capacity in China. Though the state bureaucracy is huge, it is weak in terms of what it is supposed to do. This can be parallel to the “run away” states” which has failed to deal with power abuses, rampant corruption, environment degradation, crimes, the low quality of public services and even traffic congestion in cities.⁶⁵ Then is it possible to strengthen the state bureaucracy in order to make efficient state action and prevent the illegal pursuit of private interests? The answer is yes. Ancient China produced an immensely important institutional innovation, namely, “civil administration.” This administration was led by a group of competent officials with strong commitments to the state and to collective goals. The lesson is clear. To begin with, recruitment into the civil service should not be based on membership to the CPC. Rather the sole criteria should be competence and integrity, and in order to compete for talent, they should be offered a reasonably attractive remuneration package. However, patronage politics is still a severe issue in China. When recruiting the administration officials, people were not hired by neither their working efficiency nor proficiency in the certain field. Rather, the phenomenon of “*Zou hou men*”⁶⁶ happened a lot in China and people cannot receive equality in competing a job opportunity. What’s more, in China, the military and the police pledge their support and loyalty to the CCP, rather than to the State. It is as if the Party has assumed the role of the Emperor or the Sovereign. No wonder some people find it conceptually rewarding to refer

⁶⁵ Conner O’Dwyer, 2006

⁶⁶ “*zou hou men*” means people buy expensive gifts or bring huge amount of money to the people in charge in exchange for a working position.

to China as a Party state. This is totally out of sync with the modern world. The Chinese state does not belong to the CPC. The Chinese state is of the Chinese people and for the Chinese people.

The third point concerns with China's absence of judicial independence in the Western sense. According to Stanley Lubman,⁶⁷ the Chinese view of independence is that it is the judiciary as a whole that is to be independent, not the individual judge. Since in China, the judges may often consult with the higher-level judges in achieving final decisions, just like a bureaucrat would naturally consult with superiors before reaching important decisions.⁶⁸ In contrast with the Western judicial system, which judges have sufficient authority in determining a juridical issue, the judges in China are embedded in the bureaucratic politics and are more of a meaningless role.

Section III The Interaction Between Formal and Informal Institutions

China's Case---Clan Group

In the former part of this paper I examined the rule of law in China is weak for (1) it has a short history; and 2) it has a low quality of enforcement. However, in most of China's rural areas, the rule of law is even weaker than in urban areas. Some scholars point out that a common issue faced by China's rural areas is that they located in "remote" and "distant" areas⁶⁹, which have too few courts and enforcement officials to meet the legal needs⁷⁰. Usually in these rural areas, transportation a problem since in some rural villages there are no roads connect with the outside world.

⁶⁷ Lubman 1999, p.262 [Lubman, Stanley B. 1999. *Bird in a Cage: Legal Reform in China after Mao*. Stanford Univerdity Press

⁶⁸ Hung 2004, pp99-104; Lubman 1999, p.263

⁶⁹ Korff 2008, p.404

⁷⁰ See Frank K. Upham, *Who Will Find the Defendant if He Stays with His Sheep? Justice in Rural China*, 114 *Yale L.J.* 1675 (2005).

Although the rule of law is of low quality in these rural areas, it is not difficult to find high speed economic growth within these areas, especially in those villages which contain clan groups. The connection between clan group and economy is that the former will lead to more public goods expenditure, work opportunities and good governance. Xu and Yao's empirical analysis shows that the informal institutions of clan groups, rather than village administration/government, led to more public goods expenditure and, presumably, better local governance.⁷¹

China's clan groups can be seen as a good example of complementary informal institutions. Clan groups are one of the most important social organizations in rural China. They are usually organized along the paternal line. Fei (1946) suggests that in imperial times clan groups served as a link between the imperial ruler and the grassroots, and were used by the gentry to preserve the social and political power of their families.⁷² Fei finds that, through clan networks, the gentry administered charities, which provided local public goods to command moral authority in the villages. These groups are often organized around surnames or, when the village has only one surname, households who share the same grandparents or great-grandparents.⁷³ In either the absence or over-abundance of strong political parties, clan groups can become vehicles for political mobilization and economic growth. In the villages of China, a clan can be as large as 100 households, containing more than 400 villagers, such a group, if well organized, can have a real impact on village governance.⁷⁴

The following part of this section will provide a case study of a clan group who live in Guodong Village, Zhejiang province.

⁷¹ *Xu & Yao, 2015, p.375*

⁷² *Fei, 1946, p.2*

⁷³ *ibid*

⁷⁴ *ibid*

A piece of interview evidence from a clan member in Guodong village illustrates how the clan group mechanism might work:

My grandfather is the Zuzhang (clan chief). We live in Guodong village for more than 600 hundred years. We also have a village government, but the government officials are not our clan members. The surname of our clan is “He”, and there are around 700 clan members under this surname, almost 60% of Guodong village population. My grandfather is not in the village government committee, but he always has the right to speak in committee meetings. He is involved in every big decision for village construction, like building roads or opening factory, and he receives full respect from other village government members. My grandfather represents the interest of all “He” families and his involvement in village affairs helps to prevent the village from sole control by village government (transcripts of the author’s interview with the clan member).

As can be seen, the clan chief plays a much more important role than the village government in rural administration. Whenever there is a big event in the village, the village government should consult the clan chief and other seniors in the clan to get support. If a specific project (eg. Collecting money for building a road; organize festival ceremony) is approved by the clan chief, then he will convince the clan members to support this project. Otherwise, the project is hard to accomplish. The role of the clan chief helps to limit the power of village government, and, at the same time, work together with the government to protect the interests of the whole village. The interaction between clan chief and village government can be seen as an example of how informal institutions positively support formal institutions.

Why does a lineage chief have more power than the village government to convince fellow villagers in a clan? First, the villagers in a clan identify themselves as family members rather than mere villagers. They are closely bond together and interact quite frequently. Thus, the clan chief is playing a “father” role among the clan members and will easily get their trust and respect. Second, the clan members share a moral obligation to the clan chief. The traditional

value on loyalties makes them obliged to the clan chief. And the chief will in return make contributions to the village and bring benefits to the clan members.

Beside the above, the case of Guodong village can also be seen as an example of how cohesive clan groups could lead to rural economic growth. Guodong village is located in Wuyi, and is one of the most famous tourist attractions in Zhejiang Province. In Guodong Village, the “He” clan group developed a special tourism program named “Nong Jia Le” (Happy Farmer Home)⁷⁵, which promotes Guodong’s economic growth.

Below is an interview from one of the officers who works in Guodong “Nong Jia Le” tourism:

“We began to organize this tourism program 10 years ago, and now every year we have more than 100,000 tourists visit our village. We hold 2 public hotels and numerous family hotels, 10 restaurants, 20 cafes and teahouses, several fishpond and vegetable plots. People could come either for short-term tourism or long-term rehabilitation. Within our village, tourists could go hiking or fishing, plant their own vegetables and fruits, buy home-made country products, or just escape from the busy urban life and embrace the nature” (transcripts of the author’s interview with the clan member).

The “Nong Jia Le” is a typical rural tourism in China, and has launched in China for more than 20 years. Since 1998, when China’s National Tourism Administration (CNTA) first introduced “China Rural Tourism Year 1998”, rural tourism in China achieved high-speed development. CNTA not only offered financial incentives, but also government policy support for developing rural tourism⁷⁶. As a result, rural committees have greatly increased in pursuit of different forms of rural tourism such as “Nong Jia Le”, “Yu Jia Le”, “folk-custom tourism”

⁷⁵ “Nong jia le” tourism appears to be as a new concept ‘cultural rural tourism’ (MacDonald & Jolliffe, 2003, quoted in Ying & Zhou, 2007) invested and operated by individual farmers and farmer’s families, providing rustic meals (home-made meals) and accommodation (farmhouse) services and amusements for tourists and vacationers who during the weekend and holidays leave their homes in city to go, even if for a few hours, to enjoy “Nong jia le”(quoted in Su 2010).

⁷⁶ Hu 2008

“leisure farm tourism”, “agro-tourism” and so on⁷⁷. “Nong Jia Le” tourism is the most popular among all these rural tourism, and by the end of 2009, China’s “Nong Jia Le” tourism reached 1.3 million in number⁷⁸.

Guodong village’s “Nong Jia Le” tourism is especially successful in largely increased income and employment opportunities for local communities. On one hand, Guodong village has a considerable natural environment, which allows villagers to develop diverse tourism such as fishing, hiking, planting etc. On the other hand, since Guodong’s “Nong Jia Le” tourism is held by the “He” clan group, the entrepreneurs in the clan group are more likely to hire the clan members rather than non-clan members to work in “Nong Jia Le” tourism. Thus, members in the same clan do not need to worry about jobs since the entrepreneurs prefer to hire relatives in their own clan. Lastly, since the main tenet of Guodong’s “Nong Jia Le” tourism is to “enjoy yourself in farmer’s families”⁷⁹, the cost of operating “Nong Jia Le” is extremely low. The cost for tourists to join Guodong’s “Nong Jia Le” is around 50 RMB (about \$7) per person per day, includes three meals and most of the entertainment. This low price attracts both domestic and international tourists, who often return.

Section IV. Conclusion

Limitations

Eventually, I will close this prospectus with some research limitations and future directions. The first and foremost limitation is there lack of specific case studies about how “guanxi” as an informal institutions promote the growth of Foreign Direct Investment. Second, a more quantitative analysis needs to be conduct in examining the casual relations between informal institutions and economic growth. Are these two variables significant related? Is there a positive

⁷⁷ *Su 2011*

⁷⁸ *Sun 2009*

⁷⁹ *He, Li & Qin, 2004, p.260*

or negative correlation between them? And is there any models can be applied to this case?

These questions should be answered in further research.

Future Directions

The relationship between the rule of law and economic growth has been talked for decades. Questions kept growing about this topic and some of them are resolved, while some not. Perhaps the most difficult question is whether China would have a solid rule of law and when will this happen. Actually, in recent years, the Chinese administration is working on the law issue and devote every effort to try to build a transparent, strong, and solid legislative system. Even though it is hard to predict the future, China's determination of building a strong legal system cannot be denied.

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