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COLLUSION WITHOUT CORRUPTION: SHIFTING FRAMES AND CONFLICTING RATIONALITIES WITHIN PRIVATE AND PUBLIC SECTORS IN CHINA

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COLLUSION WITHOUT CORRUPTION:

SHIFTING FRAMES AND CONFLICTING RATIONALITIES WITHIN PRIVATE AND PUBLIC SECTORS IN CHINA

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Abstract

Traditional accounts of corruption present it as the outcome of civil servants who abuse public power in their pursuit of private gains. I argue however, that collusion—the coordination between two or more parties to pursue illegal ends—is not the outcome of bribery or graft, nor is it the absence of rules and their enforcement, but the obverse: A state equipped with strong institutions to achieve central policies and competent civil servants eager to fulfill their professional obligations.

This argument is laid out in three empirical chapters. The first of these suggests that people, acting on the behalf of their organizations, rely on and construct stabilizing technologies—in the form of personal networks or entry into formal agreements—to resolve regulatory uncertainty. It posits that despite what appears as corrosive sources to the authority and independence of administrative rules, organizational alliances in fact, fulfill an institutional logic—a congruent set of rules and incentives that shape the perception and behavior of organizational actors.

Contesting rationalities may appear in the form of contradictory logics that govern public and private actors. This is the subject of the second chapter, which focuses on local bureaucrats and firm managers who are caught between central- and local- level constraints and traces how they cooperate to resolve a dilemma produced by administrative mandate. One form of ambiguity for instance, emerges in the form of rule incongruity. While indeterminacy—produced by a rule embedded in a statute or regulation that may be subject to multiple interpretations or can be nullified by another rule—has been developed in the western legal scholarship to examine juridical discretion, I extract from this concept to articulate the condition of rule incongruity, a property of a

situation where public and private actors must cope with discordant administrative constraints. I propose that it is in the interpretation and reconciliation of rule incongruity, manifested in the conflicting frames through which organizational actors interpret their actions and innovate by constructing congruent frames for action, that give rise to what the state codifies as corruption.

The last of these empirical chapters reinterprets instances of collusion by positing that when contradictory logics exist, organizational actors attempt to reconcile these in the form of formal agreements or informal partnerships, or both. Doing so leads to a provisional redrawing of organizational boundaries that change existing governance structures, nullifying proximate rules for controlling opportunism. It argues that instances of individuals breaking formal rules, blurring divisions of labor, or violating regulations, are attempts at informal or *substantive rationality*. I define this differently from the original Weberian concept and posit that it is rather, the reliance on a unifying logic—norms and extra-organizational rules—in the attempt to achieve an organizational end. Together, these cases call into question the characterization of regulators (or the regulated) as corrupt when they violate procedural rules by adhering to economic policy (or privileged organizational alliance), challenging such rule violations as instances of neopatrimonial authority or the arbitrary exercise of power.

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I INTRODUCTION

> "Rules apply to foremen and machinists, to clerks, sergeants, and vice-presidents, yet no durable organization is able to hold human experience to these formally defined roles. In actual practice, men tend to interact as many-faceted persons, adjusting to the daily round in ways that spill over the neat boundaries set by their assigned roles."
>
> —Philip Selznick, *Leadership in Administration* (1957:8)

Sunrise Industrial Group (SIG) resides in Central City's Industrial District.[1] The road turning into SIG's parking lot is a wide stretch of concrete divided into multiple lanes. On most afternoons, the road is in gridlock, congested with passenger sedans and long haul trucks heading towards a wholesale bazaar trading goods from furniture to consumer electronics. Traffic on the thoroughfare rarely subsides. Vehicles and pedestrians alike, shuffle past and over the old and new. Before coming upon SIG, one passes by Round Skies, another private industrial group, a State Bank branch, a motel franchise, and a café frequented by local bureaucrats and entrepreneurs. SIG lies just beyond the next traffic light. Upon approach are several mom-and-pop shops offering freight and courier services; after market auto-parts and repair; and hole-in-wall eateries serving skewered meat, hot pot, and beef noodle bowls. Their rooftops double as makeshift housing, with newsprint papered over windows and freshly laundered linens pinned neatly across sagging clotheslines. The tenement housing is sandwiched between several residential developments. Some of the older, ten-storied high-rises with exposed concrete were built

[1] All identifying names of persons, firms, roads, and locales are fictionalized to preserve the anonymity of the ethnography.

in the nineties. The newer high rises built in the new millennium doubled in height, and were typified by their ceramic tiling.

Known to locals and employees as "*sheng yang",* a composite of the characters, "rise" and "sun", SIG is not the largest of local private industrial groups, but a recognized brand in the region. Its headquarters sit above the grounds where members of the Shang lineage once worshipped their ancestors. On this formerly hallowed ground sits an unassuming six-storied high rise, which houses SIG headquarters. Reminders of the past are sprinkled throughout the grounds' current incarnation. Flanking either side of the gate stood two life-sized lions warding off vengeful spirits. Fashioned from blue limestone and perched atop a meter-high platform, they overlooked the behemoth road with their mouths agape. Zipping past them on the bypass's turning lane are scooters, cargo trucks, and passenger cars—Yamahas, Volkwagens, and BYDs alike—driving against traffic in an attempt to quickly get to minor roads off the main artery. On the sidewalk, pedestrians dodge after-school moms with their kids, zipping through on mopeds. On the road, buses and long haul trucks travel from as far as the southern industrial hubs of Dongguan and Guangzhou, offloading the latest models of refrigerators and television sets into warehouses along the road. They all attempt to make their way through a pall of white and yellow suspended in the air.

Upon entering into the firm's General Affairs office at the headquarters, where I was stationed, one has a direct line of sight to a sword that hangs on the back wall, intended to discourage dark elements from entering the office. The workers in this office function as a support staff for Zhang, the founder and president of SIG, overseeing

secretarial and administrative tasks related to the firm's many businesses including shipping, mining, and construction.

Across the hall from General Affairs sat the Archive Room and a newly established department, the Party Branch. At the time, it was only a decade old and was overseen by Party Secretary Ding, who also doubled as head of SIG's Workers' Union and Women's Federation. Ding was a retired foreman who served as a Labor Representative at the National People's Congress for over two decades.

The following chapters are not about extra- versus intra- organizational governance but how people actively define the terms of interaction, conduct, and obligation—or rules—when existing constraints hinder their immediate goals. Organizational actors do so by making salient, shared definitions of obligation (Chapter 3), innovating upon existing procedure (Chapter 4), or drawing on aggregate-level agreements (Chapter 5). Each chapter features more than one of these aspects, pointing to the interrelated nature of these constructs.

In Chapter 3, we meet an entrepreneur who draws on personal friendships to assist in a case of regulatory racketeering as well as a firm party secretary charged with establishing formal linkages between his firm and the local party apparatus *in anticipation* of regulatory problems. Given resource constraints and selective support on the part of local officials, we find that despite the construction of such a firm-state association, economic actors must signal to local bureaucrats their mutually shared goals, motivating these civil servants to fulfill their obligation to them as local investors.

In Chapter 4, we encounter firm managers faced with a state policy that damages the economic viability of their investment. To resolve this dilemma, private actors rely

on both the cooperation and performance constraints faced by local bureaucrats. Here we find instances of civil servants who draw on existing rules that govern procedure and authority in order to override provincial level policies that produced rule incongruity.

In Chapter 5, we witness interactions between private and public actors that appear as corrupt, such as firm managers violating rules and public actors offering regulatory exemptions. We also find participants anticipating extra-organizational sanctions to opportunism in the form of reputation and friendships forged by longstanding interactions. Most importantly, we find the observation of organizational-level commitments in lieu of proximate rules governing administrative procedure by both private and public actors—resulting in their violation of the latter set of rules.

The main puzzle to be unpacked in this dissertation is this: why is it that in a society where there is a relatively high level of state capacity (e.g., low violent crime rates, public infrastructure, and provision of public education), do private citizens and public officials preponderantly cooperate to flout rules?

Traditional accounts of collusion present weak institutions as the source of covert collective action. I argue however, that cooperation among multiple parties in pursuit of a common goal that violates or conflicts with existing institutional goals or rules is not the outcome of qualitatively poor institutions nor is it the absence of rules and their enforcement, but the obverse. Competent civil servants eager to carry out directives and meet performance targets—measures upon which their professional mobility depends—interface with private citizens engaged in economic action (e.g., entrepreneurs and firm managers) whose goals at times, conflict with the constraints beset upon public servants. In instances of cooperation, these officials count on tacit norms of reciprocity from

supplicants (e.g., colleagues or private citizens), but they also depend on the formal and de facto latitude they have over administrative decisions.

In short, I argue that legibility and centralization lead to a high level of discretionary power. This quality allows executive decisions to be implemented with dispatch, at times overriding previous mandates and laws, and at other times, enforcing quotas in haste and severity. This in turn, leads to a perception of rule instability. At the micro-level, rules do not stand on their own, nor do they have power in their own right (i.e., as in the Weberian ideal type of a legal rational bureaucracy). Instead, they are perceived as a means to an end. What arises under such circumstances is a condition of *multiple dependence*. People begin to rely on their networks—and expect reciprocity in return—as a response to regulatory sanction. In instances where they respond to formal rules or discretionary power that conflict with their goals, they draw from a shared circumstance of multiple dependence and *abidance*, complying with rules ostensibly but subverting them substantively.

In the following chapters I provide an account of the experiences of private citizens through a variety of vantage points and networks of individuals employed at a private industrial firm. In doing so, I draw linkages among individual encounters and narratives to the management of regulatory uncertainty in the everyday economic life.

Chapter 2 provides a general overview of the literature on institutionalized collusion, covert collective action, and the deployment of *guanxi,* relational ties, in China and counterpart transition economies. The purpose of the literature review is to contextualize the focus of this project—what happens when people cannot depend on formal rules to mitigate uncertainty? What if, in fact, formal rules instead produce

uncertainty? I suggest that such a phenomenon, involving the use of social ties and tacit assumptions of reciprocity—both illegible elements of social life—allow people to resolve ambiguity and unpredictability arising from formal rules and authority. This phenomenon, commonly constituted as fraud, is the subject of explication in the ensuing chapters.

I suggest that collusion is consequent of administrative redundancy and arises from attempts to resolve rule incongruity. Extant explanations of rule incongruity in the literature identify authoritarianism as the source of inconsistent rules in the administrative state. I revise this framework to posit that the party apparatus is not incidental but in fact, critical as an organizational structure for resolving contradictions that frequently arise within a state bureaucracy charged with managing the economy. Part and parcel with this technology to correct incongruities in policy goals and existing statutes however, is that reliance on this institution by state personnel begets what may conceivably be pinpointed as corrupt activity. The implication of this research is that while scholars and the media focus on graft and bribery in discussions of corruption, collusion may take place in their absence. Yet given the set of constraints that confront civil servants in China, it is unclear if collusive behavior is avoidable and if state personnel may fulfill professional obligations without violating existing regulations prohibiting arbitrary action and corruption.

Chapter 3 suggests that use of informal networks as substitutes for institutional ties evolve to become more formally organized. By presenting three empirical cases to show how organizational actors actively construct and deploy stabilizing technologies to resolve uncertainty, it suggests that people, acting on the behalf of their organizations,

attempt to seek more predictive methods to routinize the management of uncertainty. These efforts range from individuals investing in their social networks, incorporating private networks into organizational ties, and entering into formal agreements with public actors.

Whereas the administrative officials in the aforementioned chapter acted with little oversight from their superiors or central authorities, Chapter 4 presents a case where local officials are strictly held to accountability measures. Under such constraints, civil servants must manage discordant administrative constraints. I propose that it is in the interpretation and reconciliation of rule incongruity, manifested in the conflicting frames through which organizational actors interpret their actions and innovate by constructing congruent frames for action, that give rise to what the state codifies as corruption.

The argument heretofore as presented in Chapters 3 and 4, is concerned with the construction of stable rules and protocol when formal rules are unstable. Chapter 5 builds on this organizational dilemma of managing uncertainty, namely, when contradictions in formal rules appear, and focuses on the property of rules governing an interaction. While Chapter 3 suggests efforts to transfer and incorporate particularistic ties into institutional ties, Chapter 5 argues that even when interactions among private and public actors are governed by organizational rules and protocol, gaps between formal rules lead to rule violations that produce the appearance of particularism and corruption.

II LITERATURE REVIEW

Beginning in the 1980s, the revival of the institutional perspective in sociology came to be known as new institutionalism. The new institutional theorists were interested in questions of how and why organizational actors adopt new practices and rules to become more alike in structure and procedure (Dimaggio and Powell 1983).[2] In examining organizational conformity as an outcome, the analyst's gaze initially focused on organizational acceptance to change at the aggregate level, attributing less agency to organizational actors at the individual level. In other words, instead of conceiving adaptation to new practices and rules as the decisions made by 1) legislators, 2) managers, or 3) teachers, these organizational actors are assumed to be carriers of change and given glancing analytical attention. The site of action of empirical research in this vein rather, occurs at the level of aggregated entities in the form of changes to 1) legislation among cities and states (Tolbert and Zucker 1983); 2) organizational structure among firms (Fligstein 1985); and 3) demographic composition among schools (Meyer et al. 1988).

Organizational Resistance to Institutional Norms

Whereas passive *acceptance* of rules and practices among organizational actors had been the modal outcome studied by institutionalists in the eighties, by the next decade, scholars trained their eyes on the obverse, focusing on their *resistance,* in both

[2] For a review of this literature, see Chapter 7 in Scott (2013).

their active and passive forms.[3] The withdrawal of attention from isomorphism, or the institutional *conformity* among organizations, stemmed from skepticism over the theory's inherent determinism. Successive scholarship challenged the assumption of a unifying institutional logic (e.g., capitalism)—or multiple but compatible overarching paradigms (e.g., monogamy versus polygamy)—imposed on organizational actors.

In other words, when contradictory institutional logics—supra-organizational rules, interests, and norms—coexist, organizational actors may exercise greater latitude in response to external constraints (e.g., government regulations or intra-organizational practices adopted by their peers).[4] Institutional theorists such as Christine Oliver (1991), identified four broad strategies of resistance: 1) *compromise*, the partial concession to external constraints, such as negotiating terms of compliance; 2) *avoidance*, the attempt to obviate true compliance, such as through overt acquiescence but covert nonconformity; 3) *defiance*, the explicit rejection of institutional norms, such as through ignoring imposed rules; and 4) *manipulation*, the attempt to change or exercise power over external rules, such as through lobbying efforts or their constituents—those with the authority to impose rules (e.g., government regulators).[5]

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[3] Habit and imitation for instance, are passive forms of conformity. Acquiescence may take on more active forms as well, such as when firms are incentivized to comply with regulatory standards in order to win public approval or to obviate scandal. For a treatment on passive and active forms of compliance, see Oliver (1991:152–53). For an overview of this theoretical departure from conformity to resistance in institutionalism, see Scott and Davis (2015:265–66).

[4] For an authoritative definition of institutional logic, see Friedland and Alford (1991:243); for a treatment on the concept's function in the taken-for-granted perception of the strategies adopted by people in their fulfillment of aspired ends, see Friedland (2002:383).

[5] These four strategies may be expanded into twelve tactics that organizational actors may deploy to resist external pressures: 1) balance, pacify, and bargain; 2) concealment, buffer, and escape; 3) dismiss, challenge, and attack; 4) co-opt, influence, and control, with each of these four groups internally varying on a spectrum of least to most active resistance. These four types may be superimposed onto the following categories: 1) compromise, 2) avoidance, 3) defiance, and 4) manipulation. See pg. 153-159 in Oliver (1991) for their conceptual definition and examples.

Each successive category (e.g., from defiance to manipulation) also involves greater levels of interaction with constituents imposing these constraints (e.g., health inspectors) and attempts to exercise power over constituents or the imposed rules (e.g., health codes) themselves. By adopting *manipulation* as opposed to *compromise* as a response, organizational actors must make an effort to influence or take over the source of pressure—rather than partially conceding and negotiating the terms of the agreement.

From restructuring executive compensation (Westphal and Zajac 1994) to employee rights (Edelman 1992), researchers have documented the use of avoidance and compromise in the form of loose coupling as a resistance strategy used by organizational actors.[6] Drawing on Oliver's (2001) concept of *content inconsistency* (pp. 164-167)—the contradiction between external constraints imposed on organizations and the latter's goals—researchers have found organizational actors to adopt a common but deceptive practice of *decoupling*, the symbolic adherence but de facto dismissal of external rules and strategies. Whether in the form of purposeful omission in implementation (i.e., fully decoupled), such as when adoption of formal plans and structures are announced to the public but fail to be implemented, or feeble implementation (i.e., loosely coupled), such as when organizations poorly fund and support implementation, loose coupling and decoupling offers organizational actors internal control and discretion over the allocation of real resources.

[6] For more empirical studies on organizational compromise, see D'Aunno, Sutton, and Price (1991) for conflicting demands confronted by mental health care providers in the adoption of new drug treatment programs by; Abzug and Mezias (1993) for fragmented state authority and implementation anti-employment discrimination policies; and Alexander (1996) for placating and balancing conflicting donor interests in museum art exhibitions.

Decoupling and the Law Implementation Gap

Zhou (2009) has found that while policy implementation appears uniform across Chinese administrative organs, suggesting a competent state or one with high capacity, there is considerable intended and unintended loose coupling. Local civil servants exercise a high degree of discretion as anticipated by a decentralized administration encouraging flexibility in how central policies are carried out on the ground. He finds however, that an unintended consequence of standardizing bureaucratic competence through quantified performance measures—used as both an indicator of policy success and a motivator for bureaucratic accountability—is symbolic compliance, producing what appears at face value, unvarying and reliable state capacity. The process of achieving symbolic compliance requires coordination among bureaucrats, such as to transfer funds or resources in kind (e.g., cattle to fulfill dairy quota) across jurisdictions to fulfill revenue quotas (Kipnis 2008).

Contemporary scholars have also revisited past empirical studies on industrial bureaucracies that privilege intra-organizational political factions and individual agency in examining decoupling strategies (Hallett and Ventresca 2006a, 2006b). In drawing from Alvin Gouldner's ethnography, *Patterns of Industrial Bureaucracy* (1954), these scholars reinterpret observations of managerial policies through a new institutional lens.

Hallett and Ventresca (2006a) posit that Gouldner's industrial types when taken together, can be interpreted as evidence of coupling, tight coupling, and loose coupling, respectively. For instance, *representative bureaucracy*, suggests an apt fit in formal organizational structure and informal perception of policy. The managerial adoption of a safety-protocol was a case (pg. 204-205) used by Gouldner to indicate that when

managers and workers see eye to eye, it obviates the need for close supervision as characterized by a *punishment-centered bureaucracy*. In this form of administration, managers presume ineptitude and laziness among their charge (pg. 66), and closely supervise and penalize workers for committing offenses like pilferage of raw materials and absenteeism that had been indulged by the former management. The administration governed by the old manager, "Old Doug", promoted absenteeism but also worker morale (pg. 81). It was considered by Gouldner to be a *mock bureaucracy*, because formal organization was in fact superfluous vis a vis informal organization in holding workers accountable.

While organizational actors have been observed to have the capacity for resisting external constraints, such discretion may vary depending on the institutional context in which they are situated. Goodrick and Salancik (1996) for instance, found that obstetric use of Caesarian sections vary little among hospitals except when high uncertainty exists—when patients are neither at high nor low risk for the procedure. Under such circumstances, hospital characteristics (e.g., ownership structure and type of facility) become important determinants in nudging doctors to opt for C-sections for patients in their charge.

The mixture of macro-level institutional logics such as communism and private markets since the post-Cold War era has led to the emergence of a variety of organizational forms in transition economies (Child 1994; Guseva and Rona-Tas 2001; Nee and Opper 2012; Scheppele 2013; Walder 1995a).[7] Without doubt, high uncertainty

[7] For a review of the literature on market transition (i.e., from a state redistributive to market economy) and ongoing debates between the *new institutional sociologists* (e.g., Nee) who emphasize the importance of property rights and market process (c.f. this perspective is closer to a new institutional economics framework emphasizing the role of institutions in constraining choice and decisionmaking, than the

and transactions costs prefigure the transition context, leading to the emergence of norms and practices embodied by organizational actors to resolve problems such as opportunism by relying on informal, or non-codified institutions (i.e., kinship and social networks) (Boisot and Child 1996; Lin 1995; Ouchi 1980; Peng and Luo 2000).[8]

Formal or codified institutions such as law in transition economies like China may be unstable due to both bureaucratic design and a liability of newness.[9] Scholars have attributed the generality and vagueness of language in PRC laws to the practicality of delegating authority in a large bureaucracy and the consequence of inheriting judicial and legal models from civil law societies (e.g., the former Soviet Union). Peerenboom (1999) observes that central level legislation articulating general principles and goals issue "implementation rules" that authorize lower level governments and administrative organs to "fill in the gaps" and interpret legislation in accordance to local circumstances (pg. 336). Statutes under civil law furthermore, are characteristically general compared to common law countries (e.g., the United States) (Peerenboom 1999).[10]

Regardless of the intended ends that unspecific rules and local discretionary authority serve, these have led to an assortment of outcomes and practices that undermine

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aforementioned new institutionalists in this chapter) and *corporatists* who emphasize the importance of local government and political processes (e.g., Walder, Fligstein, Stark, Zhou), see Keister and Borelli (2012).

[8] In Hungary, Stark (1996:997) has found that organizational actors have attempted to hedge themselves from uncertainty by "diversifying their assets, redefining and recombining resources". Such a recombination of rules and frameworks due to both inheriting institutional constraints (e.g., State Ownership) as well as balancing new economic realities (e.g., fall of the Berlin Wall) compel organizational actors such as factory managers, to selectively choose characteristics from either logics (e.g., market distribution versus bureaucratic planning) to redefine worth and innovate new organizational forms.

[9] The absence of clearly defined rules in a transition economy may obviate the need to overhaul laws designed for a centrally planned economy and continuously update regulations that may become outdated and inappropriate for a rapidly changing society and marketizing economy. See Dowdle (1999) for a critique of clearly defined rules as a condition of rule of law. He argues that specificity may lead to increased transaction costs. Local officials for instance, may spend needless time and energy to receive clearance and confirmation on rules to approve administrative transactions.

[10] There may be a movement of convergence as legal scholars, lawyers, and judges who practice in China are increasingly trained abroad in common law societies like the United States, see Potter (2004).

the independence and authority of law. Scholars have found legislation to be contradictory, where regulations may contradict or offset one another (Orts 2001), even in violation of the Constitution (Corne 1996:152). Yet despite variation in policy implementation (O'Brien and Li 1999) and rule violation, bureaucrats develop shared norms in identifying what laws are window dressing and violable (e.g., the Constitution) and what laws are to be strictly followed (e.g., State Council rules) .

A number of scholars have focused on the structural features of legislative power and its expansion that have undermined the authority and independence of rules (Birney 2014; Pearson 2005).[11] Market reforms in the nineties that overhauled state-owned enterprises reduced the number of government officials by 50 percent and downsized administrative from 40 to 29 ministries (Peerenboom 1999:338). When legislative powers were extended to numerous state bodies in this period (at both central and local levels), it had in fact, imported bureaucratic rivalries into the legislative structure (Keller 1994:733). Turf wars commenced among administrative departments in a race for laying claim to jurisdictional authority. The effort among various organs to protect their interests led to the implementation of conflicting administrative rules. This legacy persists in the form of frequent and numerous legislations that may conflict, drafted by administrative bodies at all levels (Orts 2001).[12]

Muddling Through and Sensemaking

In response to an environment of inconsistent rules and administrative mandate, empirical research in China has identified various mechanisms by which bureaucratic and

[11] This view is consistent with Lieberthal and Lampton's (1992) fragmented authoritarianism model suggesting that "authority below the very peak of the Chinese political system is fragmented and disjointed" (pg. 8).

[12] Peerenboom (1999) surmises that this was a battle among survivors to make themselves seem relevant and necessary to central authorities.

private economic actors resist the imposition of rules or resolve problems that hinder salient goals, or both. Zhou, Lian, Ortanlano and Ye (2013) draw upon Lindblom's (1959) concept of "muddling through"[13] to explain how bureaucrats apply consistent guidelines and improvise given new constraints (e.g., shifting auditing criteria and revising performance targets).

Public and private actors overlap in the literature of local corporatism—an emphasis on the role of local governments as drivers of growth (Oi 1999). Walder (1995b) conceived of the local government's role as providing firms with resources that other types of owners cannot achieve. Similarly, Che and Qian (1998) find that these new organizational forms (i.e., Town and Village Enterprises (TVEs)) limit state predation and underfinancing that confront privately owned firms as salient sources of uncertainty.[14]

As TVEs recede in number and significance—and with its ensuing disappearance—private firms and entrepreneurs begin to emerge as an important organizational form and agent. Nee and Opper (2012) identify mechanisms by which private entrepreneurs manage institutional uncertainty in the form of raw material scarcity and technological know-how. Others suggest the ways in which entrepreneurs embrace state-sanctioned business associations as a means of lobbying for government

[13] Lindblom (1959) enjoined policymakers to practice incrementalism based on local experience and room to make iterative improvements based on pilot-testing rather than costly attempts to overhaul existing systems or institutional designs based on a cost-benefit analysis or operations modeling. Lindblom had little faith in authorities, such as academics or consultants, who claim expertise and capacity to model variables and their outcomes, he believed that there were certain types of problems that were conducive to being modeled and resolved (e.g., traffic jams on George Washington Bridge), but not others (e.g., foreign policy). Zhou et al. (2013) define the concept as "…adopting ad hoc, improvised strategies; exhibiting a course of action that focuses on short-run, incremental gains; and making sequential adjustments in strategy as conditions change, which leads to patterns of shifting paths of action over time" (pg. 123).

[14] Dickson (2003) also documents the phenomenon of widespread entry by bureaucrats (who have either abandoned their posts or moonlight as entrepreneurs) into the private sector. The source of uncertainty as configured in this study however, are the entrepreneurs themselves, whom the state devises to co-opt through the creation of party-sanctioned business associations.

support (Kennedy 2009; Ma and Parish 2006). Few studies however, analyze the coordination between public and private actors as a means of resisting the imposition of external rules or resolving opportunism, respectively.[15] The ideas and debates outlined in this literature review will be examined in more detail in subsequent chapters.

[15] With a few exception however, see Xin and Pearce (1996) and McNally (2011) for empirical studies of private-public coordination to resolve opportunism and administrative problems.

III UNCERTAINTY

To the Esteemed Leadership:

. . . [O]ur firm successfully acquired Property Lot # XXXXXXXX located at the intersection of A Road and B Road in 2010. We have been unable to develop said property on schedule because eviction efforts have still not been completed. We ask for the instruction and support of the Precinct Party Committee.

Saluting,

Party Secretary Ding of Sunrise Industrial Group[16]
July 2012

The excerpt above is part of a memorandum submitted to the precinct party committee before a meeting between local state cadres and party representatives from Sunrise Industrial Group (SIG), a privately-owned firm in central China. It had hired the author of the memo, Ding, to staff the position as the firm's party secretary because of his political standing as a retired Deputy of the National People's Congress. Ding's intended purpose for the message is to request for symbolic and real resources from the precinct party secretary to carry out an eviction en masse for SIG, the private firm he represents. Here a market actor is using state links to benefit the firm. Why and how does such an organizational arrangement exist between a private firm and the state?

Conventional theories suggest that corruption derives from factors such as poor or conflicting incentive structures, low compensation, and lack of transparency in the bureaucracy. Through my field observations, I suggest that the phenomenon of party building within private firms is an organizational innovation, challenging traditional

[16] Names and locations have been changed in order to maintain the confidentiality of my informants

accounts of conceiving individualized coordination between state and market actors as rent-seeking behavior. I propose an alternative theoretical explanation: state and private firm linkages in specific cases should not only be conceived of as patron-client ties but also as institutions for coordinating state and market activity where rules are unstable. From the vantage of the market, without credible commitment from the state in reliably implementing rules, and bounding the degree of the state's coercion, participants have trouble anticipating the behavior of others—of both state agents and other private individuals.[17]

This added dimension of uncertainty in everyday life leads to multiple dependencies upon one's social network. I use the concept of *multiple dependency* to designate an institution where individuals: a) perceive rules constraining private individuals and the state as unstable; b) anticipate vulnerability to state discretion; and c) are thus habituated to draw upon their *superimposed identities*, the organizational and familial roles embodied by an individual. While drawing upon the superimposition of roles is a universal phenomenon, I argue that multiple dependency, augmented with the colonization of the domestic private sector by the party apparatus, allow individuals to reduce uncertainties arising from the state and increase the predictability of their market interactions. I take this micro-level theoretical framework to look at macro-level implications by locating the origins and consequences of how a state-legitimizing policy bolstering support for the incumbent party, confronts the realities of private entrepreneurship in China.

[17] China is not exclusive in terms of rule ambiguity and incongruity. See Pierce (1995) for a discussion of American administrative rules that are unpredictably interpreted by judicial courts and inconsistently enforced by regulatory agencies.

In the aftermath of Tiananmen Square, the Chinese Communist Party (CCP) proscribed entrepreneurs from party membership in August 1989 (Jiang 1989). The decision was subject to extensive debate among party elders. Among them, party hardliners attributed the economic crisis that took place in the previous year to private entrepreneurs. The nail on the coffin however, came from their allegations of capitalist support for student protests (Dickson 2007:832).[18] Political unrest and its ensuing crackdown had become a source of national embarrassment and entrepreneurs were found to have funded the dissent.[19]

In the years following party proscription, entrepreneurs were harassed by local officials and arbitrarily jailed for engaging in commerce. Legally, they had no property rights and bureaucrats could seize their estates without due cause or compensation (Dickson 2007:832). What could one do when state authorities and law enforcement could target minority groups with impunity? One solution they devised was to masquerade as entities protected by the state. Entrepreneurs registered their firms as state-owned collectives, also known as red hat enterprises. Ostensibly, these firms were publically owned by the local government but were in fact, privately held and operated (Dickson 2007; Parris 1993).

Under a decade's time, private entrepreneurs flourished under economic reforms (*gaigekaifang* 改革开放) spearheaded by Deng Xiaoping in 1978 and became an affluent and formidable demographic. By 1997, the state's position on them began to change. Following Deng's death in February that year, Jiang Zemin announced at the 15th Party

[18] Wank (1995) finds that while some capitalists did sympathize and fund student protests, many were against or even undecided about the event; c.f. "Private business, and political alliance in a Chinese City," Australian Journal of Chinese Affairs, No. 33, pp. 63-65.
[19] For a discussion of party sentiments regarding capitalists during this period, see pp. 98-107 in Dickson (2003).

Congress that non-public sectors were "important components of our nation's socialist market economy".[20] By February 2000, Jiang introduced a concept reconciling socialism with China's growing private sector and officially repudiated his 1989 proclamation banning capitalists from the party. His "Three Represents" affirmed that the party not only represents farmers, workers, but also "those occupying other strata of society" (Dickson 2007:833). It received the CCP's full backing and was adopted as a policy later that year when it was appended to the Party Constitution at the 16th People's Congress.

Structural forces had compelled the CCP to shift its organizational design to adapt to challenges emerging from both centrally and globally produced structural changes. An important interlude took place in the years between the banishment of capitalists from the party and their reinstatement. In the 1990s, the CCP began an overhaul of state-owned enterprises (SOEs). Once these were merged, privatized, or boarded up, it led to a large exodus of workers into early retirement and unemployment. The economic restructuring significantly diminished the party's enormous grass roots base of party branches, once housed within state-owned enterprises.

Concomitantly, the entry of private, export-oriented foreign firms during this period also absorbed a large contingent of the rural labor force as well as former SOE employees. Since 1997, the CCP's Organization Department pronounced its policy on establishing party branches in private businesses a priority (Siqigao 1999). Before than, party memos proclaimed the importance of party building but efforts to do so was compromised by internal conflicts regarding the status of private entrepreneurs.[21]

[20] See Jiang (1997) for original statement in Section 5, Clause 1.
[21] Since October 1981, provisions issued by the State Council had made similar calls for party building but these efforts were stymied due to internal disagreements about the status of capitalists within the CCP. A turning point took place in September 1992, when the 13th Political Bureau Central Committee meeting

When Jiang overturned the prohibition against recruiting entrepreneurs at the 15th Party Congress in September 1997, he also commenced the CCP's endeavors to embed party cells in privately owned firms and non-governmental organizations. The 16th Party Congress marked not only a leadership transition from Jiang to Hu Jintao, the incoming General Secretary, it formalized Jiang's message from 1997, reiterating his charge for the new leadership to prioritize the organization of private firms within the party apparatus. In enjoining the country to "absorb those advanced elements of society eligible for party membership", Jiang tasked the CCP's administrative apparatus to "strengthen the building of the party within non-public firms".[22] This launched an era of establishing party cells within private firms.

Significance to the Field

During China's early years of development, private firms were known to don "red hats", masquerading as state-owned firms to protect themselves from political retaliation and predation. As private entrepreneurship gained acceptance, red-hatted firms have receded in their prevalence. More than three decades later, my field observations (from 2013 to 2015), suggest that political structures and regulatory institutions unique to China's market governance in this period remain central sources of uncertainty for private entrepreneurs. Coping strategies reminiscent of the red hat era to manage political and market uncertainties extend into today's economy where capitalists are no longer stigmatized but celebrated.

Among economic organizations in China, these uncertainties have been known to be resolved through informal institutions, namely, social ties (Ledeneva 2008). Studies

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issued a resolution that publicized Deng's call for party building among foreign owned private firms. For history regarding party conflict and party building among capitalists, see Ding and Gan (2010:67).

[22] See Jiang (2002) for original statement in Section 2, Clause 3 and Section 9, Clause 5, respectively.

on how entrepreneurs and firm managers use informal institutions in China can be sorted into two camps. The first camp, which I will refer to as the "markets and meritocracy" theory, argues that the rise of markets and its complementary institutions (i.e., independence between judiciary and legal infrastructure, commitment to property rights and contract enforcement), obviate the use of personal connections (Guthrie 1998; Nee and Opper 2012).[23] This explanation is congruent with the thinking that the emergence of markets brings about competition, inducing firms to be profit driven and rational for survival's sake. Under these hard constraints, clients "hire" or contract based on the merit and qualifications of firms as opposed to arbitrary and personalistic criteria (Nee 1989; 1996).

Contrary to the "markets and meritocracy" theory, the "coordination and clientelism" camp does not assume that the Chinese economy is becoming more liberalized. Rather, market liberalization in China has been accompanied by regulation and re-regulation of land, capital (Huang 2008; Zhu and Wu 2013), and specific sectors of the economy (Hsueh 2011). All of these privilege resource and sector access by firms operating under the auspices of the state.[24]

Furthermore, decentralization (i.e., fiscal reform), deregulation (i.e., enterprise reform), and demonopolization (i.e., the emergence of alternative sectors), have led to a strengthening of the regional state (Wang 1995). The unprecedented discretionary power

[23] See also Humphrey (1985) and Humphrey and Hugh-Jones (1992) for similar observations in the Soviet Union and aftermath. These studies observed that under a command economy, people's distrust of institutions and resource scarcity lead to their use of informal institutions—the reliance on personal connections—to acquire goods ranging from jobs to television sets.

[24] In real estate construction and development for instance, industry regulation (e.g., operation licenses) and resource redistribution (e.g., land lease rights) create de-facto state monopolies over coveted resources. These are manifested in the high discretionary power local state agents (e.g., village party secretary, regional State Assets Administration Committee) espouse and the privileging of state-owned enterprises over private enterprises in the allocation of land lease rights.

now held by local state agents behooves private market actors to rely on political networks to acquire necessary resources for production (McNally 2011; McNally and Wright 2010; Odgaard 1992; Wank 1996; Xin and Pearce 1996).[25]

Erecting Organizations to Resolve Uncertainty

Whereas political economists studying Chinese firm and state relations have interpreted patron-client ties as rent-seeking behavior, or localized exchanges of cash or gifts in kind for bureaucratic power (Ngo and Wu 2008), my research resituates these ties as a means of stabilizing market interactions and expectations (Wank 1996). In an economy where legal institutions, regulatory policies, and the state are perceived as precarious and arbitrary, I argue that these intentionally rational actors adapt institutions and social devices—composed of rules and norms for the former, and habits and routines for the latter—to resolve their most salient uncertainties.[26]

Canonical scholarship in organizational theory has articulated the raison d'etre for organizations: they emerge where market institutions are absent (North 1990), inefficient (Coase 1937; Williamson 1985), or uncertain (Stark 2011; Stinchcombe 1990; Thompson 1967). This study takes for granted the theories posed by these aforementioned scholars

[25] An important debate that remains among scholars who study social ties in China can be characterized by the two theoretical camps of "Markets and Meritocracy" and "Markets and Nepotism" described earlier. The most salient studies that serve to highlight the differences in this debate are found in the studies of David Wank and Doug Guthrie on the social relations and practices among Chinese firms in the early 1990s; see Wank (2002a) for a discussion reconciling these differences. Guthrie (2001) finds that among state owned firms, interviewees use of "guanxi" or patron-client ties have receded. Whereas Wank (1999) finds that patron-clientelism is a strategy for survival among private firms, but how or what practices are deployed varies across different firm characteristics such as firm size and age. These two scholars are looking at firms operating under a very different set of constraints given their market location and characteristics. Guthrie (2001) examines intra-firm practices and draws his data from interviews with firm managers of state owned enterprises about hiring practices. Wank (1999) examines extra-firm practices through participant observation and interviews with entrepreneurs of private enterprises about practices regarding firm entry and competition.

[26] See Beckert (2003) and Stinchcombe (1990) for a sociological conceptualization of economic action as intentionally rational, as opposed to optimally rational. For an extensive discussion on intended rationality as an alternative theory of economic action rooted in American pragmatism, see Beckert (2003:773–79).

and with emphasis on the last stimulus—uncertainty. This view posits that organizations in effect, behave like pea tendrils. Instead of growing towards sunlight and water, they grow towards repeated uncertainties.[27]

Bringing Back the State

How do economic actors respond to uncertainties emanating from the state? Research on how economic actors confront uncertainties in post-socialist contexts have documented how these are manifested in intra-firm phenomena such as production relations (Burawoy and Lukács 1994; Hsing 1998; Walder 1988), innovation (Hsing 1998; Stark 2011), and firm organization (Keister 2009; Wank 1999). This literature has also documented the management of uncertainty among economic actors in extra-firm phenomena. These arenas include consumption (Hanser 2008; Humphrey and Hugh-Jones 1992; Ledeneva 2008), network reciprocity (Osburg 2013a; Wank 1996), and institutional change (Oi 1999; Verdery 2003; Walder 2003).

Absent in this vein of research is an updated understanding of how state power operates in the private sector when the state may serve as *both* regulator and competitor in the market of interest. Under these circumstances, what social devices and structural configurations can private market actors adapt? Past studies on the role of the Chinese state in the economy have articulated the interdependence of political and economic capital (Krug and Hendrischke 2008; Walder 1995b, 2003). Private market actors have been observed to deploy informal ties to resolve regulatory uncertainty (McNally 2011; McNally and Wright 2010; Wank 2002b; Xin and Pearce 1996) and promote contract enforcement (Nee and Opper 2012).

[27] See Thompson (1967) and Pfeffer and Salancik (2003) for identifying cooptation in resource dependence terms as one mechanism by which organizations resolve uncertainty.

These studies however, have focused on economic actors in unregulated sectors, specifically those located in the domestic and international consumer goods market. These private market actors seldom compete with state- owned or financed enterprises. My work informs existing debates on the role of the state in post-socialist contexts by focusing on private market actors in contemporary China who participate in regulated sectors—where state competitors dominate (e.g., finance, mining, construction)—to understand how they manage uncertainty when the state serves as both judge and rival.

This study reconfigures the salient anxieties private entrepreneurs confront as uncertainty. Here the empirical focus is not on the transaction of interest, such as attaining building permits or getting rid of production bottlenecks, but on the ways in which economic actors cope with and manage uncertainty. This brings into empirical and theoretical consideration, how economic actors perceive of their uncertainties, adopt habits and routines, and construct governance structures to routinize the management of regulatory, contractual, and market uncertainties.

Theoretical Framework

> The formal rules tell people in advance what action the state will take in certain types of situations, defined in general terms, without reference to time and place or particular people. They refer to typical situations into which anyone may get and in which the existence of such rules will be useful for a great variety of individual purposes. The knowledge that in such situations the state will act in a definite way, or require people to behave in a certain manner, is provided as a means for people to use in making their own plans (Hayek 1997:114).

I begin from the premises that market actors are motivated to act, in their identification of salient uncertainties. An uncertainty is an anticipated hindrance to an organizational goal.[28] Using uncertainty as perceived and felt at the individual level as my point of departure, the primary goal of this chapter is to explain the outcomes of interaction among institutions of intentional and unintentional design.[29] To restate the questions pursued by this chapter in light of the concepts of uncertainty and institutions: how do market actors adopt and make use of political participation? How does a party legitimizing project diminish state capacity? How does party membership among market actors lead to behaviors specifically prohibited by the party oath?

[28] The term is defined differently from the way it is used in the organizational deviance literature, where uncertainty is an unanticipated hindrance or outcome. The latter definition would be less helpful in this context since, if individuals cannot anticipate the uncertainty, then they cannot plan for it either.

[29] My objective is influenced by neo-Austrian School Economists who set forth the goal of economic study as "unravel[ing] the 'pragmatic' or designed-order strands in current institutions from the 'organic' or spontaneous order strands" (White 1985: xviii). For a programmatic restatement of Menger's (2003) charge to social scientists, see economists Gerald P. O'Driscoll and Mario J. Rizzo's (1985) for an economic agenda to unpack the organizations of unintentional design (pg. 20). For a magnum opus of interest that embodies this approach—although not intentionally, no pun intended—is James Scott's Seeing Like a State (1998), which documents the unforeseen consequences of implementing policies that discount local circumstances and knowledge, leading to detrimental consequences.

Rule Predictability as Rule of Law

While scholars with philosophical leanings as different as Friedrich A. Hayek and Roberto Unger contest the normative ideal inherent to rule of law,[30] they share the understanding that the concept characterizes a polity governed by general and impersonal rules that are uniformly applied by an independent judiciary.[31] Building upon Montesquieu, Hayek argues that rule of law is a superseding emphasis on eliminating the experience of arbitrary action from other individuals, including state agents.[32] In view of this, rules need to limit the extent of state's discretion, as well as the actions of others. They need to be perceived by individuals as *foreseeable* in that they are not created on an ad hoc basis), and *consistent* in their implementation and enforcement.[33]

For the sake of clarity, I use *rule predictability* instead of *rule of law* to avoid normative and conceptual confusion.[34] Rule of law as ideal and concept, has been

[30] Hayek recognized that rule of law is an ideal type and states fall within a spectrum of greater to weaker rule of law: "Though this ideal can never be perfectly achieved, since legislator as well as those whom the administration of the law is entrusted are fallible men, the essential point, that the discretion left to the executive organs wielding coercive power should be reduced as much as possible, is clear enough" (Hayek 1997:112).

[31] While Hayek and Unger agree on a conceptual definition for rule of law, their difference lies in that the former takes the above characterization as fact, whereas the latter argues that these vaunted ideals are a conceptual and empirical fiction. In fact, Unger argues that rule of law is the underlying ideology of a legal apparatus used to control, exploit, and destroy "pre-capitalist communities" and a judiciary autonomous from political interests lacks empirical support (Shklar 1998:29–30). See also Shklar, fn 6 on page 36, "Political Theory and Rule of Law" for Unger's original thesis in Law in Modern Society, 1976, and his more critical take on rule of law a decade later, especially on formalism, in "The Critical Legal Studies Movement, 1983 in Harvard Law Review, pp. 563-675.

[32] Friedrich Hayek's Road to Serfdom was originally published in 1944 predating the onset of the Cold War and its ensuing ideological battle regarding economic organization. I am aware of the ideological hostility for which Hayek's work presents to post-socialist contexts. This chapter takes as its theoretical point of departure, Hayek's conception of rule predictability and his studies on law and society. For more on from scholars who are critical of the formalist and positivist tendencies for a rule of law subject to rule predictability, see Shklar (1998) and Krygier (2006).

[33] While not contradictory to Hayek's charge for predictability, Fuller (1977:39) enunciates seven properties that must be present in a polity for an evolution from rule by law to rule of law. Of these, the dimensions of publicity and performability, differ from Hayek's conception. For a summary of Fuller's views on the fundamental requirements for a rule by law, see Orts (2001:95);for an interesting critique of Fuller's inherent morality and dependence on an impartial judiciary, see Shklar (1998:32–33).

[34] The manifold variations in specifying what rule of law is and isn't (or could and couldn't be) and contention over empirical and conceptual debates lies beyond the scope of this chapter. To date, there is

criticized by scholars who lament its lack of empirical basis, pretense of value-neutrality, and its conceptual inconsistency. Critical legalists such as Roberto Unger (1976, 1983) and E.P. Thompson (1975) argue that rule of law has little historical basis and is in fact, a rule of special interests and while operating under a pretense of value neutrality to control the underprivileged.[35] Legal scholars furthermore, have argued that authoritarian regimes like China, embody rule of law when defined as the contractual fulfillment of the state to its subjects.[36]

The Property of Rules in Developmental Authoritarianism

Among autocracies, few have been or remain developmental superstars. China is a case at hand embodying a single party-state apparatus that has adopted a legal system subject to a wide degree of executive discretion.[37] Executive interference with judicial

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some consensus on a broadly construed definition, yet the devil lies in the details. Legal theorists agree on a general orientation of the concept, that the primary objective of rule of law is to constrain government power, however they disagree on what specifically, it would entail (e.g., Fuller, Dworkin, Hayek); whether it has ever existed (e.g., Thompson and Unger); whether it could be achieved given existing definitions (e.g., Orth, Epstein); and whether it should remain an ideal (e.g., Unger, Shklar).

[35] For a critical synopsis of the evolution of rule of law as a concept and empirically practiced, see Shklar, "Political Theory and Rule of Law", pp. 21-37.

[36] Using social order as the measure for rule of law is another source of disagreement among numerous others. This criterion—the state's fulfillment of its end of the bargain being the maintenance of social order in exchange for its monopoly of violence—may stem as a convenient excuse or one that arises from differences in legal traditions. In Chinese jurisprudence, Legalists trained in Confucian texts argue that the ultimate litmus for a sovereign's morality is his guarantee of individual security. This is not unfamiliar to classic legal thought in the western tradition. The Legalists are aligned with some of their western counterparts in the belief that freedom from arbitrary violence and cruelty is a minimal and necessary priority for rule of law. This argument is salient in Hobbes's justification for granting the state unconditional power—only in the Leviathan's claim to unchecked power could it prevent arbitrary violence. The legal and classical liberal theories of the state a la Hobbes, ranks arbitrary violence, above all else, as a perennial threat to social order. However, the classical liberalists vary in the degree to which state power should be bound. Montesquieu and Locke feared unchecked tyranny. The former advocated for institutions that "protect the ruled against the aggression of those who rule" (Shklar 1998:24). The latter believed that citizens have the right to fell despotic leaders, and writes "he becomes dangerous to mankind because he has disregarded and broken the tie that is meant to secure them from injury and violence (Locke 1980:8). Hobbes dismissed any justification for a coup and warned against such naiveté among the chest-beating righteous whom he characterizes as, "…never knowing, till perhaps a little after a civil war, that without such arbitrary government such war must be perpetual; and that it is men and arms, not words and promises, that make the force and power behind the laws (1894:307).

[37] See Mayling Birney (2014) for China as a "rule of mandates" and Orts (2001:67–69) for legal confusion, complexity, and arbitrariness.

decisions in China is constitutional and common (Shen 2000:22). But in bracketing an overruling source of executive power, the abstruseness of the legal system lends itself to the exercise of discretion and thus, arbitrary power by local administrative agents. In illustrating the opacity and ambiguity of laws, legal practitioner James Zimmerman (2010) observes that in China, not only are there legislation (*falu*), but also regulations (*tiaoli*), sets of rules (*guize*), detailed rules (*xize*), measures (*banfa*), decisions (*jueding*), resolutions (*jueyi*), and orders (*mingling*)" (pp. 65-66). The complexity is complicated by the interaction of different levels of law and administration, where "a bewildering and inconsistent array of laws, resolutions, provisions, measures, directives, notices, decisions, explanations, and so forth, all claiming to be normatively binding…" may negate or contradict one another, allowing political policy decisions to replace legal rules in deciding a particular case (Orts 2001:68).[38]

I take as a key assumption that the intensity of coordination needed for a leapfrog transformation of a traditionally agrarian society, necessitates the relinquishment of power to executive discretion.[39] A prototypical extreme of such power—an autocracy—would be the most effective agent in inducing compliance among workers and organizations.[40] One explanation offered by Hayek (2007) is that economic systems characterized by state planning cannot wed themselves to *a priori* rules. Doing so

[38] For original text, see Peerenboom (1999:333).
[39] Atul Kohli empirical synthesis in State-Directed Development (2004) comes to a conclusion as Hayek (2007) theorized half a century earlier. By comparing Nigeria, Brazil, India, and South Korea in their experiences of state-making and industrialization, Kohli posits that authoritarian states can have unparalleled effectiveness when it comes to ushering economic growth.
[40] While he had forgotten to caveat that for every dictatorship that dazzles the world in economic performance, there are numerous others that become failed states or become middling performers.

diminishes an authoritarian state's very strength vis a vis democratic polities: the capacity to swiftly marshal resources towards economic goals (pg. 113).[41]

Argument 1 (Micro-Level): Multiple Dependency in the Resolution of Uncertainty

This chapter intends to identify the impetus for cooperation between private individuals and state agents in the absence of formal obligations, monetary transactions, or gifts in kind. It takes as its premise, that without credible commitment from the state in reliably implementing rules, and bounding the degree of the state's coercion, market actors have trouble anticipating the behavior of others—of both state agents and other private individuals.

The condition of rule unpredictability leads to *uncertainty,* the anticipated unpredictability from the state and other private individuals.[42] Anticipation of these uncertainties leads to an organic structure of *multiple dependency*. The concept describes an institution where individuals: a) perceive inconsistent rules bounding private individuals and the state; b) anticipate vulnerability to state discretion; and c) are thus habituated to draw upon their *superimposed identities*, the numerous roles embodied by an individual, to resolve *uncertainty*, the problems arising from rule unpredictability.

Argument 2 (Macro-Level): Overlaying Party Apparatus on Multiple Dependency

Menger (1996) charged social scientists to take seriously, the "…understanding of social phenomena which point to an unintended or, if one prefers, to an 'organic' origin" (pg. 140).[43] These institutions of "unintended" origin, or organic structures, are

[41] For more on Hayek's views about the interaction of political and economic organization, see chapters 5 and 6 in Road to Serfdom (pp. 100-123).
[42] I use organizational uncertainty to refer to unanticipated actions from the state or private individuals that disturb an organization's goals.
[43] Although Menger's ideas have been influential upon scholars such as Max Weber, Thorstein Veblen, and Robert K. Merton, all of whom have been credited with sociology's programmatic objectives, his work has

characterized by a lack of centralized management or enforcement.[44] They include the historical emergence of institutions such as currency, markets, and laws and some facets of property rights (Williamson 1985:47). Aside from a lack of central coordination, organic structures do not have a common and purposeful design. There are no blueprints for instance, shared among individuals enacting these structures (Schneider 1996:16). The obverse of such a grassroots phenomenon, are pragmatic structures. These characterize institutions of intended design and enforcement. They rely on some central body, whether a private corporation or government, to manufacture consumer goods or implement legislation and policies.[45]

Moving from the micro- to macro- level, I build upon the aforementioned theoretical framework and the extant literature to elucidate a dual process of the organizational resolution of uncertainty. This is manifested in the forms of: 1) *state* actors managing political legitimacy through the ideological and administrative absorption of the private sector and 2) *market* actors managing regulatory uncertainty through the organizational cooptation of the party-state apparatus.

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been largely marginalized in both sociology and economics. For insightful discussions about Menger's role in the methodological battles among scholars of the late nineteenth century, see Swedberg (1990). For an introduction to the misunderstanding of his ideas and the attribution of the homo economicus in the "strong" program of methodological individualism, see Aspers et al (2008) and Udehn (2002), respectively; and for a apologia of the misconstrued reading of Menger's methodological approach, including methodological individualism, see Alter (1982).

[44] Menger's begrudging use of "organic" here was a pushback against a positivistic view of social phenomena. He is deeply critical of using biological analogues and argues that spontaneous orders, or the creation of a social structure without purposeful design and coordination, could be one way of conceiving organic structures in society.

[45] Take for instance, the modern institution of money. The value of modern currency is not part of a spontaneous outgrowth of free markets, but rather actively maintained by a central bank. In the United States, this is the Federal Reserve, which is responsible for managing the symbolic and monetary value of the American Dollar (Schneider 1996:xviii). A magnum opus of interest that embodies this approach—although not intentionally, no pun intended—is James Scott's Seeing Like a State (1998), which argues that top-down policies from "commanding heights" are often made and implemented with ignorance of local knowledge and constraints, leading to detrimental consequences.

Using Karl Menger's (2007) organic and pragmatic structures as heuristic devices, I examine the unintended consequences of an institution of intended design, embodied in the form of a party building project, when overlaid upon an institution of unintended design, multiple dependency. The latter is an outgrowth of a society for which rules constraining the discretionary authority of state agents are unpredictable. One implication of this superimposition of institutions is *mutual capture*, where the interests of market and state actors are optimized at the cost of the state's duty to the public and its capacity to enforce administrative law.

Superimposed Roles

I use the term *Superimposed roles* to designate a property of individuals participating in society. A person does not adopt a single role at a discrete moment in time or across time, but wears multiple "hats". They overlay upon their existing roles (e.g., as parents, children, spouses), alternative roles in their day-to-day life (e.g., lawyer, soccer coach, governing board member), aggregating numerous formal and informal obligations.[46]

I argue that in a polity where individuals do not have full faith in the rules that constrain state agents, and as a consequence, the extent to which they may exercise discretion, its inhabitants live in a reality characterized by multiple *dependency*. As a result of which, in order to actively participate in such a society, people are habituated to draw upon their own superimposed roles, and that of others, to act upon their intended

[46] Anthropologist Jeremy Boissevain (1974:30) refers to multiplexity as a property of a network that has more than one transactional basis—with uniplexity being the obverse. For instance, multiplexity describes one group of individuals sharing the same kinship, friendship, and professional ties (Downes 1998:119). Whereas multiplexity is a characteristic embodied at the network level, superimposition is a property expressed at the individual level.

goals. The following is a vignette of regulatory racketeering that required the coordination of multiple individuals to draw on their superimposed identities.

Case 1: Resolving Regulatory Uncertainty through Role Superimposition

When regulators "go by the book", they follow the letter of the law as opposed to its spirit. Regulators have been observed to do so out of a sense of duty and lack of experience (Bardach and Kagan 1982), but in the case of malevolent regulators, they do so to intimidate or extort firms (Frye and Shleifer 1997). Manager Wan, who oversees SIG's warehouses, had a recent experience where she helped a friend in a case of regulatory extortion. The friend, Zhao, an entrepreneur in the import retail business, had just signed a lease on a new storefront in the local Shopping Center. He had hired an interior design company to remodel the space. One evening Zhao received a call from Li, the head of the construction crew. Li was panicking and told Zhao that his drivers were detained by the local municipal administration police (*chengguan*). They cited them for a permit violation and would not release their trucks until he paid them for the citation. It was nearly nine 'o clock in the evening and he didn't know who else to call for help.

Li's crew had just finished their day of work and packed two truckloads of particle board, concrete, and other refuse taken down from the renovation. They were en route to offload their trucks at a recycling center where they could sell the scraps and dump the rest at the city landfill. Before the crew was able to make it there, they were waved down by the local *chengguan* in Central City's South District. Li's drivers pulled over and were unable to produce disposal permits. They were issued a citation. The

chengguan then detained the two trucks and demanded a five-thousand yuan ($814 USD) fine for each vehicle, amounting to a total fine of $1,628 USD.[47]

I interviewed Zhao after Wan told me about the incident, which had taken place that week (P. Zhao, personal interview, August 2013). "Li called me, and I told him to call someone else because it wasn't my business and I didn't have anyone I could call!" Zhao reenacted his relief that he then had a faint recollection that Wan had a *chengguan* friend, who might be able to help resolve the problem. But he was not confident so he told Li he would try, but could not promise him anything.

Zhao called Wan that night. Wan recognized what happened and called Lin, an optometrist friend whose husband is a chengguan in North District. The dilemma was resolved in the span of two hours, when Lin's husband called a colleague, a chengguan in Southwest District to help Li sort out the problem. "They let the trucks go, and Li's crew didn't have to pay anything," Zhao said in relief. Wan treated the couple to dinner that week to thank them.

[47] The RMB to USD exchange rate when this occurred was 6.14 RMB to 1 USD.

Figure 1A. Use of Superimposed Roles to Resolve Regulatory Uncertainty

T = Time of Citation

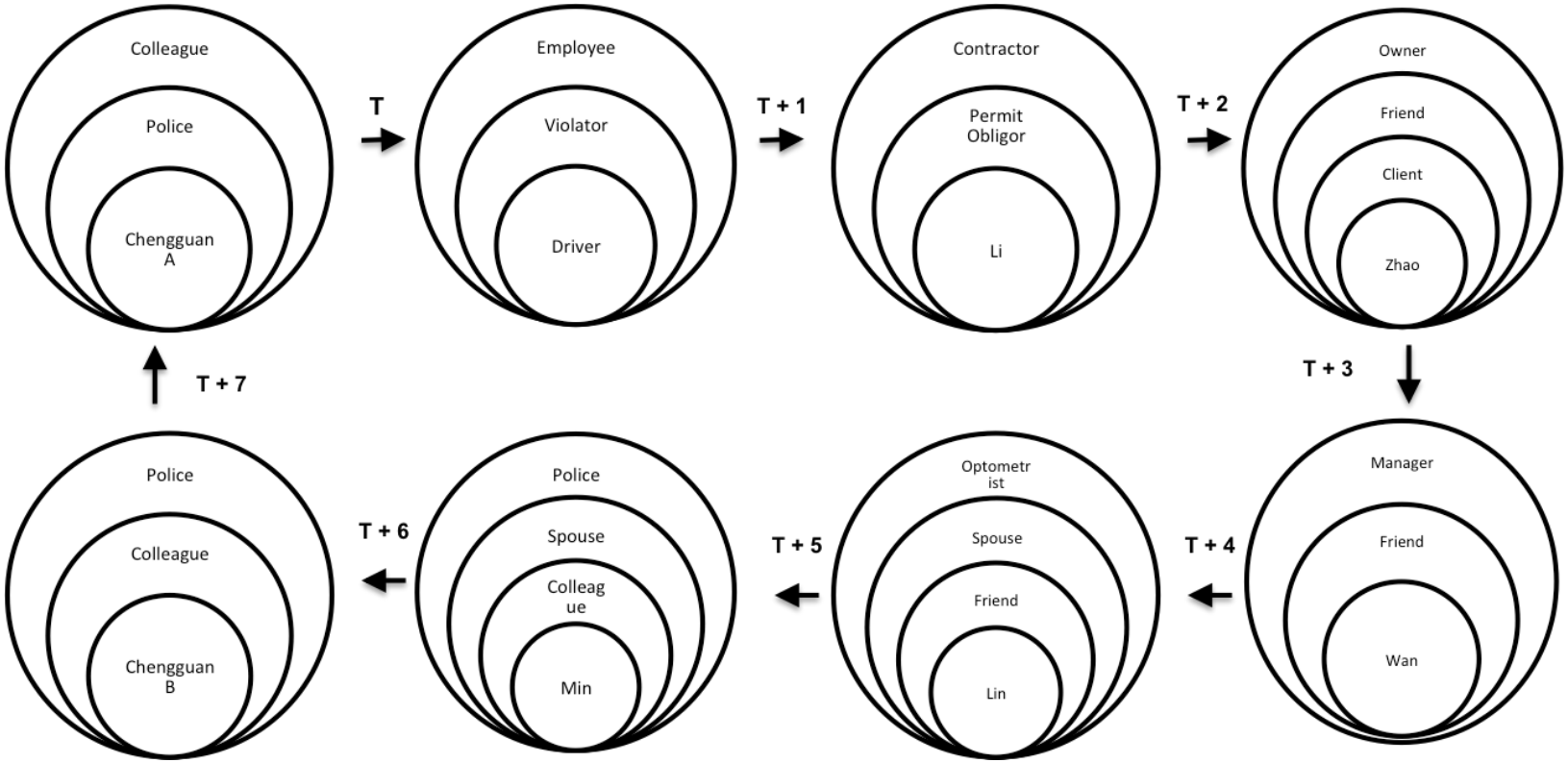


Figure 1A is a diagram of how each actor drew upon their superimposed roles in successfully coordinating a resolution to Li's Dilemma. Beginning with Chengguan A, who drew upon his role as the municipal administration police officer, citing the drivers with a permit violation at time T. One of the drivers then drew upon his role as an employee at the construction firm, and called Li, the employer with official responsibility for equipping the trucks with permits. Li, having been notified by his driver of an impending financial loss, draws upon his role as a contractor and calls Zhao, his client, for assistance.

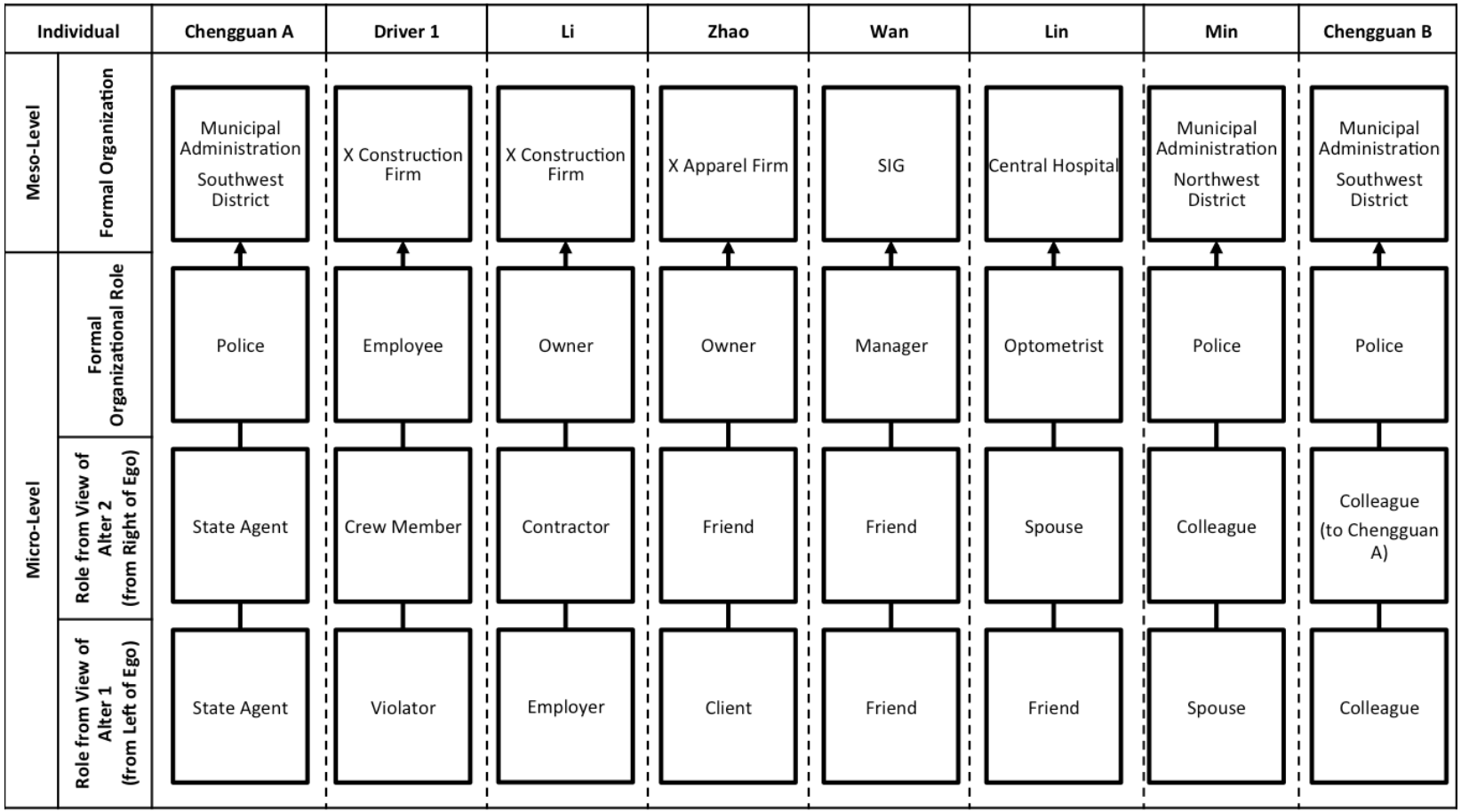
Zhao, not knowing anyone in the Municipal Administration Bureau himself, draws on his identity as a friend and calls Wan, a manager at SIG. Wan then draws on her identity as a friend to Lin, to ask Min, Lin's spouse, to see if he could help in resolving Li's problem. Min at this point, has never met any of the aforementioned individuals, except Wan, at a karaoking gathering.

He draws on his identity as a MAB police in North District, to call on a buddy, a colleague, in Southwest District. Chengguan B was that individual, and he drew on his role as a colleague of Chengguan A, to ask him to waive a fine equivalent to three to five months of the latter's salary.

Figure 1 B on the following page, presents each of these individuals in their personal and organizational roles. The purpose of this diagram is to show that while none of these individuals were acting in their ascribed roles as owners, managers, or policemen, of their formal organizations, the

superimposition of roles allow individuals to draw upon the personal and formal organizational identities of others to resolve a crisis produced by rule unpredictability. In the case of Min, Chengguan A, and Chengguan B, it had led them to act against their formal organizational obligations.

Figure 1B. Use of Ties to Resolve Disposal Permit Citation: From Micro to Meso Levels



When regulatory outcomes are subject to a large degree of executive discretion, the legitimacy of regulatory efforts is heavily compromised. The above case underscores two features of the lived experience of Central City's legal infrastructure: an unpredictable degree of the state's coercion and discretion. In Central City, local regulators are perceived to enforce rules as a means to an end (e.g., using citations as a means to extract bribes); and granted wide latitude to exercise discretion. This leads to an acquired routine of drawing from the superimposed roles of others. The unpredictability of rules induces a habitual response among the regulated to depend on personal networks and, ironically, the use of a state agent's discretion to remove the offending charge rather than the offending source of violation.

Case 2: Resolving Market Uncertainty through Party-State Sponsorship

An impetus for party organization is to keep local regulators at bay. In an environment where multiple regulatory agencies attempt to seek income—or if one prefers, extract rents—from private firms, it becomes tough for businesses to remain profitable while adhering to local laws and regulations (Blanchard and Shleifer 2000).[48] In a discussion in July 2013, Chairman Ding, SIG's party branch secretary, expressed his anxiety about petty bureaucrats: "They make trouble for us (*zhao mafan*). In China, in order for a firm to survive, we need to be friendly (*gaohao guanxi)* with the fire (*xiaofang*), local tax (*dishui*), police (*gong an*), work safety (*anjian*), argh, too many big and small [agencies] (*dada xiaoxiao shubuqing*)!"

[48] See Frye and Shleifer (1997) for their study of regulatory racketeering based on a survey of shops in Russia and Poland; and Shleifer and Vishny (1993) for a discussion of how monopoly corruption from organized government produces better outcomes than government disorganization and rent competition.

Ding is an old hand in party politics. He had served for twenty-four years as a labor delegate to the National People's Congress. I asked for an example. He points to the warehouses across the lot and shakes his finger. He does his best devious smile and impersonates an auditor from the local tax bureau: "Business is going well for you right (*bucuo*)? The warehouses you have over there, where are your receipts (*fapiao*)? You do dispense receipts correct (*kai fapiao*)?"[49]

Routinizing Uncertainty among State and Firm Actors

In *The Organizational Weapon*, Philip Selznick (1952) argues that the Bolsheviks did not gain power by proselytizing to the masses, but by gaining a toehold in strategic institutions, groups, and organizations to expand their operations. The firm-level party branch is a form of bureaucratic design first conceived by the CCP's Organization Department in 1997 and now enters into private businesses conventionally assumed to be market actors without significant influence from the party-state. The *sub-district* party committee (*jiedao*) is second to being the bottommost rung in the party apparatus and is the most extensive and common unit of party organization across China.[50] It has jurisdiction over the *firm* (*feigongyou qiye*) party committee and several intended purposes, such as mediating contract disputes, enforcing reproductive laws, instituting corporate social responsibility targets, and serving as a conduit for local businesses to voice their concerns to the state. Among these responsibilities, the sub-district's chief function is to carry out central level directives concerning economic development.

[49] The *fapiao*, has a dual purpose of serving as a receipt and a tax invoice.
[50] The subdistrict party committee has also been called street government in Lee and Zhang (2013) and Read (2012).

From the vantage point of entrepreneurs, incorporating critical political networks within firms could be more cost effective than sustaining them extra-organizationally. David Wank (2002b) offers one such example of a firm doing so through routinizing patron-client relations.[51] In Wank's case analysis, the firm of interest evades taxes on consumer imports through an elaborate smuggling operation that involved high and low ranking customs officials. Instead of provisioning these bureaucrats with entertainment, gifts, and bribes, patrons were inserted into a firm's payroll, routinizing the means and frequency of reciprocation. The firm described by Wank, Yuanhua Group, was part of a highly public corruption scandal in the late nineties, with its Chief Executive Officer, Lai Changxing, sentenced to life imprisonment in 2012. One way of omitting *illegal* routinized clientelism is to substitute it with *legal* and party sanctioned means. The firm party branch serves as one example of aligning local state and firm interests through formalizing firm ties to the party-state.

Party Branch Creation at SIG

In the universe of extra-state party organization, the barriers to entry are relatively low for party branches.[52] There is one official requirement for establishing a firm "party branch": a minimum of three party members employed within the firm.[53] Firms are motivated to move upwards in the extra-party organization hierarchy by graduating to "general party branch" status, where fifty or more party members are required for

[51] Patron-clientelism is a quid pro quo relationship between state and economic actors exchanging legal and/or illegal favors.
[52] Party constitution guidelines also permit the establishment of temporary party branches to meet ad hoc policies, or the formation of "united" party branches where two disparate units (e.g., two different firms) share a party branch due to their inability to meet requisite numbers in CCP membership.
[53] Unofficial guidelines however, prefer large (i.e., number of employees), reputable (e.g., media exposure on its social responsibility commitments), and well-endowed (i.e., net assets) firms. Ding (Party Secretary and Union Chairman, Party Branch Department, Sunrise Industrial Group), interview transcript, Party Branch Office, Central City, August 2013.

establishment. And from thereon, the highest level of membership among extra-state party organization requires the attainment of one hundred CCP members. By attaining party *committee* status, a private firm may send a delegate to the District People Congress.

Evolution from Party Branch to Committee Status

Party organization at the firm level, is an extension of the CCP's central means of organizing party members across non-party organs. Party committee status provides opportunities for firm executives to forge relationships with officials of influence. These firms become sites for *diaoyan* by local officials. The term literally translates as "investigation and examination" but these official visits are typically publicity opportunities for local state officials. Furthermore, the firm's Party Committee Secretary (*dangwei shuji*) is allowed to appoint a delegate to the district-level People's Congress (*qurenda)*. While the party congress is a ceremonial organization, in theory, the firm delegate represents his constituency—non-state-owned firms (*fei gongyouzhi qiye*)—at Central District's People's Congress.

Party committee status legitimizes and signals an increasing degree of firm sponsorship from the state. At the local level, these allow the firm to signal to local bureaucrats, the firm's ties to the state and serve as, for lack of a better metaphor, Kevlar, against what the firm perceives as regulatory racketeering: selective enforcement of regulations that in practice, are commonly violated. At a higher level, it allows the firm's executives to mingle with the political elites of Central City. These networks are important sources of information about pro-business policies that private firms may use as part of their investment strategy. "Remember those awards you saw on the wall

upstairs?" Ding refers to the more than three-dozen bronze-brushed placards lining three walls of the conference room. "They wouldn't give these to us if we don't do what they say".[54]

While the role of the state in classical liberal economics is one of constraint and modesty, in *The Strategy of Economic Development,* Hirschman (1958) argues that the state can be crucial to resolving collective action problems in underdeveloped economies. The ideal state, in the classical liberal tradition, is a minimal state. Its interference with market activities is restricted to setting and enforcing property rights, rule of law, and providing public goods such as clean water, public health, and education.

But in a minimal state where entrepreneurship is absent, market opportunities are squandered—unless the state intervenes. Hirschman (1958) posits that a strong developmental state may be necessary to offset entrepreneurial inaction and galvanize entrepreneurial activity. Such an absence of economic activity may be the result of a lack of opportunity recognition (e.g., the takeoff of e-commerce in the twenty-first century); information (e.g., the existence of quality suppliers for the machine parts one needs); and/or risk correspondence, that is, when an entrepreneur or investor's appetite for risk falls short of the anticipated risks for taking on the project (e.g., when one does not want to be a first mover in the market). In the first and last cases, entrepreneurs do not act upon recognizable economic opportunities due to a belief that a "market" is immature, or is not there. Hirschman argues that government entry into markets in fact, resolves collective action problems by instilling market confidence among potential economic actors.

[54] Ding, private conversation, August 2013.

In the interest of promoting economic activity, there are two sides to the coin of bureaucratic discretion. The first is *sponsorship*. Bureaucrats pick champions and give them "a leg up" through existing or future policies pursued by the state. This has been described by Frye and Shleifer (1997) and Walder (1995a), and characterizes the aforementioned discussion. The second is *regulatory discretion*. Local cadres selectively enforce regulatory mandates. Otherwise, regulatory burdens may make the odds of survival grim for existing businesses, if not dissuade potential entrants.

Whether a party branch or party committee, its establishment only provides access to local political networks. Activation of these ties—sponsorship—takes place through multiple modes of signaling where both parties—firm and state—demonstrate commitment.

> Zhang: "The lot is that big?"
>
> Wang: That's what I told you. If you build there I'll make sure you get the best, *the best,* [emphasis in original statement] service from the sub-district (*jiedao*).

The conversation above took place in SIG's conference room as part of a scheduled *diaoyan,* an investigation, or literally, "to investigate and study" (*diaocha yanjiu)* by the sub-district party officials.[55] Zhang, the proprietor of SIG, goes by President (*dongshizhang*) in the firm. As vice president to Central City's All Federation of Industry and Commerce (AFIC), a national and local level business association, Zhang

[55] While the term conjures images of unannounced visits from health code inspectors or the Internal Revenue Service auditors, it has a less formidable connotation in China. Investigations have been historically practiced in China's command economy, when local and central governments sent cadres out to factories and farms to bring back the latest news; see memoir by Li (2011) for accounts of Mao's visits to local steel plants, accompanied by local cadres during the Great Leap Forward (pp. 273-75). See also post-reform pronouncements, "No Investigation, No Decision-Making Power" on the virtues of the *diaoyan* and the need to sustain this tradition (Jiang 1993). At SIG, it is also used as a pro forma justification for apparatchick visits.

had heard of Party Secretary Wang before but never met him in person. Before Wang assumed his post as Party Secretary of Hundred Temple's Working Committee (*dang gongwei*)—the head of the sub-district party branch that oversees SIG's party branch—he was Central District's Projects and Investments Bureau Chief (*zhaoshang juzhang*).

Prior to speaking with Wang, Zhang had just returned from a township adjacent to Central City. He learned from the township party secretary there that the need to attract industrial investments is a priority.[56] Zhang wove this piece of information into his discussion with Wang.

> We're in midst of planning for this, this brand, this Mineral China production project. Where are we to build it? Let me tell you where we [China] get our minerals right now, we're getting it in hundreds of boxes (*xiang)* from wholesalers abroad.

Zhang didn't have plans to build a plant in Central City yet. He pledged to do so to win Wang's sponsorship. An immediate task he wanted to achieve was to persuade Wang to hasten relocation, eviction, and demolition for a plot of land in Hundred Temple that he had won a bid for two years ago but had been unable to develop. Wang's predecessor had stalled on the issue.[57] This time, Zhang wanted to make sure that SIG was a priority. After reassuring Wang about project feasibility, Zhang signals credibility by telling him that he already has three production sites in operation—and this is true. He also tells Wang about eyeing a plot that has more commercial appeal but falls outside of Wang's jurisdiction.

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[56] Smith (2010) has found in a 2006 survey of township officials in Anhui Province that attracting investments at provincial and sub-provincial levels were a priority. It was ranked third among cadre priorities, after "national party guiding principles and policies" and "collecting tax" (pg. 605). In fact, his informants conveyed that the quotas to be met for attracting investments "encouraged township officials to falsify reports" (pg. 604).

[57] Long (manager, General Affairs Department, Sunrise Industrial Group), in discussion with author, General Affairs Department, Central City, August 2013.

Wang: I see, so this is the plan for SIG's future (*guihua*). What if you can't get the land? Are you still going to do this?

Zhang: We're going through with it, the project (*xiangmu*) [mine excavation] is already happening.

Wang: You're now looking for where [to build] (*kan dili*).

Between *diaoyan* and ribbon-cutting, Wang's main job description was to "carry out party policies and goals" (CCP Constitution Chapter 9, Articles 46-48). Chief among these was to meet annual economic targets set by the provincial leadership.[58] Each year, thousands of sub-district level cadres like Wang were beholden to meeting performance quotas through encouraging private investment in their jurisdiction. The provincial leadership allocates targets to its municipalities, and in turn, the municipalities to its district, county, and township chiefs. In Central City, the burden of meeting economic quotas is divided across its districts.[59] The last of these, Central District's standing committee, then divides the burden across its twelve sub-districts, Hundred Temple being one of these.[60]

A year after the meeting took place, the SIG party branch evolved from a party branch (*dang zhibu*) to a party committee (*dang wei*). Officially this requires having more than a hundred party members within the firm. As of July 2014, SIG has just under thirty party members. However local officials have the discretion to grant firms such a status.[61] Within the firm, there was no change in terms of personnel and funding, except

[58] See also Lee and Zhang (2013) for a detailed discussion on stability maintenance as a priority among sub-district officials.
[59] As well as counties and townships but these will not be specified to preserve the anonymity of Central City.
[60] A number of scholars have written extensively on the incentive among local bureaucrats to meet performance targets and its role in their political advancement, for recent scholarship on the role of political evaluations on rural cadres, see Heberer and Trappel (2013); and for differences between quotas versus incentive inducements on cadre performance, see Gao (2015).
[61] See Chapter 9 Articles 46-48 of the Constitution of Communist Party of China.

the SIG party committee now has official authority to grant party membership. This is an important advancement for signaling and formalizing local cadre sponsorship. Akin to the national champion model of France and today's China, locally, SIG has been handpicked and provisioned elite status by the Hundred Temple Working Committee (*jiedao dangwei*).

Mutual Capture

Playing on Adam Smith's conception of the "invisible hand" as an anonymous but benevolent market force, Timothy Frye and Andrei Shleifer have characterized such regulatory racketeering as a "grabbing hand" model of governance. In Frye and Shleifer's (1997) typology of governments and their relations to the market, *invisible hand* governments are well organized and generally uncorrupt (pg. 354). They are the paragon of classical liberal models of governance: the state provides public goods and rule of law, but practice restraint in market and judicial interference.

In contrast to such benevolence, *grabbing hand* governments are disorganized and by and large corrupt. They espouse a united front with central policy but prioritize their own agendas. *Grabbing hands* comprise numerous bureaucrats given wide latitude to pursue their own interests, such as self-enrichment, interference in commercial disputes, and sway over judicial decisions. In this ideal type of malevolent governance, bureaucrats are empowered to impose predatory regulations and motivate businesses to enforce contracts privately.[62]

[62] Interestingly, Frye and Shleifer (1997) argue that China stands between these two ideal types and is characterized by the "helping hand" model. Using Walder's (1995a) account of the emergence of the "non-state" sector of the early nineties (pg. 966), Frye and Shleifer characterize that in the "helping hand" ideal type, bureaucrats are still above the law and have close economic or kinship ties to entrepreneurs. However, government is organized, corruption is limited, and most importantly, they promote market activity and industrial policy by throwing their support behind firms of their choosing. One way of reconciling this difference in characterization is to return to Frye and Shleifer's source. In "China's Transitional Economy:

While the grabbing hand and helping hand models are ideal types, and no government fits absolutely within any of these models, they provide building blocks to think about state-market relations: when regulators and market actors draw upon their superimposed roles to resolve regulatory uncertainties, they may constitute a relationship of *mutual capture*. I define mutual capture as an outcome where both parties—the entrepreneur and the bureaucrat—satisfy their professional agendas at a cost to the public. The following is a case of mutual capture resulting from role superimposition through the party apparatus.

Interpreting Its Significance" (1995), Walder stated, "over 70 percent of output in this [non-state] sector is under a form of public ownership by local governments" (pg. 966). While market-state relations need not remain static from the late eighties of the last century to today, thirty years hence, Walder's description suggests that private firms needed to appear publically owned. This observation is consistent with the political climate of the late eighties and early nineties, when private firms were offered little legal protection from the state, let alone being able to withstand "grabbing hands". They were "subject to harassment and even imprisonment for violating ill-defined laws and regulations concerning their business activities" (Dickson 2007:832). The upshot of this is to say that while Frye and Shleifer's ideal types of state-market relations are theoretically productive despite offering a weak empirical account of the helping hands model.

Case 3: Undermining State Capacity through Party-State Role Superimposition

In November 2014, the municipal-level Administration of Work Safety Bureau (AWS) inspector visited SIG.[63] The date and time of the visit had been coordinated with the firm's secretary the day before, as was standard in field inspection. Managers Yao and Wan, charged with accompanying Li, the AWS inspector, were under the impression that the inspection was part of a citywide fire prevention campaign. They were prepared for this. The firm had been visited in the past year by the sub-district-level AWS inspector (*anjian ban*), and there had been no need for remediation.

As they walked around SIG premises, the municipal AWS inspector peppered Yao and Wan with benign questions about when the buildings were constructed, and the number of employees and contractors who frequented the space. Needless to say, Yao was surprised when the inspector issued a noncompliance warning (*buhege*). He had cited the firm with several fire-code violations, the most severe of which involved the construction of its warehouses.

The warehouses were concrete buildings with corrugated iron rooftops containing television sets, refrigerators, and other large and small home appliances. More than sixty warehouses on-site were in violation of GB 50016-2012 (People's Republic of China Ministry of Public Security 2012:17–18). Each unit needed to be at least eight meters apart from one another. Yet from wall to wall, the warehouses were spaced by less than two meters apart. In order to comply with fire code standards, SIG needed to reconfigure warehouses occupying an area of more than 170,000 square feet, the equivalent of nearly three American football fields. This would have been a considerable undertaking.

[63] The AWS began as an organization overseeing mining-related occupational safety issues and has since extended into an administrative arm regulating industrial safety for workers.

After the inspector left, Yao and Wan relayed the news to Zhang, the firm proprietor. According to Wan, Zhang contacted Wang (of no relation to Hundred Temple's Subdistrict Party Secretary), "to ask if he could make accommodations for our sake" (*qingta geige fangbian*).[64] Wang was the Party Secretary for Central District. He had been introduced to Zhang through Diao, the liaison to the District's Party Congress, of which Zhang was a member. Diao also serves on Central District's Standing Committee (*quchangwei*) along with Wang.[65]

As with the rest of the Chinese administrative bureaucracy, regulatory bodies in Central District were not independent of the party hierarchy. In addition to being a member of the District's standing committee, Diao also doubled as First Deputy Chief, which meant that Diao had higher party standing and real authority over the other five Central District chiefs, each of whom were charged with oversight of administrative organs such as Public Health (*weisheng*); Fire (*xiaofang*); Complaints and Appeal (*xinfang*); Housing and Construction (*zhujian*); and Environmental Protection (*huanbao*), and the AWS Bureau (*anjian)*.

The head of the District AWS Bureau was Liang. Liang was overseen by Gong, Diao's subordinate. Gong was one of the other five district chiefs.[66] Three month's prior to Li's visit, Liang and his staff had come to inspect the firm in August of 2014. Liang had geenlit the firm's compliance with district work and production safety codes. It is

[64] Account relayed through Wan, Deputy Manager of Logistics and Warehousing. I was unable to corroborate Wan's account with Zhang, who was evasive with me. However, I find Wan's account credible because Zhang invited thirteen guests to a banquet the following week, among the attendees were Wang and Diao.

[65] Diao also holds the office of Vice Party Secretary and the First Deputy Chief (changwu fuquzhang), which oversees the state-administrative organs within the district. It is unclear whether Diao, given his party ranking, actually had the authority to grant Zhang such a favor, but Zhang had bypassed him and directly asked Diao's superior, Wang, the District Party Secretary, to request regulatory discretion from the Municipal AWS Bureau Chief.

[66] In effect, Gong was also Wang's (the District Party Secretary) underling as well.

unclear whether his approval was due to factors external from the inspection, such as prior coordination between him and his superiors (i.e., Gong or Diao) before the visit, or Liang's knowledge of the firm's political networks.

Another reason for inspection compliance could be due to factors internal to the inspection, such as Liang's lack of awareness of fire code guidelines or that his inspection focused on non-fire code related hazards. Regardless of whether the compliance was issued as a result of indirect political influence or inspector error, Zhang, SIG's executive, was absent. This was because Liang and his staff were not a priority.[67] SIG, or rather, Zhang, was able to depend on Diao's discretion—and if not Diao than Wang, the District Party Secretary—to resolve foreseeable District AWS problems.[68]

Returning to the Municipal AWS visit in November 2014. Before Li left, he had said that he would be revisiting in a month's time to check on the firm's remediation efforts. But he never returned. Rather, in January 2015, nearly two month's after Li's visit, one of his superiors had come to SIG. The official was Central District's Party Committee Deputy Party Secretary (*dangwei fushuji*), who was there as part of an official visit to inspect the subdistrict's work and safety production. He was accompanied by Wang, the Subdistrict's Work Committee Party Secretary.

The inspection was ceremonial. The official was photographed walking through SIG facilities as Manager Yao gave him and his staff a tour. He lacked technical training in work safety inspections but he did pose for the camera. In a photo op that was later publicized, he donned a hardhat while inspecting a detached pulley. The caption of the

[67] In my observations at the firm, only under exceptional instances did Zhang personally entertain guests with posts below the level of deputy directors of the division (*fuchu*).
[68] It is unlikely but unclear whether Liang and Li coordinated their visits in succession to make redundant inspections for cross-validation, or because district- and municipal- level field officers operate autonomously from one another.

photograph read: "…upon inspection of SIG's warehouses, [the deputy party secretary] mandated the enterprise owner to implement warehouse safety management practices and ensure fire prevention equipment were intact and in working order." There was no mention of necessary renovations to be made for fire safety.

Counterfactual to Multiple Dependency: Why Hierarchy?

In *The Economic Institutions of Capitalism* (1985), Oliver Williamson builds upon Coase's (1937) charge to economists to not take the organization of economic activities for granted, but to derive their boundaries theoretically. Williamson posits that organizations, whether public or private, encounter uncertainties—disturbances to an organization's goals. To resolve these uncertainties, organizations consider the costs and benefits derived from absorbing the source of these uncertainties through alternative governance structures. His insight is one explanation for why firms would engage in repeated bargaining (e.g., spot market, subcontracting, or haggling) as opposed to vertical integration (i.e., formal organization).[69]

Drawing on Williamson's theoretical framework, I argue that the superimposition of roles is akin to repeated bargaining. The counterfactual to the theory posited thus far is that an organic institution of multiple dependency obviates the need for vertically integrating state-firm networks. Why then for instance, would entrepreneurs be motivated to append themselves to the party apparatus when they could rely on their informal networks to resolve state-administrative problems?

[69] Repeated bargaining characterizes the case-by-case negotiations such as those observed between antique hunters and vendors in flea markets, whereas vertical integration involves absorbing the source of uncertainty into the organization's operations. For instance, if one were in the ice cream business, one form of vertical integration would be to buy out one's dairy supplier. This may involve adding the local farmer to the business's payroll. Doing so would give one more control over the quality and integrity of a key ingredient.

I argue that this is because reliance on using personal ties to resolve uncertainties stemming from the state-administration involves high search costs, in both psychological anxiety and time needed to locate a useful contact. Personal ties for instance, face network constraints when it comes to locating a "helper" in the administrative organ of interest. The difficulty stems from finding, either directly or through an intermediary, an administrative agent who is appropriately situated to exercise discretion or willing to obligate a colleague for their discretion.

In the case of regulatory racketeering above, a breakdown at any one juncture—a polite refusal—would compel Li to pay the fine demanded or start afresh in search for another recourse. To say the least of Li's anxiety, Zhao, the client who had been obliged to help by Li, worried about pulling through. Zhao had little confidence that he knew someone in the MAB (Municipal Administration Bureau), and once he realized he did, he was dependent upon the cooperation of Wan, Lin, Min, Min's colleague in North District, and the original MAB police officer in North District who had issued the citation.

A refusal to cooperate could be due to either capacity or willingness to draw upon one's superimposed roles. In the case of capacity, a refusal could be due to a helper's lack of discretionary authority or the intermediary's perception of such an authority among his or her own rolodex of contacts. In the case of willingness, we may assume that in cases where discretionary authority is present, the helper is unwilling to exercise such authority or the intermediary is unwilling to make such a request due to a perceived distance to the supplicant, or his intermediary.

So far I have argued that an emergent property of rule unpredictability is the institution of multiple dependency, where a perception of unstable rules—in its

implementation and enforcement—leads to a collectively experienced reliance upon the discretion of others, both private individuals and those who act as state agents. Such a feeling of vulnerability also motivates those affected to cooperate. What emerges is a routine of mutual aid among individuals who have little reason to get entangled in "other people's problems" or assist others in resolving their administrative dilemmas.

In the last decade, China has adopted a growth strategy largely driven by infrastructural investments.[70] Dovetailing this approach are state strategies to insert state-funded and state-shareholding firms in select industries. This has been aptly described by scholars as a champion-corporatist model of Chinese capitalism (Huang 2008; Lin 2011; Lin and Milhaupt 2013; Szelényi 2010). While a mish-mash of capitalisms coexist in China—from state- to private- led economic growth, further differentiated by degree of urbanity, regions, and cohorts (Fligstein and Zhang 2011; McNally 2012)—growth in the private sector has been overshadowed by the expansion of state-driven growth.[71]

A top-down strategy from the party-state to drive growth and preserve political legitimacy has led to a colonization of the domestic private sector (Gilley 2008; Pan 2008). This has been namely manifested in the party-state's 1) recruitment of private entrepreneurs, 2) incorporation of private firms under the auspices of party organization, and 3) implementation of concomitant local state and private champion strategies.[72] The

[70] In fact, (Meyer 2011) argues that China's current strategy doesn't fall under a variety of capitalism at all. Rather, he conceptualizes its current strategy as "institutionalized GDP growth". He argues that the state's use of structural investments to meet growth targets—amidst flagging demand for consumer exports abroad—optimizes "production, employment, and social harmony", not profits, the object of capitalism (pg. 14).

[71] I define the private sector here as inclusive of all forms of private investment, from domestic private (Nee and Opper 2012); state-cum-private (Oi 1999); to foreign (Hsing 1998).

[72] For a theory of China's adoption of a state champion model as part of recent economic policy, see Fligstein and Zhang (2011) in drawing similarities in state management of assets to France; and see Lin and

extension of the state into the private sector has been welcomed by private entrepreneurs who operate in domestic markets, facilitating their political sponsorship by local officials.

The focus of this chapter is on the bottom-up motivations and processes of party building where political projects for legitimacy overlap with private motivations to reduce uncertainty. I concentrate on the regulatory environment that confronts industrialists in China, from the vantage point of one privately owned firm. A critical implication of the incorporation of private actors into the state is that it exacerbates an already fraught regulatory environment, where a party-state governance structure has led to poor administrative independence. The enforcement of regulatory compliance, once toothless against state- owned and shareholding firms due to conflicts between state and party authority now has few safeguards against private firms that are part of the party-state apparatus.[73] Whereas the former are typically large and dominate strategic industries, the latter are far more numerous and found across all sectors of the economy.

My field observations dispute traditional characterizations of coordination between state and economic actors in China, whose relationships are construed as clientelism, collusion, or corruption. I argue that cooperation between market and state actors is not a direct consequence of rent-seeking behavior on the part of entrepreneurs to access to market opportunities, or state agents to exchange discretionary power for wealth. Instead, for the market actor, it is a means to respond to regulatory, contractual, and rent-competition uncertainties as result of inhabiting an environment where rules are

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Milhaupt (2013) for an empirical study of asset consolidation and management of state-owned and shareholding entities.

[73] One reason for why this may happen is because inspectors and their supervisors in regulatory agencies find themselves outranked in party rank and authority vis a vis the firms they are charged with regulating. These problems of self-regulation among state personnel have been attributed to the weak enforcement of environmental protection regulations, see Lo and Tang (2013:250).

in flux.[74] For state agents, these motivations need to be differentiated between central and local level state actors. At the central level, party building is a way of bolstering political legitimacy amidst structural changes in the economy. At the local level, party-firm organization assists in the larger project of meeting economic targets for which the careers of local bureaucrats depend.

This is not to say that bribery does not occur but that the central nexus is not financial opportunism but the management uncertainty.[75] I advance this argument through a theoretical framework beginning with rule predictability. I posit that a growth-oriented national policy requires the central state to be able to quickly and effectively steer the economy. Rules in such a polity need to be adaptable to immediate objectives, thus privileging executive discretion and speedy legislation. In such a society where rules proliferate or are sidestepped, or both, arises an institution of *multiple dependency*, where individuals fear that there will come a time when they may end up at the mercy of administrative unpredictability. In this context, people are habituated to draw upon their superimposed identities to help one another reduce the unpredictability of their environment.

I argue that the imposition of a party-apparatus upon an institution of multiple dependency in China legitimizes a system-wide production of mutual capture that advance the interests of both party and market actors. In an introduction to a *China Quarterly* compendium on China in transition, Walder (1995) concluded that "a transition economy must alter incentives, not merely for individuals and firms but for government agencies and officials themselves, for the behavior of the latter can have enormous

[74] Of these, the focus of this chapter is on the first of these uncertainties.
[75] Bribery however, may also be construed as a means to reduce uncertainty.

economic consequences" (pg. 978). I draw a logical extension from Walder's insight: the confluence of bureaucratic, economic, and private interests, not only has immense economic, but also social consequences. A strong party-state that can act swiftly to throw its might behind central mandates, such as economic growth, concomitantly constructs a government that cannot commit to rules a priori.

Conclusion

This chapter suggests that people, acting on the behalf of their organizations, rely on and construct stabilizing technologies to resolve uncertainty, whether in the form of networks or entry into formal agreements. It brings to the fore, four empirical cases to show how organizational actors actively construct and deploy these technologies.

The first is a case of low-level administrative racketeering. Once the racketeers discovered that the transgressor was "a friend of a friend", they withdrew the violation and demand for an inflated fine. The impasse reveals that in order to resolve what is presumably, a regulatory racket in Central City involves bartering, bribes, or, in this case, the use of one's social networks. It also suggests that particularism, or non-universal exemption, applies to strategies to resolve regulatory dilemma at the individual level, and networks become a resource for private citizens to resolve regulatory problems.

The next case shows how a private firm uses personal ties as linkages to institutional resources, but also actively constructs formal ties to the party apparatus in order to establish a predictable technology to manage regulatory uncertainty. Expanding on how firm actors deploy this new technology to resolve uncertainty, the third case demonstrates how managers draw on formal networks to resolve salient problems. Whereas the first case is characterized by potentially opaque rules governing the

transgression, mitigating culpability on both the part of transgressors and regulators, the third case is an instance of a regulator issuing a citation based on well-defined and clear rules governing the violation at hand.

The last of these empirical cases demonstrates that in a system where rules may override one another, private organizations draw on legislative policy to override administrative rules. It proposes that organizational grafting onto the party apparatus is an affiliation in name, or conferral of status at best. It does not however, guarantee access to information and resources from the state. In order to access the latter depends on activating sponsorship from local civil servants who are vested in meeting legislative policy.

The narrative suggests that even within formal coalitions, private actors need to appear useful to local bureaucrats in meeting performance targets in order to draw on the local state as a resource. In all, this chapter conceives of formal ties shared between private firms to the local party-state bureaucracy as inert until local bureaucrats offer exclusive support for investors of interest. Such faithful adherence among civil servants to a particular logic—the set of rules and incentives that govern their profession—suggests that despite what appears as a corrosive source to the authority and independence of formal rules, these particularistic networks are in fact, a means of achieving an overarching organizational logic. A unifying logic seldom exists. Rather, contesting rationalities in the form of a set of multiple logics, may govern the professional lives of these bureaucratic and economic actors. This is the subject of exposition in the next chapter, where local bureaucrats and firm managers are caught between centrally mandated policy and local level constraints.

IV COORDINATION

Obedezco, pero no cumplo. (I obey, but I do not comply).

—Expression from Colonial America[76]

On March 5, 2011, Premier Wen Jiabao appeared before the National People's Congress to introduce the 12th Five-Year Plan (FYP) as a part of a perennial delivery of the Report on the Work of the Government. Part of a longstanding quinquennial tradition, he proclaimed general goals and specific targets, such as restructuring the economy and maintaining an average growth target of 7 percent per year—for the next five years. The speech was integral to steering a state overseeing more than 10 million cadres.[77] In heralding the 12th FYP, Wen called attention to policy objectives to be prioritized by local governments. Three years after the policy's induction however, a group of municipal-level bureaucrats breached administrative codes governing corruption in order to overcome regulations that had been introduced by the 12th FYP. How and why did this happen? And how could violations of regulatory codes by civil servants and private investors be interpreted as anything other than misconduct and corruption? This paper reconsiders regulatory ambiguity as a site for examining the institutional configuration of policy implementation. It proposes that attention to the cognition and coordination

[76] In Spanish America, local magistrates (*alcades*) used the expression to drag their feet or avoid carrying out decrees from the crown in Spain when these conflicted with local interests or circumstances. See Holloway (2011:119–21) for a detailed discussion of the phrase's origin.
[77] See Huang (2002:74).

among those who manage (i.e., civil servants) and participate (i.e., private investors) in regulated economic activity problematizes the assumptions underpinning dominant conception of corruption in the literature.

Whether due to political ambition or compromise, legislative conflict in the literature appears at two junctures of the administrative state, when policy is formulated by a legislative body (e.g., when Congress reviews a bill) or interpreted and implemented by relevant judicial bodies and administrative agencies. Studies oriented toward the first juncture focus on the policy-making process as giving rise to the presence of inconsistent rules (Bardach 1977; Winter 1986). They observe the regularity by which administrative agencies must make coherent, vague statutory mandates and inconsistent rules passed on to them by Congress (Lipsky 2010; Matland 1995; Pressman and Wildavsky 1984).[78]

Moving from the realm of policy legislation to implementation, rules in the form of policy objectives may be broad enough to be interpreted differently among judicial or administrative agents with divergent agendas on the ground.[79] When a rule embedded in a statute or regulation may be subject to multiple interpretations or can be nullified by another rule, these instances produce indeterminacy.[80] While indeterminacy arises from

[78] For a discussion of the optimality of vague rules and broadening administrative expertise and discretion in their interpretation, see Fallon (1997), Rubin (1989), and Berman (1978). For a critical discussion on the implications of legislative ambiguity in policy implementation, see Lipsky (2010).

[79] By formal policy objectives, I mean goals pronounced as part of the organization's official policy, explicitly stated in public arenas. By informal goals I mean operative goals such as sub-goals that are derived from official policy used for carrying out the organization's official goals. These may also include goals that are related to group interests that may conform or subvert an organization's official goals. For the classification of organizational goals on which this distinction is based, see Perrow (1961:855–56).

[80] Lawyers for instance, may recognize indeterminacy and invoke alternative interpretations to a rule to nullify an adversary's claim. When it is the outcome of ambiguous wording in legislative text (Pierce 1995) or as a feature of laws themselves due to their aim toward generality rather than specificity (Dorf 2003), it leaves legal outcomes vulnerable to discretion. In common law contexts such as the United States, indeterminacy may leave the law exposed to judicial bias. Rules may be interpreted by the judiciary in ways contradictory to the original intent of legislators or worse, subject to the political bias of the judiciary. For examples of problematic judicial discretion, see Pierce (1995:752,754,756) on judicial cherry-picking of legislative text to advance an interpretation contrary to congressional intent. See also Tushnet (1989) for

the failure of rules to adequately circumscribe (or override) alternative interpretations, vague and inconsistent rules regularly appear without hubbub, such as when administrative agencies are charged with carrying out broad legislative mandates.[81]

While indeterminacy has been developed in the western legal scholarship to examine juridical discretion, I extract from this concept to articulate the condition of rule incongruity, a property of a situation where public and private actors must cope with discordant administrative constraints.[82] I propose that it is in the interpretation and reconciliation of rule incongruity, manifested in the conflicting frames through which organizational actors interpret their actions and innovate by constructing congruent frames for action, that give rise to what the state codifies as corruption. I then extend from this case to discuss administrative redundancy and conflicting rationality as concepts for amending traditional models of corruption, concluding with the broader relevance of this case for understanding collusive or corrupt behavior.

Scholars and practitioners with well-intentioned objectives to expose and remedy corruption conceive of the phenomenon as the result of greed and unscrupulousness.[83] Existing frameworks for understanding corruption not only assume illicit private gain as the primary motivation among civil servants in violating their obligations to the public, they also presuppose that those involved operate with full knowledge of relevant rules to

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a tongue-in-cheek observation of Chief Justice William Rehnquist's rulings, "One could account for perhaps ninety percent of Chief Justice Rehnquist's bottom-line results by looking, not at anything in the United States Reports, but rather at the platforms of the Republican Party" (pg. 1328).

[81] Vaguely worded legislation plagued by inconsistent goals has been identified by scholars as a means by which legislators resolve—or hide—contradictory objectives in order to pass bills (Matland 1995). Ambiguity in this sense, serves as a Trojan horse to enable the ratification of legislation by eliciting consensus: multiple constituents may interpret the same text in different ways (Eaton Baier, March, and Saetren 1986; Lindblom 1959). The corollary to this is that clear, as opposed to ambiguous policies, make salient the presence of objectives that may threaten vested interests whom may attempt to thwart these concrete goals (Regan 1984).

[82] See Rubin (1989:369) for critique of undue focus in legislative scholarship on judicial interpretation.

[83] Here I am referring to economists and political scientists in the former camp, and consultants of the World Bank and prosecutors of the US Department of Justice in the latter.

a situation. Models derived from this definition of corruption are based on the premise that state personnel or corporate actors decide to observe or violate rules having performed a calculation of the costs and rewards for doing so.

Implicit in this assumption is that corruption is the outcome of a willful violation of social norms or legal codes. By using data collected through participant observation to understand how private managers and civil servants attempt to reconcile conflicting goals through intra- and extra- governmental coordination, I propose to revise our understanding corruption not as a deviant act by an unprincipled individual, but as a feature of institutionally produced deviance.

This study follows a rich vein of empirical research on symbolic compliance as a means of managing regulatory uncertainty emanating from the central state. Whereas the focus of empirical attention has been on the multiple strategies by which administrative personnel contend with competing or challenging mandates. These include, but are not limited to bureaucratic negotiation for policy adjustment (Lee and Zhang 2013; Zhou et al. 2013); manipulation of reported performance (Ai 2011; Huang 2007; Kipnis 2008; Zhao 2013; Zhou 2009); and construction of political alliances for resolving uncertainty (Ai 2011; Schubert and Ahlers 2012; Zhou et al. 2013).[84] Furthermore, a number of studies have investigated the uncertainties by which private entrepreneurs (Dickson 2003; Kennedy 2009; Ma and Parish 2006; Nee and Opper 2012; Osburg 2013b; Wank 1999) and public personnel (Oi 1999; Walder 1988) independently encounter in the post-reform economy. Few of these however, focus on the cognition and coordination between state

[84] See also Bardach and Kagan (1982) for a discussion of flexible rule enforcement among police officers, parole officers, and auditors (pp. 126-151) and Peter Schuck's (1972) report of sample doctoring among United States Department of Agriculture inspectors, professing, "…if all meat inspection regulations were enforced to the letter, then no meat processor in America would be open for business (pg. 82)."

and private actors to resolve regulatory uncertainty (McNally 2011; Wank 2002b; Xin and Pearce 1996).

I build on this literature by drawing attention to the cognitive dimension of coordination that has been heretofore ignored. In pivoting attention instead to local definitions of the situation by public and private actors, I aim to revise a dominant conceptualization of corruption through modifying the assumptions upon which these models are derived. These include actors' knowledge of relevant rules and their deliberate violation of these rules and their obligation to the public. The implication of this insight is that corruption can be produced by behavior among those who earnestly observe extant protocol and norms of good public conduct.

I begin by critiquing mainstream theories of corruption and situating the puzzle of corruption absent the abuse of public power for private gain within the existing literature. I then draw on observations of how private firm personnel and local bureaucrats at the Bureau of Land and Resources coordinate to resolve shared uncertainties. In doing so, I hope to achieve three goals:

First, I propose that people attempt to formulate stable and congruent frames (i.e., protocol, rules, authorization) in interpreting new information that escape existing protocol. I adopt a pragmatist framework to suggest that collusion, the coordination between two or more parties through the use of illegal means or to pursue illegal ends, is the outcome of problem-solving by reconciling conflicting administrative frames.

Second, I suggest that in squaring contradictory statutes that determine both central and subunit goals, bureaucrats on the ground rely on past protocol and imagine future solutions for doing so that require intra- and extra- governmental coordination. I

argue that when ambiguity takes shape in the form of conflicting objectives imposed by new statutes, the reconciliation of these by administrative personnel lead to the violation of existing administrative and criminal codes as a result of what I call, administrative redundancy. Unlike the more familiar concept of organizational redundancy, which focuses on the multiple technologies deployed to mitigate an uncertainty in high reliability organizations, I build on this literature to underscore the complications such structures may pose to regulatory governance.

Third, I pan away from the site of conflict resolution in the party-apparatus to the source of conflict generation that undergirds this case. I propose that the foregoing phenomenon is produced by conflicting rationalities intrinsic to state administrative and legal structures by which negative laws lag behind their positive counterparts. The Catch-22 here is that formal organizational structures for resolving this uncertainty—legislative gaps—exist and are extensively used by public actors encountering rule incongruity. Yet reliance on established channels to regulate conflict violates the very laws of extant legal institutions.

Uncertainty, Action, Frames, and Habits

In the last two decades, economic and cultural sociologists have retrained their attention on the microfoundations of action (Beckert 1996; Hedström and Swedberg 1998).[85] The premise is that conflict begets action and because action transpires across time—

[85] I emphasize with the definition adopted here, not its intractability to probabilistic modeling (Beckert 2013a:325; Dequech 2011:516) but rather its cognitive property: a problem for an individual or group whose resolution lies in the future, a condition whose properties cannot be known a priori. Uncertainty has also been alternatively referred to as ambiguity (Dequech 2011; March and Olsen 1976) and equivocality (Weick 1969), both emphasizing the difficulty of decision-making due to the potentially infinite courses of action. For discussions of uncertainty emphasizing its nature as a surprise, see Preda (2009:24, fn. 6); an event that lies in the future, see Beckert (2013b); and its variation over time, see Stinchcombe (1990:4). For its methodological role in economic sociology, see Dequech (2003) and Beckert (2003). And for reviews of this literature, see Dequech (2011) and McMullen and Shepherd (2006).

extending into a future that is unknowable—it is fundamentally uncertain (Mises 2007). These moments of uncertainty also beget problem-solving responses in the form of thoughts and actions that "alternate between habit and creativity" (Gross 2009:366). In face of uncertainty, a situation where one is confronted by a problem but does not know the best course of action, intentionally rational actors draw on institutions, norms, and habits to resolve their source of ambivalence (Beckert 2013b; Gross 2009).[86]

In instances where organizational conflicts appear, the empirical literature in economic and organizational sociology has identified the formal or informal technologies actors construct to resolve these issues.[87] Organizations for instance, may resolve nonroutine problems or the overt pursuit of conflicting goals (e.g., among different departments of a company) by creating an ad-hoc committee (Diehl-Taylor 1997); deferring to a higher ranked authority; or invoking formal justification to mediate these differences. Aside from the establishment of formal channels to resolve conflict, organizational actors may also draw from habits in the form of informal guidelines, routines, or shared identities and social sanctions (Ouchi 1980).[88]

The units of analysis in these processes of uncertainty resolution however, conceive of organizational actors at the level of firms or groups as opposed to individuals. This

[86] See Beckert (2003) and Stinchcombe (1990) for a sociological conceptualization of economic action as intentionally rational, as opposed to optimally rational. For a discussion on intended rationality as an alternative theory of economic action rooted in American pragmatism, see Beckert (2003:773–79).
[87] Conflicts within organizations may take place for instance, among formal goals (e.g., maximizing the quality of goods produced but also maximizing a firm's profit); between formal and informal goals (e.g., maximizing patient welfare but also minimizing hospital expenses); or among informal goals themselves (e.g., improving patient satisfaction but also minimizing non-critical hospital expenses) (March and Olsen 1976; Perrow 1961). Furthermore, the overriding of central organizational goals by its subunits has been widely documented in the public administration (Bardach 1977; Murphy 1973; Pressman and Wildavsky 1984) and organization literatures (Fligstein 1993; March and Simon 1958; Merton 1968; Michels 1915; Perrow 1961; Pfeffer and Salancik 2003; Selznick 1949).
[88] Overt compliance or covert resistance may also take place in cases where conflicts are purposefully unresolved by decoupling substantive practice with formal policy (Bromley and Powell 2012; Hallett and Ventresca 2006b; Oliver 1991).

study is an attempt to elucidate the microfoundations of action that has been commonly construed in the literature as organizational misconduct (Greve, Palmer, and Pozner 2010) and the insufficiency of state capacity (Pei 2009). Means and ends are not treated as static but in fact, expected to emerge from the course of actions taken to mitigate uncertainty (Stinchcombe 1990; Whitford 2002). It focuses on the incremental efforts made by individuals to make sense of a problem at hand and winnow down available courses of action to resolve it.

By paying attention to the frames[89] organizational actors rely on and actively construct to define and interpret a situation, habits,[90] and formal routines they draw upon in their efforts to mitigate their source of ambivalence (Vaughan 1999), this paper develops an analytical understanding of corruption and modifies operating assumptions in the traditional literature that have been uncritically accepted in the study of corruption. These include the decision-making (i.e., calculation of costs and benefits), knowledge and intent (i.e., deliberate violation), and value-orientation (i.e., deviation from moral and professional norms) of involved actors. Following a brief overview of the traditional models of corruption, I explain how these assumptions underlying economic and political explanations of corruption poorly fit with the substance of this case.

TRADITIONAL ACCOUNTS OF CORRUPTION AND COLLUSION

Models of Corruption

Despite the heterogeneous nature of corruption in its sources, causes, conditions, and outcomes, few studies challenge its prevailing conception. Two complementary

[89] I adopt Goffman's (1974) definition of cognitive frames, or the "principles of organization which govern the subjective meanings we assign to social events" (pg. 11).
[90] I adopt a pragmatist definition of habits in this paper, or one's acquired predispositions that are typically unconsciously enacted (Gross 2009:366).

perspectives of corruption remain dominant in the literature. For purposes of explication, I divide these into their epistemologically- and methodologically- driven definitions, respectively.

The first of these accounts is a normative framework of corruption that conceives of corruption as the violation of legal, moral, or organizational rules in the pursuit of self-interested goals. In this perspective, corruption is defined as the misuse of public power for private gain (Heath, Richards, and Graaf 2016; Rose-Ackerman and Truex 2012). Scholars in this tradition view corruption as the commission of extortion and bribery;[91] erosion of professionalism (Rothstein 2011; Uslaner and Rothstein 2012:6); or a form of legitimate exchange (Beetham 2015; Lessig 2013). The first of these three subtypes serve as the modal account of corruption in the news media and the existing scholarship.[92] I briefly review the latter two subtypes that are typically precluded from the limelight.

Scholars who view corruption as the outcome of a civil servant's lack of faithfulness to organizational rules and obligations draw from Weber's (1978) work on authority and domination.[93] This universalistic framework interprets the abuse of public power as the absence of impartiality in the implementation of public policies.[94] It emphasizes bureaucratic role appropriateness and obligation that reconceives of

[91] The two are differentiated through the party initiating the exchange, with the former the result of coercion by public officials, and the latter as introduced by private individuals (Heath, Richards, and Graaf 2016; Rose-Ackerman 2010).
[92] See as examples, the top-most cited papers on the subject in Google Scholar: Mauro (1995); Rose-Ackerman and Palifka (2016); Bardhan (1997); and Treisman (2000).
[93] Civil servants in the Weberian ideal-type of a legal-rational bureaucracy are governed by a technocracy based on merit and expertise.
[94] See as an example, Rothstein (2011:15).

corruption as the failure among bureaucrats to prioritize public obligation over self or particularistic interest.[95]

Related to the aforementioned principles of impartiality, those in the last camp view forms of patronage, albeit legal in their respective contexts, as corrupt in emphasizing their corrosive influence on public institutions.[96] Scholars in this vein emphasize the patron-clientelist manipulation and mastery of the proverbial "rules of the game" (i.e., in the form of legislation and policy) in service of corporate interests (Beetham 2015; Lessig 2013).[97] Examples of these include "revolving doors" between government and business; campaign contributions to political parties and politicians in anticipation of preferential treatment or favors; and the implementation policy that monetarily benefit a select group of constituents (Heath et al. 2016:55).[98]

The second of these definitions is often used among scholars to methodologically complement the first. It adopts a homo economicus assumption underlying principal-agent-client (PAC) models where agents and clients are prone to collude against the principal *unless* there are appropriate deterrents, such as optimizing costs and rewards for

[95] Note that this Weberian perspective has been incorporated into policies among NGOs such as the World Bank, see Heath et al. (2016:55).
[96] By conceiving corruption for instance, as the "distortion and subversion of public realm in the service of private interests" (Beetham 2015:41), this definition of corruption evokes the regulatory capture literature but is far broader in scope than the aforementioned definitions of corruption, or the literature on regulatory capture.
[97] The regulatory capture literature does not necessarily define corruption in the absence of private monetary gain. C.f., for a discussion of the purchase of favors in regulatory capture, see Dal Bó (2006).
[98] Beetham (2015:42) stipulates that corrupt practices and outcomes may occur despite the absence of monetary benefit to the public servant(s) advocating on the behalf of their corporate constituents (pg. 42). See also Lessig's (2013) definition of institutional corruption, which involves the legal and even ethical "systemic and strategic influence" that "undermines the institution's effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose" (pg. 553). Of note is Lessig's call to separate the analytic examination of corruption from its normative conceptualization, or specifically, "…it does not follow that the analytical tools we use must embed that normative judgment (pg. 555).

agents or clients, or both (Heath et al. 2016; Rose-Ackerman 2010; Tirole 1986).[99] The consequence of this conspiracy is corruption. Under this model, corruption is the illicit exchange of the state's resources between public and corporate actors (Jancsics 2014).[100]

In their review of the literature on corruption, Heath et al. (2016) note in passing that the marginalization of alternative definitions largely owe themselves to the concept's institutional emergence. Given the dominance of policy-oriented objectives among its investigators, this characterization of corruption lends itself easily to systematic measurement and mathematical modeling. Together, these two definitions serve a dominant paradigm that has been uncritically challenged in the study of corruption. By analyzing the coordination between civil servants and private investors in the Chinese administrative bureaucracy, I argue that corruption may take place in the absence of illicit personal gain. To do so I build upon and summarize existing explanations for collusion in the following section. I then present the resolution of rule incongruity as an alternative to extant explanations.

Models of Collusion

The pursuit of private gain is a dominant feature in both new institutional economics and industrial organization literatures. Models derived from this premise perceive these suboptimal outcomes as preventable through appropriately applying discrete constraints. Williamson (1975) has extended upon principal-agent models to point to the role of partnerships involving long-run time horizons that foster asset

[99] The terminology used in this paradigm has not been standardized. In some instances, "agents" are at times used to refer to "clients" (e.g., corporate actors). In other instances, the term "monitors" has been used in lieu of "agents" to refer to state personnel, see Rose-Ackerman (2010:218) for examples of this confusion.

[100] For an example of how agency perspectives also incorporate normative definitions of corruption, see Jancsics (2014), who stipulates that the illicit vending of public resources among buyers and sellers—private actors and civil servants—also violate social rules or expectations, if not legal ones.

specificity (e.g., when one is dependent on a key supplier) and collusion. Principal-agent and moral hazard explanations of collusion will not be rehashed here.[101] Suffice to say these explanations conceive of organizational actors (e.g., managers) as pursuing their interests to the detriment of stakeholder (e.g., shareholder) interests. Conceived in this way, collusion is the formation of coalitions to pursue gains at the expense of non-members.[102]

Collusion has been explained in terms of strategic resistance among organizational actors on the floor against internally or externally imposed policy. These strategies draw upon shared norms and camaraderie (Burawoy and Lukács 1994) and practices of organizational decoupling, the ostensible compliance but de facto resistance to imposed constraints (Hallett and Ventresca 2006b; Oliver 1991). They range from subunit subversion of central management policy in the form of ceremonial compliance (Dalton 1959) to practices of employee shirking and pilfering to attain just compensation from management (Gouldner 1954, 1960).

Efforts to design standardized systems of accountability have also inadvertently introduced a host of practices, including collusion, as a means by which organizational actors manage imposed constraints.[103] This has been widely documented in regulatory auditing (Tirole 1986); policy implementation (Bardach 1977); and administering

[101] For an overview of this literature, see Tirole (1986).
[102] Note that this definition refers to collusion, not corruption. If collusion were equated to corruption, then the latter would be defined in terms of a suboptimal outcome for the state (i.e., the principal), due to coordination between agents (i.e., civil servants) and their clients (i.e., private actors or other civil servants). While this definition appears non-problematic, it omits cases where agent-client coordination (e.g., the bureaucrat and corporate actor) results in an optimal outcome for the state. In such an instance, such coordination, albeit in violation of formal or informal rules, is never an instance of collusion.
[103] As opposed to reliance on socialization as a means to enforce norms regarding role appropriateness and professional conduct, standardizing accountability entails the implementation of quantifiable performance metrics to be met by applicable subjects (Bardach and Kagan 1982; March and Olsen 2004). For a discussion of the role of socialization as a key component in the acquisition of ethical competence among medical students in the course of their training, see Scott (1985).

quantifiable performance targets (Zhou et al. 2013).[104] Moving from the private to the public sector, bureaucratic extension into the administration of the economy in post-socialist contexts has produced a rich history of collusion under conditions of resource uncertainty coupled with hard budget constraints. These strategies have been recognized in the form of production misreporting (Meng, Qian, and Yared 2015:1582); informal compensation schemes (Gaddy 1991); and subunit collusion against central management (Burawoy and Lukács 1994:42).[105]

In the Chinese administrative state, Zhou (2009) has found that while policy implementation appears uniform, suggesting a competent state or one with high capacity, there is considerable intended and unintended loose coupling. Local civil servants exercise a high degree of discretion as anticipated by a decentralized administration encouraging flexibility in how central policies are carried out on the ground. He finds however, that an unintended consequence of standardizing bureaucratic competence through quantified performance measures—used as both an indicator of policy success and a motivator for bureaucratic accountability—is symbolic compliance, producing what appears at face value, unvarying and reliable state capacity. Achieving symbolic compliance requires extensive coordination among bureaucrats, such as the transfer of funds or resources in kind across jurisdictions to fulfill revenue quotas (Kipnis 2008).

Anthropological theories of collusion are undergirded by *personalism*, the favoring of particularistic properties such as friendship or kinship over general and universal rules. The concept can be further disaggregated into two subcategories,

[104] For an overview of personnel management through the implementation of a tournament model or quantifiable performance targets in China proper, see Huang (1995) and Zhou et al. (2013).
[105] Outside of post-socialist contexts, collusion in the form of data misreporting and audit manipulation is well documented in the sociological and economic literatures, see Tirole (1986:185).

relationalism and instrumentalism, to explain illicit coordination.[106] Relationalism conceives of collusion as the outcome of people who adhere to an alternative moral code. In other words, when individuals observe ethical institutions (e.g., Confucianism) underpinned by the fulfillment of role obligations (e.g., as children, friends, or parents) as a moral code, they may violate others, such as those governed by universal and abstract norms that characterize modern institutions (Fei 1947; Liu, Kipnis, and Yan 1998; Tsui and Farh 1997; Yan 1996; Yang 2002). These alternate moral orders are not exclusive to agrarian or Chinese societies but also inform contexts where uncertain access to political or material resources draw on norms of reciprocity and exchange (Humphrey 1985; Ledeneva 1998; Scheppele 1999; Walder 1988).[107]

Instrumentalism is also commonly conceived as a perspective of guanxi that is less ethically motivated and involving a quid pro quo exchange with either short or long time horizons. It conceives of collusion as the outcome of expediency—the pursuit of ends without regard for existing normative or legal constraints. In other words, it explains collusion as the outcome of people who violate universal norms in order to get what they want. This transpires through the use of particularistic networks to access resources of interest, be they political or economic, or both (Guthrie 2001; Walder 1988; Wank 2002b; Xin and Pearce 1996) and in the presence or absence of a cash nexus (Swedberg 2005).

I argue that even in the absence of the elements introduced in the foregoing literature, from personalism to the pursuit of illicit private gain, public and private organizational actors engage in illicit coordination as a result of rule incongruity, or

[106] For an overview of this literature, see Lin (2001).
[107] For a discussion comparing *blat* and *guanxi*, see Ledeneva (2008).

incongruent rules that are contradictory or subject to frequent change. To recapitulate this distinction at the risk of beating a dead horse, the prevailing conception of corruption is that it emerges under an arrangement of rules that produce material hunger or greed among civil servants—or alternatively, a failure of existing rules to effectively restrain unscrupulous individuals.

While scholars, watchdogs, and prosecutors define corruption as the outcome of an instrumental pursuit among public servants toward illicit goals (e.g., graft, bribery, services), I propose that the concept needs to be reinterpreted through an institutional lens where distorted incentives do not derive from discrete rules but are inherent in the contradictions existing in an overarching administrative logic.[108] I submit that collusion transpires in the absence of motives attributed to mainstream conceptions of corruption as well as those buttressing administrative regulations governing corruption.

Fieldwork, Sunrise Industrial Group, and the Policy Context

Presented in the following section is a narrative of how firm managers overcame a regulatory dilemma by relying on the counsel and coordination of state personnel. The firm's executives and managers allowed me to conduct research at their firm to understand how economic actors identify and resolve salient uncertainties. I suggest that corruption in the form of collusion is the outcome of conflicting rationalities in the Chinese administrative state, mediated through rule incongruity in its administrative laws. The empirical implication of this study is that given the set of constraints that confront civil servants, collusion is likely a modal form of coordination in the administrative

[108] See Heath, Richards, and de Graaf (2016:54) for existing definitions of corruption used by the World Bank, Transparency International, and the US Department of Justice.

bureaucracy. It suggests that it is unclear however, if state personnel may fulfill professional obligations without violating existing regulations prohibiting arbitrary action.

RULE INCONGRUITY: SHIFTING RULES AND SHIFTING FRAMES

In this section, I provide a brief overview of existing constraints and statutes that govern local administrative organs. I then trace an instance of collusion—the coordination among (public or private) actors to pursue illegal ends or through illicit means—where absent are bribery or graft or the contempt for rules and their enforcement. I discuss the long and short- term motivations of the organizational actors in this case to suggest that collusion is the consequence of the obverse: civil servants attempting to fulfill their professional obligations and adhere to organizational rules.

National Policy, Extant Constraints, Rule Incongruity, and Collusion (2011-2015)

Within a few months of Wen's pronouncement, the 12th FYP spawned a host of local government policies in the mineral extraction industry that put smaller, privately owned firms with mining operations like SIG in a vulnerable position. Prominent among these were the Anhui Province 'Twelve-Five' Reform and Development Guidelines for Non-Coal Mines Policy (2011) (Hereafter, WZ-2011-118). The proposal begins with citing challenges facing the mining sector, condemning it as a virtual cottage industry flooded by investors lacking in management (Section 1.2.2) and technological expertise (Section 1.2.5).[109] As a result of which, the prevalence of numerous and widely dispersed

[109] Among other reasons cited by WZ-2011-118 for the timeliness of these reforms is the global and national demand for minerals. On the one hand, the proposal adopts a view that global monopolies have led to price distortions in the mineral market. On the other, it proposes that domestic industrialization and

mining firms, characterized by the provincial leadership as "small, scattered, and messy" (Section 1.2.2), and in need of reform through slashing the number of firms participating in non-coal mining" (Section 2.3).

In line with objectives for economic restructuring introduced by the 12th FYP, it follows the aforementioned indictment of small firms with a resolution: that the provincial government will begin supporting large firms (Section 2.1), and among those expressly named, state-owned enterprises.[110] The purpose of Notice WZ-2011-118 was to implement the 12th FYP goals by transforming these into explicit local targets, such as increasing the total proportion of large- and medium-sized firms from 22.4 percent (in 2011) to 40 percent by year's end in 2015 (Section 3.2.4). As well as eliminating approximately 1,400 mines in the province, or a reduction of about 31 percent in three years' time (Section 2.3).[111] To say the least, it placed private firms in the industry in a predicament. I suggest that the sites of micro-level ambiguity underscore broader institutional conflicts within the Chinese bureaucracy. While scholars focus on corruption as motivated by illicit private gain, I use this as a case to propose that it is not in the contradictions between discrete rules but rather the collision among broader institutional logics of the administrative state that produce corruption in the absence of private gain as a modal outcome of administrative action.

Down the hall from the Party Branch office at the headquarters of Sunrise Industrial Group (SIG) is the General Affairs office, where I was stationed. The workers

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urbanization policies will lead to greater demand (Section 1.2.5). See Lin (2011) for a detailed discussion of a central policy advocating for building a greater middle class, or a Small Wealth Society (*Xiaokang Shehui* 小康社会) during the period.

[110] All three corporations named in Section 1.1 have either provincial stakeholders or are wholly owned by the provincial government.

[111] Compared to the policy's base year in 2010.

in this office function as a support staff for the firm, overseeing secretarial and administrative tasks related to its businesses, one of which included non-coal mineral mining, which was overseen by Manager Zeng, the head of the Mining Department.[112] The firm's mining rights were to expire soon. Zeng had learned from a bureaucrat that morning that the Bureau of Land and Resources in Southern Municipality had "mandates from above" (*shangmian de zhengce*) that prevented his office from being able to authorize an expansion to the current excavation site. Typically, this would be a nonevent. Mao, Zeng's underling, would file the necessary papers to renew current permits. But Zeng needed to expand the operation. For the past five years, SIG has been exploring and excavating the same lot for minerals, a little over five hectares wide, or spanning the area of two American football fields.[113] In order to augment the existing lot, the Bureau of Land and Resources (SBLR) in Southern Municipality needed to approve of a renewal of current mining permits, and also permit SIG's acquisition of mining rights over more land in the vicinity. But it looked as if there was a national policy against doing so.

His private office was next door but he came into the General Affairs Department where I was based, to consult with Long about his dilemma. He stretched out over the club chair, taking another drag of his cigarettes and reached for his cell phone to call the

[112] All identifying names of persons, firms, roads, and locales are fictionalized to preserve the anonymity of the ethnography.

[113] In order to preserve the anonymity of the firm and my informants, I do not disclose mineral type given the political and legal issues posed by this case. This was a difficult decision to make because substantive detail allows for greater precision in cross-case comparisons. An available alternative, such as changing mineral type, would have its own empirical implications. As a general rule in anonymizing the details of this case, when they are identifying or when their identification from public record would be possible through a process of elimination, I move to a higher level of aggregation to minimize this possibility (e.g., revealing province as opposed to municipality; season instead of month; or month instead of date).

bureaucrat who had first informed him of potential problems with the expansion.[114] The party on the other end was Lv (pronounced: "lu-YEE"), a section-level bureaucrat with the SBLR. Zeng skipped the usual exchange of pleasantries and asked him if he would be available in the afternoon to talk about expanding the existing lot for excavation. The pace of the conversation slowed as he listened intently. There was a moment of silence, and as if the signal were bad, he asked him to repeat what he had said. In seeming exasperation and befuddlement, Zeng exclaimed, "What does this have to do with our excavation rights?" At the moment, Zeng's request for expansion appeared to be a non-starter. But Lv agreed to explain the matter in person. Before Zeng bid goodbye, he confirmed a time that his driver would pick him up.

We waited for Lv in the office that afternoon. He was thin, soft-spoken, and nebbish. After a quick exchange of pleasantries, Zeng resumed their discussion from the phone, "Tell me (*nishuo*), why can't we expand it?" Lv described his constraint in authorizing more land for mining.

> We have this twelve-five policy, you can ask around. For next year, there's no policy (*fang'an*) in the market. Starting at year's end next year [2015], or the year [2016] after, if you want to change [dimensions], it's better to have a mine in the market.[115]

At best, if Zeng does not get squeezed out from administrative barriers now raised against smaller firms, he would be able to wait out the policy and expand in two year's time. Despite these higher-level constraints tying the bureaucrat's hands, he neither dismissed nor rejected Zeng's proposition for an expansion. Instead, Lv assuaged Zeng, who was

[114] Such conversations between public servants and private individuals are permitted and required under Section 2.16 of the Notice from the Ministry of Land and Resources Regarding further Improving the Management of Excavation Rights Registration and Related Problems, where administrators are obligated to communicate to firms in instances where rights are about to expire (Ministry of Land and Resources 2011).

[115] I have placed phoneticization to words in parentheses that may be translated differently, and when appropriate, proper nouns or infrequently used words are followed by their Chinese text in parentheses.

growing uneasy, "Yes you can expand it, just not now." Zeng was puzzled by the bureaucrat's proposition. Mining exploration rights could only be reviewed and renewed every two years, which would mean that he would have to wait for two years before he could apply for expansion again. It seemed to him that Lv was offering a resolution that was in fact a polite refusal to help. But then Lv began strategizing about what could be done so that SIG may continue to dig.

Lv in fact, also found the new policy challenging and was motivated to help SIG so that his jurisdiction could meet its own centrally imposed fiscal constraints. Aside from having to shutter mines and concomitantly meet investment and growth targets derivative of the 12th FYP, administrative agents like him contend with a central-local revenue sharing partnership through which local governments behave like sharecroppers, or small business owners: not only are there hard budget constraints, local governments remit a large proportion of their revenues to the central state, and are responsible for footing the bill for the bulk of their own expenses.[116] In the next section, I situate this discussion within the recent historical context of fiscal decentralization. These include revenue sharing, local expenses, revenue generation—all of which loom large on the minds of local bureaucrats and sheds light on some of the constraints Lv and his colleagues must manage at the local Bureau of Land and Resources.

[116] The 12th FYP counted upon local jurisdictions to fall in line in achieving national growth targets of 7 percent per year, over the course of the next five years (pg. 12). The derivative version of the central plan is WZ-2011-118. Section 2.3 of WZ-2011-118 directs local authorities to reduce the existing 2,046 mines in the province (figures from 2010) by 31 percent, to 1,400 mines (2015 target). Concomitantly, local authorities are also charged with increasing the overall productivity in the mining sector by a certain percentage per year in total industrial output value (gongye zongchanzhi 工业总产值) over the same period. Whether through incentivizing local businesses to cut costs; invest and develop more efficient technologies; or purge its jurisdiction of small businesses (as suggested in the legislation), doing any of the above while increasing Southern Municipality's total mineral yield appears to be a tall order.

The Local State In the Era of Post-Fiscal decentralization

After a series of fiscal reforms beginning the late eighties, in 1994, the central government implemented the Taxation Sharing System (TSS) that required local governments to retain a quarter of Value Added Taxes (VAT), and remit the remainder 75 percent of collected VAT to the central state.[117] Further fueling pressures on bureaucrats are the demarcation of central versus local responsibilities for expenses under the "Decision on the Enforcement of Fiscal Management based on the Tax-Sharing System" implemented in November 1993.[118] The new budgetary scheme specified central versus local responsibilities and slipped in a number of nontrivial items under an "other spending" category for which local governments are responsible. These local expenses include funding pensions, unemployment insurance, medical insurance, and social relief.[119]

At around the same time through which the center implemented fiscal decentralization, China's experiments in liberating markets in the southern provinces took hold. While taxation on business sales had become a reliable source of income for many local jurisdictions, a dominant source of revenue among these burgeoning localities was subsumed under a category called Extra-Budgetary Funds (EBF).[120] EBFs are

[117] As of 2014, VAT accounted for about 25.9% of total national revenue, or 1.9 Trillion USD, see pg. 20 in Hsu (2016) for a detailed account.
[118] For a synopsis of responsibilities attributed to local versus central governments under this policy, see pp. 26-27 in Hsu (2016).
[119] Given the magnitude of these social welfare items, local governments have been unable to afford these expenses in practice and have turned towards the central government for subsidies, see pg. 27 in Hsu (2016).
[120] Otherwise known as Extra-Budgetary Revenue (EBR).

predominantly comprised of local revenue generated from administrative fees.[121] These may appear as a nominal source of local revenue but given China's trajectory of fixed-assets driven growth in the past decade where revenue from construction of roads, housing, and factories accounted for more than a third of economic growth. EPFs have become rather, de facto *core* budgetary funds.[122]

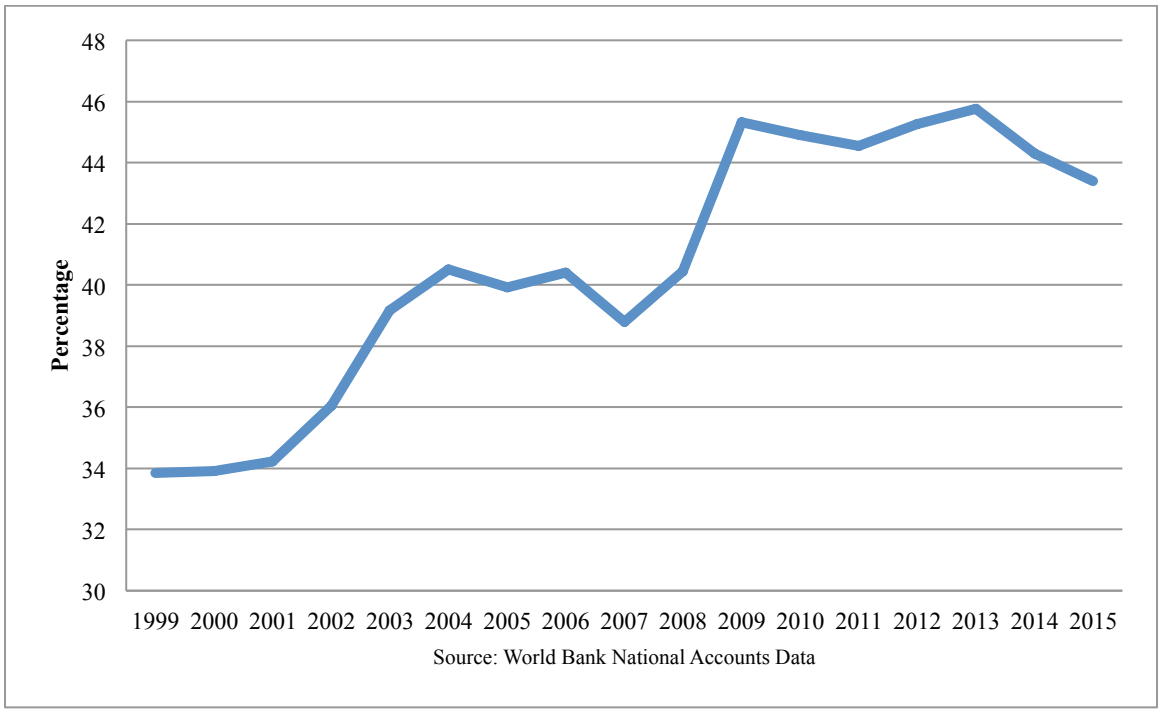


Figure 1—Gross Fixed Assets Formation in China as Proportion of Annual GDP

A large proportion of fees derived from fixed asset investments come from the administrative organ overseeing the allocation and use of land. At the subprovincial level it is the Bureau of Land and Resources. In 2011, the collection of EPFs was centralized on account of the central state recognizing the weight these carry in local revenue

[121] Inclusion of EBR as a budget item was inherited from China's socialist days and first introduced into fiscal policy-making in 1986. For a review of its role in the history of China's Tax-Sharing System, see pp. 21-22 in Hsu (2016).
[122] Given China's distribution of sectoral contributions to growth, fixed assets investments contributes to 5 trillion dollars (43%) of the annual GDP of 11 trillion dollars in 2015. When adjusted for Purchasing Power Parity (PPP), that is 19 trillion dollars.

generation. The category was no longer separated but consolidated into the central-local revenue sharing system.[123] The push for fiscal decentralization involved two key pieces of legislation: The aforementioned policy implementing the TSS and what is called the Target Responsibility System (TRS). The latter was enacted in the 1980s as a means of standardizing bureaucratic accountability and competence through quantifiable performance targets.[124] The TRS has served as the basis for evaluating civil servants. A key criterion of that assessment is the candidate's fulfillment of local fiscal revenue and economic growth quotas, goals derivative of existing statutes.

Interspersed between these revenue constraints on local governments are moments of central policy implementation that pertain to economic growth. These top-down mandates for instance, set additional checks on local governments in the form of economic performance targets. At the central level, these appear in the form of annual GDP growth targets (e.g., 7 percent for the period spanning from 2011 to 2015) traditionally set by FYPs. At local levels, provincial governments set further constraints on growth targets to harness these toward meeting overarching goals such as strategic development and industrial upgrading. Examples of performance targets to be met by local bureaucrats range from subprovincial quotas set for fixed asset investments, outside investments, and investments in strategic industries (Smith 2010).[125]

[123] To give readers a sense of how EPFs figure in the national budget, imagine if one purchased a piece of property in China, whether in the form of an apartment unit or parcel of land. To do so, one would pay a lump sum to the Bureau of Land and Resources known as a "land-lease fee", which would give one de facto ownership rights to the property of interest for a period of forty to seventy years. Another dimension of how prominently property "leases" figure into local budgets is that unlike other large economies such as the United States, property owners do not pay perennial "land-lease" or property taxes. These one-time administrative fees derived from property sales thus carry great weight in light of the absence of recurrent income generated from property transfers.

[124] For a review of this literature, see Tsui and Wang (2004).

[125] For an extensive discussion on state capacity and standardizing bureaucratic competence under the Target Responsibility System, see Maria Edin (2003), Susan Whiting (2006), and Pierre Landry (2008).

Encountering Rule Incongruity in the Administrative State

Not only could constraints, whether those produced by pre-existing (e.g., TSS) or new (e.g., WZ-2011-118) statutes, negate one another but legal scholars note how the legal system lends itself to ambiguity due to a number of factors such as legislative glut, complexity, and jurisdictional overlap (Orts 2001).[126] Rule incongruity may be one structural consequence to conferring administrative organs with the power to legislate. This has produced an overabundance of rules that in themselves, may challenge or negate one another due to their independent implementation by administrative agencies. This ambiguity has been well documented by legal scholars who have found that as an antidote to rule incongruity, law has been set aside in favor of policy decisions when judges must rule on a case (Peerenboom 1999:333).

Not only may laws offset one another but ordinances and regulations have been found to be enforced in violation of the Constitution (Corne 1996:152). Nevertheless, scholars have observed that civil servants have developed their own means of coping with recurring states of ambivalence. Despite wide variation in policy implementation on the ground (O'Brien and Li 1999), bureaucrats develop shared norms in identifying what laws may be violable (e.g., the Constitution) and others that are to be strictly followed (e.g., State Council rules) (Clarke 1997).

In view of an imminent regulatory dilemma—for the both of them—Lv advised Zeng to wait, until WZ-2011-118 on shuttering non-coal mines—a derivative provincial

[126] Eric Orts (2001) has called the legal system "a bewildering and inconsistent array of laws, resolutions, provisions, measures, directives, notices, decisions, explanations, and so forth, all claiming to be normatively binding…(pg. 68)." In illustrating the opacity and ambiguity of laws in the Chinese legal system, James Zimmerman (2010) describes that not only are there legislation (*falv*) as a means of dispensing formal rules, but these may also appear in the form of "regulations (*tiaoli*), sets of rules (*guize*), detailed rules (*xize*), measures (*banfa*), decisions (*jueding*), resolutions (*jueyi*), and orders (*mingling*)" (pp. 65-66).

statute from the 12th FYP—has run its course. When this takes place by the end of 2015, Lv explained, a new injection of funding for mining exploration from the provincial government would be slated to appear, including a cache of allotments for spatial exploration.

Lv suggested that what the firm could do was apply for discrete changes (*gebie tiaozheng* 个别调整). "So you're saying that if we get our exploration rights (*tankuang quan* 探矿权) cancelled next year, we'd be able to expand the mine?" Manager Long, who heads the General Affairs department and had been listening quietly until now, asked him to clarify. Lv explained that this was not what he meant. He was not advising the firm to terminate exploration rights. But that one solution to the dilemma was that the firm holds on to the right and then applies for an exemption when it would be appropriate. At which time, he would have the discretion to help them expand the excavation site.

Reconciliation of Conflicting Frames

I posit that uncertainty in the form of *rule incongruity* emerges from the existence of conflicting frames in both its objective and subjective dimensions. When conceiving of frames as objects, these materialize in the form of rules, formal or informal, and can be used to exert control and discipline relevant actors or be strategically invoked by them in their construction of cognitive frames. The latter is what I refer to as subjective frames, or the schemas by which individuals adopt—consciously or unconsciously—to interpret equivocal information and identify plausible strategies to resolving an uncertainty (Weick 1995).

Analytically, moments of creativity arise "when preexisting habits fail to solve a problem at hand" (Gross 2009:366). This discrete instance of a regulatory dilemma made salient the destabilization of the frames through which bureaucrats understand their obligations. The central implementation of the 12th FYP and its derivative statutes disrupted the schemas that have provided the bases through which bureaucrats recognize and isolate their priorities. These subjective frames in turn are buttressed by the objective frames—those metrics imposed by the TRP that are derived from implementation rules. As objects, these rules too are in flux when new statutory requirements countervail against existing measures of accountability and compliance among civil servants.

I submit that when civil servants devise strategies to resolve rule incongruity, they rely on and actively construct new frames by devising expectations based on past protocol to reconcile contradictory frames. In these fraught situations, they "make the problematic nonproblematic" by redefining a situation to eliminate the source of ambivalence. In reconstructing frames by drawing upon accepted cultural norms so that objective and subjective frames are correspondent with their intended aims, they in effect, make their expected actions more "acceptable and non-deviant prior to an act", thereby incrementally mitigating the uncertainty arising from rule incongruity (Vaughan 1999:280–81).[127] In the following section, I propose that conflicting frames in themselves do not lead to rule violations, but rather it is through the process of reconciling these frames that lead to the violation of existing administrative and criminal codes.

[127] For a discussion of this literature, of how individuals draw on legitimate justifications for their actions, prior to their actions, see Vaughan (1999). They may also rationalize their actions after the fact, by neutralizing their actions through a justification that makes the problematic nonproblematic, such as justifying employee theft due to being poorly paid, see Granovetter (2007).

Regulatory Coordination and Violation

Returning to the narrative, Lv was in fact directly constrained by a policy to shutter mines following the provincial government's implementation of WZ-2011-118. SIG's exploration rights had been last renewed before the lunar holidays began in 2013. On the Sixteenth of the new lunar year, when nationally mandated holidays ended and employees returned from lunar festival celebrations, the provincial government officially issued the Anhui Province Non-Coal Mines Reform and Closure Plan (*Anhui Shen Fei Meikuang Zhengdun Guanbi Gongzuo Fang'an* 安徽省非煤矿改革关闭工作方案) (2013) (Hereafter, WZBM-2013-21). The proposal called for the reform and closure of mines through setting explicit targets for local administrative organs.

This meant that by year's end starting in 2013, local level bureaus like SBLR were to be audited by provincial administrators (Section 4.3). The targeted demographic for the policy were all "smaller" mines considered "outdated…lacking in safety production conditions, and polluting to the environment" (Section 1.1). The policy was consistent with WZ-2011-118, calling for a 30 percent reduction of mines in Anhui province by 2015 (measured against 2011 figures), with key municipalities assigned specific closure targets. Southern Municipality, where Lv served at the time, was among one of the sites for reform. Its officials were assigned a quota to eliminate 30 percent or more non-coal mineral mines. This entailed shutting down at least three of every ten mines by the end of 2015.[128]

[128] The municipal level legislation is not disclosed here in order to preserve the anonymity of the bureau and my informants.

Lv's plan was straightforward but involved some degree of coordination with the managers and his colleagues. He instructed those present at the meeting, including Zeng, Long, and Mao, on how to proceed: by first filing for a renewal of exploration rights. SIG was simply not going to be permitted to expand its mining operation via augmenting the existing surface area of the lot. Asking for paper and pen to show us what he meant, he drew two non-overlapping circles on the company stationary. He designated these as the exploration and excavation rights, respectively. Tapping on the latter circle with the point of the pen he explained, "Now the problem you have is that you can't widen it but you can deepen it." The four of us nodded to show that we understood. "But when they're [Provincial Land and Ministry Department] about to issue exploration rights (*fa tankuang zheng*), they'll have to ask for our recommendation (*yijian*)." Then he pointed to the former circle representing exploration rights, "We'll ask that they take this part", drawing an arrow pointing outwards from the circle, "and expand it (*kuo chulai*)."

Instead of restricting mining operations, as he was assigned to do and what Zeng had been prepared to hear, Lv advised the managers to deepen the lot for the time being instead of expanding it, "The resolution (*fang'an*) now will be to get depth resolved first (*xian goading shendu*)." Officially, this allowed SIG to file for a renewal where coordinates to the excavated lot remain unchanged. Up until this point, Zeng had been suspicious of the abstract policies Lv invoked, believing that he was trying to stall him through indirection in their earlier conversation. "So how deep is that?" He asked. Lv thought for a moment and answered, "About fifteen meters, enough for you to lower a level down (*jiang yi taijie*)." Upon hearing this, Zeng loosened up a bit. By being able to dig even an extra ten meters would have given SIG access to an additional 500,000 cubic-

meters, the equivalent in volume to 200 Olympic-sized swimming pools to mine for minerals in the coming year.

While he had some leeway to maneuver given his jurisdiction's targets, when Lv offered this as a solution that would allow SIG to continue excavating, he had gone against provincial policy to curb the total number of non-coal mineral mining operations in Southern Municipality. What he advised Zeng to do was in short, a two-stage process, spanning over the course of a year. The first order of business was to renew exploration rights without a change in the perimeter of the lot—to excavate vertically instead of horizontally—for the next calendar year. Manager Long, who heads the General Affairs Department, pressed for details, "What materials (*ban naxie*) do we need in order to deepen?" To this, Lv affirmed that SIG needed to first submit a report (*dage baogao*) that he would help revise and then submit the revised draft to the responsible department within SBLR.

> We'll take the report after our municipality has registered and reviewed it (*lifang'an*). After it's been approved (*pingshen guole*), we'll make a few changes, and in the process of modifying it (*xiugai*), we'll take this of yours and extend the depth without changing the area, keeping (*baoliu*) [the area] for you.

Figure 2—Extract, Lv

The aforementioned report would be issued by a state sanctioned geological survey team, describing features such as lot dimensions, existing minerals, and an estimation of reserves by mineral type. Lv in fact, was intimately familiar with these field reports given his previous career as a surveyor (*dizhi diaocha yuan* 地质调查员). He had been a geologist by training and a member of the provincial geologic prospecting

party (*dizhi dadui* 地质大队) that conducted soil surveys. When university examinations resumed, his parents encouraged him to study geology. "In this field (*ganzhe hangde*) you depended on the government for jobs. By the time I started working, it was considered a useless expertise (*lengmen xuewen*)." While state owned enterprise jobs in heavy industry were perceived as desirable while he was in school, by the late eighties, Lv and many of his peers had been laid off. It was not until more than a decade later, in the early aughts, when Lv saw as a turning point in the industry. Rare minerals were in demand as commodities for both investment and use as raw materials for both consumer electronics and construction. The central government began reinvesting in mining exploration. "In the past, it wasn't like today (*buxiang jintian*), today geologists hardly have time to breathe (*mangbu guolai*)."

Lv explained that the report submitted by SIG would be received and vetted by the Administration for Examination and Approval (行政审批 *xinzheng shenpi*), a department within SBLR. Once the authenticity of the report was vetted and approved, it passed to his office, the Department of Geology and Mineral Resources (DGMR) (*dizhi kuangchan ke* 地质矿产科), also within SBLR, which oversees the approval of exploration rights. From thereon, he would make the necessary revisions and escalate the application to the provincial-level Land and Resource Department for verification and approval (审批 *shenpi*).[129]

[129] Lv, in discussion with author in December 2014.

> No, no. I'm talking about Anhui Province's Mining Plan (*kuangquan fang'an* 矿权方案), that is (*jiushi*), it's part of the National Economic Project (*guojia jingji xiangmu* 国家经济项目) that is about to establish (*she*) mining exploration rights here. But they haven't formally established this yet (*haimei zhengshi she*). So (*suoyi*) under current circumstances, it's harder (*burongyi*) to extend the perimeter (*wang waiwei kuo*) of mining exploration and excavation rights.

Figure 3—Extract, Lv

The second phase to resolving Zeng's dilemma was to wait, for just under a year's time, when WZ-2011-118, the provincial level implementation of the 12th FYP policy regarding non-coal mines, completes its course at year's end (in 2015). Its conclusion heralds the beginning of a fresh reserve of provincial subsidies—unbeknownst to Zeng until Lv informed him—to be deployed for 2016. This new cache of exploration funding intended for mining certain classes of minerals were to be distributed by the (Provincial) Department for Land and Resources (PDLR). These government subsidies for mining also allow for land to be allocated for exploratory purposes and would thus allow SIG to legitimately expand its operations via augmenting its current excavation area.

> This at the time, I had told [Fa] about the nature of this problem. That's that when this mining exploration right is about to be implemented, they will ask for (*zhengqiu*) our municipality-county's position (*shixian yijian* 市县意见). Of course then, this exploration right, with so many square meters, we would advise that [the PDLR] allow the digging of this hole to be widened. This would be taken cared of just like that.

Figure 4—Extract, Lv

Lv promised Zeng that when the time comes he would notify him of new PDLR authorized allotments, and help him formally expand the perimeter of the existing lot. The person with whom Lv discussed and proposed a solution to the "problem" in Figure 4 was a colleague responsible for exploration rights renewal. He generalized the process

however. From the purview of the firm, just as in applying for renewal, application and required materials for new exploration rights were submitted at the local level.[130] The application was then escalated following a primary examination (*chusheng* 初审) by SBLR. In adhering to the protocol for granting new exploration rights, PDLR reviews and takes into consideration the recommendation of local authorities, such as SBLR, in granting new exploratory funding and land allotment.[131]

> I've reached out to Division Chief Lei (*chu* 处) and Deng. Deng said that filing for an exemption (*ge'an tiaozheng* 个案调整) is possible, it's just a bit of a hassle (*mafan dian*)….

Figure 5—Extract, Lv

The actual person who would be responsible for processing these changes was Lv's colleague, Deng, who was in charge of reviewing exploration rights at SBLR. Deng was located in Lv's office at SBLR, the DGMR. Lv conveyed that he had conferred with Deng to see if his strategy was acceptable and Deng confirmed that if the perimeter of the lot needed to be expanded, it could be done. Lei, their boss, had also authorized the strategy. Both have assured Lv that after 2015, when new exploration rights became available, the report could be submitted as a singular, or individual case (*ge an* 个案).

Regardless of professional and well-meaning motivations, neither were Lv and his colleagues aware of the fact that their coordination was in violation of administrative codes. Despite drawing on a rationale for economic development and of exceptional cases, in the Notice Regarding Further Strengthening and Standardizing Management of Exploratory Rights and Excavation Rights (*Guanyu Jinyibu Jiaqiang he Guifan Tankuangquan Caikuangquan Guanli Tongzhi* 关于进一步加强和规范探矿权采矿权管

[130] Mao, in discussion with author.
[131] Lv, in discussion with author on December 2014.

理通知) issued by the Anhui Department of Land and Resources (2007) (hereafter, WGTZ-2007-127), the provincial level notice prohibits "municipal and county" (Section 3, Clause 2) authorities from granting exploration rights adjacent to mines that have already been issued excavation rights (Section 3.4).[132]

Like most provincial guidelines, WGTZ-2007-127 is based on a central level policy barring local officials from interfering with mining rights (*kuangye quan* 矿业权).[133] The coordination was in violation of Section 4.1 in The Notice from the State Council Regarding Comprehensive Reform and Order Standardization of Mineral Resources and Development (*Guowuyuan guanyu Quanmian Zhengdun he Guifan Kuangchan Ziyuan Kaifa Zhixu de Tongzhi* 国务院关于全面整顿和规范矿产资源开发秩序的通知) issued by the State Council (2005) (hereafter, GF-2005-28). GF-2005-28 "resolutely prohibits actions from local [authorities] in illegally intervening to set up exploration and excavation rights" (Section 4.1).[134]

ADMINISTRATIVE REDUNDANCY, CONFLICTING RATIONALITIES, AND IMPLICATIONS FOR MODELS OF CORRUPTION

I return to the last two aims of this paper that I have spelt out in the beginning. One, I suggest as explanations derived from the findings of this case, the concepts of

[132]Excerpt from original text: "Those applying for exploration boundaries to exploration rights and those that have already established exploration and excavation boundaries or with those that have established adjacent excavation sites (indicating those that have ascertained ore bodies or deposits within established excavation boundaries), cannot be ratified" (*shenqing tankuangquan de fanwei yu yijing sheli de kuangquan fanwei ongjian chonzhi huoyu yi shecai kuangquan biling (zhi yishe caikuang fanwei nei yi chaming kuangti huo kongkuang…) de, buyu pizhun* 申请探矿权的勘查范围与已经设立的矿业权范围空间重置或与已设采矿权毗邻（指已设采矿权范围内已经查明矿体或控矿…）的，不予批准。) See Section 3.4 of Anhui Department of Land and Resources (2007) for original text in full.

[133] Mining rights refer to the umbrella of permits necessary for mineral exploration and excavation.

[134] […*jianjue chazhu yixie difang feifa ganyu shezhi tankuangquan, caikuangquan de xingwei*] 坚决刹住一些地方非法干预设置探矿权采矿权的行为. See Anhui Department of Land and Resources (2007) for full text.

administrative redundancy and conflicting rationality as underlying sources for both the emergence and resolution of rule incongruity—and by extension—collusive behavior within the Chinese administrative state. Two, I then generalize from the elements of this case to amend assumptions underlying traditional models of corruption. I begin by first reviewing the extant explanations for rule incongruity in the Chinese administrative state from legal-historical and sociological perspectives.

Traditional Explanations of Rule Incongruity

From a legal-historical perspective, the source of rule incongruity may be traced to path-dependent institutional selection. Evidence for this may be found in moments of institution building, such as the People's Republic of China's (PRC) founding. During this period, legal historians have proposed that the newly erected legal structures inherited remnants of both its dynastic and republican predecessors. In the early nineties, market reforms that had overhauled state-owned enterprises also reduced the number of government officials by 50 percent and downsized administrative organs from 40 to 29 ministries (Peerenboom 1999:338). During this period, the central state also extended legislative powers to numerous state bodies (at both central and local levels). This extension had also imported bureaucratic rivalries into the legislative structure (Keller 1994:733). Turf wars commenced among administrative departments in a race to lay claim to jurisdictional authority. The effort among these various organs to protect their interests led to the implementation of conflicting administrative rules. This legacy persists in the form of frequent and numerous pieces of regulation drafted by

administrative bodies at multiple levels that at times conflict with one another (Orts 2001).[135]

Peerenboom (2001) suggests that longstanding juridical tradition—the adoption of a civil code system and the latitude permitted to government officials to interpret and implement the law—may explain existing institutions. The law as conceived before the Republican overthrow of the Qing was an instrument of the emperor and not a means to constrain despotic power. During this period, Confucian and Daoist advisors exercised their judgment—as opposed to a strict adherence to rules—to determine what was best in a given situation rather than adhere strictly to universal laws or ethical principles (pg. 511, fn. 107).

Furthermore, during the PRC's founding period, professionals with legal expertise who had been influenced by reformists of the Republican era were called upon to design the legal system of the new republic. These legal technocrats were in favor of adopting a rule of law as opposed to a rule of rites or man. Upon the founding of the People's Republic however, these reformists were appointed to far less important positions under the new regime given their former allegiance to the Nationalist government. Instead, party cadres with no legal training yet who possessed appropriate ideological values were put in charge. The latter preferred governance by rule of man as opposed to rule of law (pg. 349, fn. 23).

In explaining legal and administrative rule incongruity, the founding legacy of a legal system designed by those with little experience in the law relates to what

[135] Peerenboom (1999) surmises that this was a battle among survivors to make themselves seem relevant and necessary to central authorities. Related to this point is Huntington's (1968) explanation of corruption as not the consequence of underdeveloped societies but those that are rapidly modernizing; normative confusion is produced as a result of efforts among elites to attain political influence.

organization theorists call a liability of newness problem.[136] Legal scholars point to as evidence, judges and legislators who lack legal training and the fledgling profession of law itself in the new republic (Orts 2001; Peerenboom 1999).[137] The corollary to this explanation is that given enough time, institutional maturation would resolve these flaws in the system.

Related to the understanding of rule incongruity as a feature of institutional immaturity is to explain the phenomenon as the outcome of an institution in transition. While particularistic institutions do not necessarily suffer from problems of rule incongruity, scholars who characterize contemporary legal institutions as vestiges of its patrimonial past argue that that under patrimonial authority, legal-rational rules matter little because they are selectively observed (Erdmann and Engel 2007). By the same token, rule incongruity is a feature of an institution for which rules are ceremonial, and thus their consistency is inconsequential. Practices, routines, informal or formal rules embody patrimonialism through cultural and institutional inheritance (Walder 1988).

Sociologists have construed this as a problem but have also proposed that it is resolvable: patrimonialism is wont to go away without being disciplined by market forces (Guthrie 2001; Keister and Borelli 2012; Nee and Opper 2006). This explanation is common among market transition theorists who frame post-reform development as having a logical endpoint in market capitalism. Given this assumption and the re-regulation of markets in recent history (Hsueh 2011; Huang 2008), Chinese law and economy are still in transition. The corollary to this argument is that as the economy

[136] To my knowledge, this term was first introduced to the institutional literature in Stinchcombe (1965).
[137] There may be a movement of convergence as legal scholars, lawyers, and judges who practice in China are increasingly trained abroad in common law societies like the United States, see Potter (2004).

becomes more liberalized, institutions would become more rational and universal, such as those that govern advanced capitalist economies.

But rule incongruity in the extant legal and administrative system may simply be underpinned by an impetus for state-building and thus unlikely to recede as a result of institutional maturity. This may be evidenced by the PRC's adoption of European and Soviet civil codes as both legal and judicial models intended for granting the government large discretionary rights. The result of this is that compared to common law systems, statutes under civil law are characteristically general compared to common law countries (Peerenboom 1999).[138] Their generality and vagueness of language has been attributed to the practicality of delegating authority in a large bureaucracy (Dowdle 1999).[139] For instance, central level legislation commonly articulate general guiding principles and goals with "implementation rules" that authorize lower level governments and administrative organs to "fill in the gaps" and interpret legislation in accordance to local circumstances (Clarke 1997; Peerenboom 1999:336).

Conflicting Rationalities and Emergent and Extant Structures for Resolving Rule Incongruity

Whereas the policy implementation literature has focused on legislative ambiguity as a source of goal conflict on the ground, I extend upon the findings of this study to argue that an inherent set of conflicting rationalities—logics—in the administrative state

[138] Even among common law countries such as the United States however, administrative legislation are characteristically general (Rubin 1989).
[139] The absence of clearly defined rules in a transition economy may obviate the need to overhaul laws designed for a centrally planned economy and continuously update regulations that may become outdated and inappropriate for a rapidly changing society and marketizing economy. See Dowdle (1999) for a critique of clearly defined rules as a condition of rule of law. He argues that specificity may lead to increased transaction costs. Local officials for instance, may spend needless time and energy to receive clearance and confirmation on rules to approve administrative transactions.

underlie these discrete circumstances by which civil servants must construct new frames as a means of managing rule incongruity in the administrative state. On the one hand, the raise d'etre of a formal organization, or a bureaucracy, is in the drafting and implementation of rules to achieve organizational ends. I refer to this as *bureaucratic* rationality. This however, impinges upon a *legislative* rationality. That is, if one traces the source of legitimacy and purpose of legislative bodies, it is in their specification of rules in advance that endow them with their mandate. Inherent in the drafting of procedural rules and the contingency that legislative rules are that they are subject to lags in time and that they are unable to foresee administrative policies in advance, respectively.

A second set of contradictory rationalities within the administrative state is between that of rules calling for bureaucratic *action* contradicting with rules calling for bureaucratic *inaction*. In other words, policies, as statements calling for organizational action, contradict with rules that are analogous to Isaiah Berlin's concept of negative liberties, which are intended to *constrain* rather than *promote* the action of one individual towards another.[140] Specifically, these types of rules are intended to restrain arbitrary action from state personnel as well as delimit their roles and obligations to fair and public administration.

In sum, I suggest that rule incongruity is the outcome of these two sets of conflicting logics that govern China's lawmaking bodies. These are circumscribed by a practical constraint of legal-rational rule-making in the legislature: it takes time to draft rules in the State Council and the National People's Congress, and to pass them through.

[140] Examples of this range from Ten Commandment imperatives that begin with, "Thou shalt not…" and its cognates in criminal law, where individuals are prohibited by the state to commit murder, assault, steal, or cheat.

Rule for *inaction* are hard pressed to keep up with rules for *action*. The administrative laws pertinent to the case explicated in this paper for instance, were in effect more than half a decade before Lv and his colleagues had unwittingly violated them.

I use this framework to situate and introduce the analytical concept of administrative redundancy to explain instances of extra-legal coordination in the administrative state. Organization theorists have long noted the use of technological redundancy, the construction of multiple means of managing an expected uncertainty. This can be likened to building failsafes into a system that calls for high reliability (e.g., aircraft landing controls where secondary systems of control can be activated in the event of a malfunction).

The costs and implications of redundant technologies however, are under-examined in the literature. Administrative redundancy is expressed through the party-state structure of the PRC and draws on a similar impetus to impose order over environmental uncertainties.[141] Whether due to continuities of institutional legacies or accidents of recent political history, traditional explanations of rule incongruity in the Chinese legal and administrative state identify authoritarianism as its source of inconsistent rules. I revise this framework to posit that the party apparatus is not incidental but in fact, critical as an organizational structure for resolving contradictions that frequently arise within an expansive administrative state charged with managing the economy.

I propose that part and parcel with this technology to correct incongruities in policy goals and existing statutes however, is that reliance on alternative forms of coordination

[141] The party's de facto authority over state institutions is indicated by its discretionary powers granted in the Constitution. For instance, it is the supreme legislature (i.e., the National People's Congress) and its standing committee, not the judiciary, that has full power to interpret and enforce the Constitution (Peerenboom 1993:349, fn. 24). Executive interference with judicial decisions is also common and fully constitutional. This appears in cases where the enforcement of rules conflicts with the party's interests and authority (Shen 2000:22).

by state personnel begets what may conceivably be apprehended as corrupt activity. While the party-apparatus enjoys formal legitimacy under the Constitution, it is redundant to state-administrative structures of authority. In the emergent moments where the assemblage of situational contingencies call for civil servants to draw upon organizational norms derived from their training and experience, they are in fact acting outside the bounds of administrative laws intended to restrict bureaucratic power and unpredictability.

Norms, Protocol, and Frame Construction

When the frames that interpret actions are unstable, such as the extant rules in one's environment, organizational actors must constantly test, try on, and assume stable frames of interpretation given extant protocol to resolve conflicts in administrative goals. By presenting the coordination between civil servants and corporate actors to resolve a regulatory dilemma, my goal is to show how local situations of uncertainty are incrementally resolved through subjective and objective reframing. In doing so, I underscore how the latter reframes his expected actions by retooling and drawing upon extant constraints and cultural norms to resolve rule incongruity.

In order to resolve this dilemma, Lv needed to coordinate both across and up the organization. He relied on explicit authorization from colleagues and superiors, but he also invoked policy exceptions in order to pursue economic targets (*zhua jingji*) that are party priorities.[142] These include reframing the dilemma using formal constraints such as invoking the protocol to apply a "singular-case" exemption (Figures 5) and raising economic development as a rationale for granting such an exemption corroborates with

[142] Notes from discussion with Lv, January 2015.

the extant literature on fragmented authoritarianism in which a high degree of latitude is available to local bureaucrats to fulfill assigned responsibilities.[143]

> And to add, we've loosened the constraints (*kaikouzi* 开口子), that's to say if in fact there is a need, we can still, apply (*shengbao* 申报) [for an exemption] at anytime.

Figure 6—Extract, Lv

One interpretation of Lv's intent—in deepening Zeng's lot and applying the deployment of new exploration rights to expand the lot's perimeter—is that he, along with his colleagues, were aware of existing regulations prohibiting these activities but viewed the law with contempt. In other words, they made these promises when fully aware of central and local level regulations. The evidence suggests otherwise however. Lv's testimony and efforts at due diligence (i.e., information gathering and corroboration with colleagues) and requesting formal authorization suggest a high degree of consistency in observing procedural correctness.

A literal translation of the idiomatic phrase, "*kaikouzi*", is to "open a hole". Far from the practice of exploiting regulatory loopholes, or the attempt to game the system by evading compliance by a rule's weaknesses, the practice of *kaikouzi* literally means to "create an exemption", to change as opposed to avoid extant rules. Lv's utterance of such a protocol through colloquial argot is because it is emblematic of a widely practiced and formally accepted means of reconciling contradictory mandates.

This was how SIG's mines in Southern Municipality were saved from idling, or worse, being consolidated. Lv was good on his word. The following week, he

[143] This is consistent with field observations of local level bureaucratic discretion across multiple field sites in China. For instance, see Zhou (2011) for a comparative case of village road building in Hebei; Smith (2010) for a systematic study of local investment targets and their varying priorities in Anhui; and Lee and Zhang (2013) for an account of protest control and negotiation in Guangdong.

accompanied Zeng to Southern Municipality to file the necessary paperwork for deepening the lot. By fall of 2015, in less than a year's time following this conversation, SBLR amended existing exploration rights and expanded the perimeter of the lot.[144]

If the lenience granted to SIG was availed to other private firms as well, how SBLR had been able to meet provincial closure targets remains unknown. In a year's time from the above dialogue, Southern Municipality did meet its mine closure targets for 2015. In two year's time, SBLR successfully reduced total non-coal mineral mines by 30 percent, compared to 2011 figures.[145] One possibility that has been documented in the literature but lies outside the purview of this study is the negotiation and manipulation of reported performance data between administrative personnel and their supervising units.[146]

Implications for Models of Corruption and Misconduct: Knowledge of Rules and Intention to Violate Rules

I propose that corruption in this case, is a consequence of administrative redundancy imprinted on a governance structure to resolve rule incongruity. Vis a vis the extant literature on corruption, I suggest that existing models of corruption as a deviant act by an unprincipled individual can be more fully theorized with attention to the cognition and coordination among those who manage (i.e., civil servants) and participate (i.e., private investors) in economic activity. Doing so allows one to problematize the assumptions underpinning dominant conceptions of corruption in the literature.

[144] Mao, in discussion with author.
[145] Starting from the time when provincial officials implemented WZBM-2013-21 in February of 2013.
[146] Dali Yang (2004) has credited China's state capacity to the center's ability to keep provincial leaders in line. Unlike regional governors in Yeltsin's Russia who can accumulate power independently and veto federal policies, China's provincial officials rely on central authorities for support and political appointment (pg. 65-66).

Traditional models of corruption and misconduct assume that these are the outcome of a willful violation of social norms or legal codes by transgressors. Specifically, the dominant framework for examining corruption in the literature presume that public and private actors, either together or independently, possess knowledge of relevant rules and then decide on infringing or conforming to applicable rules and institutional constraints based on a calculation or discounting of their costs and benefits (Akerlof 1991; Zhou 2009). This rational-actor model of organizational action has already been widely critiqued among sociologists (Granovetter 1985; March and Olsen 2004; March and Simon 1958).[147] I suggest rather that by focusing on the capacity among individuals to innovate upon habits and routines in face of uncertainty by redefining their situation through subjective and objective cultural and organizational frames, we may discover rather that organizational actors, from the managers at SIG to the civil servants at SBLR, violate administrative regulations unwittingly and in fact, do so while believing that they not only complied with existing rules but exercised the care and observance of organizational protocol.

CONCLUSION

The ultimate goal of this paper is to present an empirical case of civil servants who do not believe they are above the law and are not taking bribes nor illicitly and personally benefitting from an exchange. I propose that manifested in the organizational habits and protocols from which civil servants and corporate actors draw upon in their attempts to construct stable subjective and objective frames are that of a dependable structure upon

[147] The theoretical alternative to this framework will not be rehashed here. Sociologists have proposed theoretical alternatives to understanding economic action, such as conceiving of individuals as intendedly rational, despite their flawed access to information and capacity for calculation (Beckert 2003; Stinchcombe 1990).

which state personnel rely on to regulate moments of administrative ambiguity. In their efforts to incrementally resolve the structural contingencies that give rise to rule incongruity, they inadvertently violate administrative regulations prohibiting erratic and unpredictable exercises of power. This form of deviance is produced by overarching rationalities that underpin institutional arrangements and not through—as proposed by the dominant literature—discrete and distorted incentives. Given the most recent iteration of anti-corruption campaigns in China, indicted bureaucrats are portrayed as avaricious, venal, and above the law. In presenting this case, I hope to convince readers that one feature of a party-state governance structure is that there is little escape from committing misconduct among civil servants who attempt to faithfully fulfill their professional obligations.

V RATIONALITY

Master Ji: The lot of corrupt officials in Yancheng had swapped the court's grain ration for husk and fodder! Regarding this issue Lord He, do you know anything about it?

Minister He: Oh I know about it.

Master Ji: Are you not ashamed Lord He?

Minister He: I'm overcome with relief.

Master Ji: Why?

Minister He: There are things you do not know Master Ji. A catty of grain rations can be traded for three catties of animal feed. What was intended to save one life can now save three.

Master Ji: Husks are not intended for human consumption […]

Minister He: If I had not figured a way to devise an alternate solution (*biantong*), then you would not see refugees in the regions stricken by famine, you would see the bones of corpses.

— *The Bronze Teeth* (1999) (*Tiechi Tongya Ji Xiaolan* 铁齿铜牙纪晓岚)[148]

[148] He Shen was an eighteenth century official who served the Qing Court under Emperor Qianlong. When Qianlong abdicated the throne, his grandson, Emperor Jiaqing tried and executed He for corruption. He was sentenced to death by suicide at age 48. The dialogue comes from a fictionalized portrayal of him in the period drama, *The Bronze Teeth* (1999, Season 1, Episode 8). The televised rendition depicts him as a Machiavellian bureaucrat who was impossibly corrupt but an effective administrator. In the scene, Ji confronts He upon learning that local officials had sold imperial grain rations to the region's elites. These had been intended for famine relief. To Ji's surprise, the bureaucrat reveals that he knew because he had orchestrated the sale. In lieu of grain rations, he dispensed animal feed instead to famine victims. This provoked Ji's ire. The audience discovers however, that despite his notoriety, He had made a Hobson's choice, and a noble one at that. After years of waging wars and squashing rebellions, the treasury was spent and could ill afford to save the bulk of famine refugees. The heated discussion led He's character to introduce into the popular parlance, the term, *biantong* (变通), a composite of the characters, "change" and

On a midsummer morning in 2013, Shang, an accountant at SIG, came into the General Affairs office to ask Long to accompany him to the Bureau of Land and Resources in Industrial District (IBLR), an area intended as an industrial park in Central City. Shang believed that Long was familiar with the IBLR staff and thought it would be in his favor to bring her along. "Have you tried it before?" Long asked to see if Shang had attempted going to IBLR on his own before. She was adjusting the white vinyl roller shade, the sunlight was beginning to pour into the room. It was a seemingly innocent question, but it did embarrass Shang. "No I haven't," Shang said hesitantly, "It'd be better if you came with me. I don't know anyone there."

Unlike Zeng, who oversaw the mining department and outranked Long in position and authority at SIG, Shang was an equal. Shang was a few years younger than Long and had only been at the firm for five years but was better compensated than her. Long was aware of this and although she liked Shang enough, she found it to be unfair that he made more money than her even though she had worked for the company several years longer than he had. Shang had a mostly nine-to-five schedule whereas she often returned home in the late evening after banqueting and entertaining the firm's visitors. She agreed to the request as a personal favor rather than a professional obligation. They would leave together in the late afternoon. Once Shang left the office, she turned to me and boasted, "They call on me whenever they can't finish the jobs themselves."

"thoroughfare", meaning an alternate path or solution. The term has also been adopted by scholars of the Chinese bureaucracy to describe its administrative workings, see for instance Zhou and Hong (2011).

That afternoon we jumped into the company car, an all-wheel drive GMC Terrain, and Shang drove Long and me to Industrial Bank[149] to pick up Xi *zong*, a manager at the bank responsible for commercial loans. Xi was a Central City local in his early fifties, pot bellied with salt and pepper hair. He was to come with us as a signatory to acquire an encumbrance right permit (*tudi taxiangquanzheng* 土地他项权证) for the bank.[150] The permit was for a property that SIG used as collateral against the loan the bank would issue upon receiving the permit.

When we arrived, we registered at the lobby of the Industrial District Bureau of Land and Resources (IBLR), an offshoot of Central City's Bureau of Land and Resources. It had an atrium with a waiting area filled with empty baby-blue plastic seating affixed to the floor. There were more than two-dozen seats that were occupied, but most were empty. We had come just a quarter after three 'o clock. For having to close within the next two hours, the frontline bureaucrats behind plexigass windows were either highly effective at their jobs, or that Monday afternoons were slower than usual. Or perhaps, IBLR was under capacity and this was its usual foot traffic.

Whatever the reason we moved through the queue quickly. Xi was pulled away on a call, and I asked the managers about their encounters with petty bureaucrats (*jiceng gongzuo renyuan* 基层工作人员). "It wasn't always like this" Long recalled, "Just a decade ago, if you wanted to get something done, they were usually 'half dead more than alive'." Shang chuckled and chimed in, "It's better that they're half dead". It's worse when they look as if there's not a soul on earth who doesn't owe'em money. After

[149] Pseudonym.
[150] An encumbrance is any right or interest that exists in someone other than the owner of an estate and that restricts or impairs the transfer of the estate

returning our documents to us, the window operator was courteous and informed us that the office charged with processing property rights was closed. She advised us to return the next day.

Long was skeptical, and told Shang she wanted check to see if there may be a chance that the window operator was wrong. After getting the registration documents in order, we left the main lobby through a staff-only door at the end of the hallway. I was surprised, because these were not intended for public access. We traversed through offices of empty cubicles, walking through internal corridors and turning the knobs to one door after another. Long, aware that I believed we were trespassing, reassured me that she was familiar with the staff here.

We came upon a locked door with a staff member inside the room. Long knocked. The man who saw us solicitously got up from his cubicle and opened the door for us. Long thanked him, we walked through his office into a hallway in the back of the building, where the property registrar's office was. To this day, I still do not know if he gave us the benefit of doubt, assumed that we were staff, or knew that we did not belong there.

Long's intuition turned out to be right. The labyrinthine offices opened out to a corridor of back offices that had not been closed. The bureaucrat charged with processing encumbrance rights, Wei, informed Long that while his office was open, his boss, Kang, the Deputy Bureau Chief (*ju*) was absent. To authenticate the permit required a seal in Kang's possession. Manager Wei (*zhuren*) instructed that we could return when Kang was present.

Interloping through employee offices again, we returned to the lobby to inform Shang and the banker. Shang apologized to Xi for having made the trip with him in vain. In fact, we learned from ensuing dialogue that Shang was less than truthful that morning about not having been to the Bureau before today. Shang had come to IBLR with the banker just the day before and left empty-handed because Shang did not have the proper identification. He had brought with him, a photocopy of the corporate representative certificate (*faren daibiao zheng* 法人代表证) and not the actual copy yesterday. The original was locked in a safe kept by Long.

Long was gracious and did not draw attention to the obvious inconsistency. She told him that he should have called yesterday. She would have had someone drop off the document or deliver it personally. Shang had likely glossed over the fact because he was embarrassed about appearing incompetent. Long then apologized for not checking in with Kang, the Deputy Bureau Chief of IBLR before we had made the trip. Then to my surprise, she took out her cell phone from her purse and called Kang. It felt odd to me that Long did not call him earlier, when we were alone and walking back from Wei's office. Kang answered. We learned that he was at a conference. Long confirmed with him that we would return tomorrow. Perhaps she was not being gracious to Shang after all, and wanted to impress upon him that she more capable than him.

We set off the next afternoon with the same goal, and drove to IBLR without Xi. Shang wanted to ensure that he had all his ducks in a row this time before asking Xi to make a third trip. We entered through the back entrance where Wei's office was located. Walking in, it was obvious from the crowd gathering in the hallway that we were in for a

wait. There were no numbered slips to take like the main lobby had, and no formal queue, so Long and Shang entered his office to make their presence known.

I followed them into Wei's office. It was personalized with Guiana Chestnuts and painstakingly curated philodendrons that climbed up the windowsill and turned a corner at the edge of the ceiling. Yet it was a processing station nevertheless. It was Wei's job to painstakingly record, by longhand, the parties involved and the numerical terms of the encumbrance before he typed the information into his computer to issue an official permit.

He was talking to an applicant. "Tell the bank you'll give it to them for three years," Wei joked, referring to the period the bank would hold encumbrance rights to her company's property. The woman giggled, "I would like that". Wei teased again, "If the bank doesn't approve, tell the bank to come see me." A longer period for which the property is held under encumbrance by the bank would also give her firm, the debtor, more time to repay the loan.

Wei was being facetious however. He looked to be in his fifties and spent his days filling in the same forms day in and day out, inscribing in the same boxes, the correct figures, names, addresses, and lot numbers. It would likely be tedious without the banter. The woman had asked for a one-year encumbrance period that she and the mortgage lender had agreed upon. In fact, the man standing next to her turned out to be her mortgage lender, who was there to serve as a signatory for the bank. Those of us standing around waited for his response, but he said nothing.

Wei did not relent and spoke directly at him this time, "Tell your boss that it's no trouble for him but a pain for me. Next time, make it three years!" Those of us waiting broke into knowing smiles, because Wei had no real power over the terms of the loan but

called attention to the administrative burden. The mortgage lender was now certain that Wei was feigning exasperation and responded plaintively, "If only I were that powerful, I'll make it thirty years, not three!" The crowd laughed.

Long interjected and greeted Wei to let him know that we would be waiting. It turned out that Kang was still absent that day. "It's not a problem", Wei informed us, "Chief Kang had left instructions to get you processed." But we were not the only ones there. From the sound of it, the people who were waiting with us were also there to attain their encumbrance permits. The exemption might have been created from consumer demand. The three other parties in the queue may have informed IBLR officials in the same way Long did, that they needed encumbrance rights processed without delay.

The woman left and Wei called for another applicant. It was relatively uneventful until we heard him yell out, "You had said it was 12 million!" "No" replied the man matter-of-factly, "I had *said* we're *borrowing* 10 million (about 1.6 million USD), see?" The man pointed to a document on Wei's desk, which presumably indicated the correct figure. Wei had mistakenly entered the wrong appraisal value. As if aware that more than a dozen ears were listening in on their interaction, he was flustered. He admonished the man but conceded to the error, "You couldn't have told me this sooner? You're making all of these people wait."

The applicants had little expectation of privacy. At any given time, there were half a dozen people standing around in the office, which fit three desks, along with filing bureaus, planters, and a loveseat. Those waiting in the office only headed out intermittently to take calls. We were all eager to get out of there but afraid that some other party would jump the queue. I stood by the doorway and soon enough, a vacancy

on the loveseat opened up. Shang gestured for me to sit. I did. "It sounds like they have been here before too," Shang observed, noticing that the applicants like him, had made multiple trips.

Wei shared a private office with two other bureaucrats, both of whom were absent that day. Next to his cherry oak desk was an upright Air Conditioning unit. It was noticeable because Wei's office was cool despite the extra bodies standing around him and others coming in and out of the room. Shang chuckled and whispered, "Isn't public air conditioning better than ours at home?", poking fun at the stereotype that government offices had soft budget constraints, whereas private enterprises were penny-pinching.

After more than an hour's time, it was finally our turn. It was past three 'o clock in the afternoon and it appeared we were the only party left. Unexpectedly, Wei was unconcerned in speedily processing our permit and calling it a day. Instead, he asked Long if he could see the property—the one over which he is administering encumbrance rights. Long and Shang were both surprised, "Are you sure you want to go out in the heat?" Shang asked. It was early August in 2013, and uncomfortably hot outside. Getting his keys, Wei responded, "Sure, it shouldn't be too bad". Shang was relieved. He had been trying to get ahold of Xi, the mortgage lender since we had arrived, but to no avail. If Wei wanted to head out to the property it would buy him time to get ahold of him.

The bureaucrat rode shotgun and traded industry gossip with the managers. As we drove to the site of the property to be put up as collateral, which was about five miles away, Wei told us about his years working at the IBLR. He had been at the office where we were just at for the past seven years. In these seven years, he had become skeptical

about the path of Industrial's growth. It was shored up by government subsidies and heavily leveraged. "People look around here and say, 'Wow, Industrial's growing so fast! They don't realize that just the Industrial District Management Committee (IDMC) (*guanweihui* 管委会*)* owes the bank several hundred *yi.*[151]"

His negativity was surprising.[152] It was not uncommon to hear party officials wax hyperbolic about local successes. Locals, especially local officials, were usually bullish about their jurisdiction. And most, if not all, have reason to take pride in the spectacular transformation of the rural landscape. What had once been dirt roads less than a decade ago are now paved, and some are now multi-lane highways. Its young workforce even, once preponderantly migrating south for factory and menial labor a decade ago, are now staying or have returned, for economic opportunities at home. Perhaps Wei's skepticism was consistent with his station. He had no axe to grind. He was a section-ranked bureaucrat in charge of processing land-use permits, and not for attracting corporate investment. But what Shang said next surprised me more. Wei's remarks seemed to have resonated with him, who was loquacious but cagey when it came to dispensing opinion. He identified with Wei's pessimism. "It's not just Industrial that's lacking in money, SIG's in the same boat. We don't want for small cash, but capital."

Just the week before, Shang toed the line when it came to burnishing the firm's publicity. Before a group of officials from the Administration for Work and Safety Bureau (AWB) (*anjianju* 安监局), he parroted SIG's publicity materials, of its numerous patents and use of state of the art technologies. He had told the AWB officials, that he

[151] An *yi* is a numerical unit, equivalent to 100,000,000.
[152] Long (manager, General Affairs Department, Sunrise Industrial Group), in discussion with author, August 2013. While Long had heard gossip from Central City officials about NID's debt before Wei had mentioned it, this is uncorroborated and should be treated as hearsay.

was looking forward to the firm's construction of a tower devoted to the trade and sale of minerals in the next five years.

That afternoon with Wei in the car however, Shang changed his tune. He told Wei that he lacked confidence in the firm's investment in mineral mining, for which the loan was intended for expanding an operation. "Mineral prices have only been dropping," Shang remarked. Wei showed concern, and asked how Zhang, the company president, was doing. Shang laughed in response, "Now we're just burning money. Him? He's on a vacation."

Wei's plainspoken views evoked a moment of rare candor in Shang. It was colored however, with a dash of overstatement. While Shang did believe that a new injection of capital should be invested elsewhere at the time, his suggestion that Zhang was dilatory, absentee, or oblivious, in going "on a vacation" while the commodities market tanked, was a fact that Shang knew to be untrue. He exaggerated some of his beliefs—such as his lack of confidence in the firm's leadership and investment strategy—as an attempt to mirror Wei's pessimism. Shang likely had done so unintentionally as a gesture of friendship, indicating that Wei's views resonated with him.

Long interjected and returned the topic to Industrial's debt. Shang took a cue from her and spoke optimistically about the debt. "Industrial's different from us. The bank and the government, it's one and the same. At the end of the day, it's one person footing the bill!" Wei had taken Shang to mean that, regardless of whom the borrower was, the government was the ultimate guarantor because the banks dispensing these loans were publically owned and controlled.

"No," he muttered, "They're two different things. Before, when they were up to their asses in debt, they traded state owned enterprises, restructured them, merged them. They've sold the land, too. There's none to sell anymore, but they've become dependent. All they know is to sell land when they're out of money." Wei was unyielding in his gloom and doom.

Long broke the silence by reiterating Shang's enthusiasm, "How would the IMC owing the bank be a problem? That's like cash going from the left hand to the right hand." Shang chimed in, attempting to brighten up the conversation as well, "That's easy enough! If the IMC needs to repay its loans, all they have to do is sell more land!"

When Wei told the managers that he wanted to see the site of construction, Long and Shang thought it was odd. It was a protocol that he could have easily dodged given the heat, hassle, and lack of oversight from his supervisors. But they took him at his word that it was his job to conduct due diligence. Perhaps in doing so, Wei was satiating an intellectual curiosity by keeping a mental record of what was happening to properties passing through his desk. Or perhaps he had been bored and wanted a change of scenery. Regardless, his reason for pessimism became clear soon enough. SIG was far from unique in buying land as a means to raise capital. When Long suggested to Wei that the firm was interested in purchasing more property in Industrial, he insisted that it was a bad idea.

He told us that it has become a problem for Industrial as private firms were purchasing land only to leave their properties fallow for years. This contradicts with the local government's expectations for incentivizing land lease purchases by subsidizing property purchases. "Industrial will be stricter in the future. How? They want to drive

out small firms by merging them or pulling them out. You're here just in time. The city government is discussing a resolution. The policy will mainly be to prevent land from being mortgaged or transferred."

In congratulating the managers that they were "just in time", Wei meant that SIG was timely in using property in Industrial to finance loans before an overhaul of its commercial financing policies. He may have appeared to lack tact, or attempted to upset Long and Shang in suggesting that the gravy train of easy money would soon be over in Industrial, but he was in fact trying to be helpful. He cautioned the managers on purchasing property in Industrial in the near future given potential restrictions on land use rights.

We returned to IBLR after Wei surveyed the property to be used as collateral. His office was locked and appeared closed, but there was a party waiting outside his door who was happy to see that he returned because IBLR was officially closing soon. "How much is the land appraised?" Wei asked. To his surprise, Wei broke from checking over certified documents and exclaimed, "Wait, what's the appraisal for the *land*?" Shang explained that both land and building were assessed together. Wei shook his head. "We can't do it here like that. Does the bank know about this?" "Of course, the appraisal firm was recommended by the bank", Shang replied. Wei turned to Long to double-check, "The bank approved?". Long nodded.

Wei groaned, "This wouldn't be acceptable anywhere else. If you go to the city's Bureau of Land and Resources, they wouldn't let you do this." Shang was nervous and hoped that Wei would let it slide. "Next time, we'll be sure to remember it for next time." Wei was unimpressed, "In Industrial, land and building need to be appraised separately."

The managers were nervous. They had not known about the rule and were surprised that the appraiser had not alerted them to it. It seemed as if Shang would have to make a fourth trip, and would have to return after having had the property's building structures and land reappraised separately. But while Wei was disapproving, he let the managers off the hook. "The bank's here right?" He asked. "The bank's here, the bank's here." Shang responded eagerly.

It is debatable whether adherence to clear protocol and professional responsibility are in fact, commonly observed across large organizations.[153] In a day's time, Kang and Wei had sidestepped certain rules (e.g., authorization of encumbrance rights by proxy), but also stressed the importance of others (e.g., to wear out the proverbial shoe leather to conduct due diligence but not holding SIG to encumbrance appraisal rules).[154] To complicate things even further, his enforcement of the rules he felt were important varied. The table below summarizes the properties of rules and individual impetus for behavior given aforementioned violations thus far.

[153] While Weber hypothesized that capitalism begets legal rational bureaucracies because such an economic system depends on order and predictability, he stipulated that these discrete ideal types are often not exclusive of one another within organizations. Even in legal-rational bureaucracies, elected leaders or those with executive office seldom possess technical expertise nor exercise legal rational authority, see pg. 222 in Weber (1978).

[154] For an account of responsible discretion practiced among regulatory inspectors, whereby minor infractions are overlooked in order to earn the trust of regulated firms and enforce compliance in instances of major violations, see Bardach and Kagan (1982), pp. 36-37 and pg. 127.

TABLE 1

PROPERTIES OF RULES GOVERNING VIOLATIONS AT IBLR

Violation of	Unit of Observation and Governance	Impetus	Drafting/Enforcement Body	Rule Type	Violator
Encumbrance Authorization	Individual	Lenience	Administrative	Procedural, Regulatory	Kang
Appraisal Guidelines	Individual	Lenience	Administrative	Procedural, Regulatory	Wei
Signatory/Lack of Affidavit	Individual	Convenience/ Trust	Administrative/Criminal	Procedural, Regulatory/ Contract/Penal	Shang, Xi, Long
Identification Validation	Individual	Omission/ Trust	Administrative	Procedural, Regulatory	Wei

Both sociologists and political scientists have documented the phenomenon of organizational decoupling as evidenced by people violating formal organizational policy and protocol. In Dalton's (1959) ethnography of a chemical plant, he observed that while the purpose of staff such as the maintenance crew is to support line personnel in theory, it was the passions—in the form of personal allegiances and dependence on tacit norms of reciprocity—that determined whether one's production unit received timely support or was left in the dust to stomach costly delays. Similarly, in an analysis of Mike McNamara's tenure as Secretary of the Department of Defense, Rudolph and Rudolph (1979) attribute his effectiveness in the unwieldy bureaucracy to his use of charismatic authority. In their account, McNamara, as a condition of accepting his post, received unprecedented discretion over hiring by President John F. Kennedy and assembled a de facto cult of personality. He spread his group of loyalists across the Pentagon and established his own lines of authority, obfuscating formal divisions of labor which allowed him to overcome vested interests and inertia from liabilities of size and protocol.[155]

This is not to say that the centralization of power or the creation of personality cults is an optimal practice, but the foregoing narrative challenges assumptions of legal rational authority as a condition of modern bureaucracies, and the practice of the obverse as corruption.[156] To locate more evidence of instances where impersonal rules and authority are violated in bureaucratic organizations, one needs to look no farther than

[155] For a discussion on compromises to efficiency as a feature of specialization and the division of labor, see March and Simon (1989), pp. 26-33.
[156] This is far from a new argument. Organization scholars who study large and complex bureaucracies have emphasized the role of informal cooperation (as opposed to formal authority) and the degree of formalization as a function of age, see Barnard (1968) and Selznick (1957) pp. 102-103, respectively.

Weber's own empirical observations. Doing so requires one to suspend, for the time being, his theoretical studies on bureaucracy.

In his lesser-known and unfinished ethnographic report as a military hospital administrator in 1915, one finds a scholar whose observations contradict with his later theoretical expositions on bureaucracy.[157] In managing the formation and expansion of medical administration over the course of fourteen months, Weber was aware of, if not sympathetic to, the informal elements of organizational life.[158] These included the admission of staff and creation of departments that served and improved the hospital's functions, but violated the extant organizational protocol and regulations.

In violation of hospital regulations, volunteer workers for instance, oversaw the receipt of donations and supply deliveries. The volunteers, ranging from professors to schoolchildren, had been charged with the responsibility initially because of a deficiency in official staff—civil servants—to oversee these tasks. Cash gifts and supplies however, were abundant and difficult to fully account for, and led to instances of staff abuse. But the practice remained despite the arrival of official staff at the hospital. Volunteers continued to manage donations and supplies as an informal department. Weber surmised that relegating the responsibility to unofficial staff—the volunteers—was "advisable" since organizing in this way relieved the official staff of scandal and the unwieldy administration of donations (1975:540). It also allowed the hospital to purchase items

[157] For more examples of Weber's writings that contradict with his ideal-typical theories on rational bureaucracy, see pp. 134-136 in Oberschall (1965).
[158] He was also cognizant of its formal but problematic elements, such as regulatory policy that led to problematic consequences on the ground. Weber believed that the burgeoning hospital population and punishable offenses were due in large part, to the extant social policy on disability stipends. Patients who have already been nursed back to health and were able to return to active duty, remained boarded in hospitals for therapy and prosthetic care, see pp. 549-550 in Weber (1975).

and provide services for patients that would be prohibited by the Royal Commissar (pg. 541).

The unofficial staff was critical to hospital functions that official administrators lacked the capacity to perform. They included for instance, encouraging and finding jobs for patients who have recovered; procuring for them, requested reading materials, cigarettes, and better quality wine; and providing extracurricular activities and instruction. These functions made for the difference in Weber's analysis, in patient transgressions. He observed that high rates of patient imprisonment among hospitals were correlated with the absence of voluntary staff. The transgressors he believed, lacked encouragement and activities to apply themselves, and were likely bored.

In later writings however, Weber predicts that modern bureaucratic organizations would embody legal-rational authority and generally, be free of its traditional or charismatic forms. Its emergence, Weber posits, would coincide with the adoption of capitalism as a market institution: "…[capitalist system's] development has created an urgent need for a stable, strict, intensive, and calculable administration…" (Weber 1978:338).[159] While Weber conceives of legal rational authority as an ideal type, it is by definition, mutually exclusive of the particularism ascribed to patrimonial or charismatic

[159] Weber may have misread machines, as in "political machines" in the United States, as the predictable, wide-scale, and complex coordination of activities. He considers them to be "…the more strictly bureaucratic structures of those formations which, in truth, dominate politically, namely, the parties under the leadership of professional or experts in organization and election tactics" (Weber 2014:211). While party electoral leaders were highly effective and organized, they depended on patronage, specifically exchanging jobs, gifts, and favors, for votes that fly in the face of conduct befitting bureaucrats governing through legal rational authority. This is odd because Weber attributes corruption and patronage to federal level elections in the United States, where incumbents such as elected senators, dispensed federal jobs as reward for loyalty. But he ignored such instances taking place among grassroots political machinery, predicting that "...the rise of the 'machine', as it is significantly called in the United States, and the growing importance of officialdom everywhere…are all stages of … [bureaucratization]" (Weber 1978:1398). For an exposition on Weber's probable error, see pp. 221-222 in Rudolph and Rudolph (1979).

authority. It is this more prominent version of Weber's writings on bureaucracy with which this chapter contends.

The narrative thus far suggests that the managers, Shang and Long; the banker, Xi; and the bureaucrats, Kang and Wei; have breached what is conceivably Weber's conception of bureaucratic rationality in modern organizations. Each time they attempted to solve an administrative problem (the absence of a permit) relied on invoking both universal (i.e., legal-rational) and seemingly particularistic (i.e., patrimonial or charismatic) forms of authority.[160]

At the beginning of the narrative, when Shang asks Long to help him, he draws on tacit norms of reciprocity and collegiality in obliging Long to attend to business that falls outside of her professional duties. Unlike Long, Shang is charged with handling the firm's finances as a publically certified accountant and has three accountants working under him, but he has no formal authority over Long. But still, Long feels obligated to help because it will result in a beneficial outcome for the company. Even though at the end of the day, she would not be able to take credit for the bank's timely release of funds.

While Long had no formal obligation to help, the bulk of her responsibilities fall within state-administrative related concerns. While she is far from a technocrat, and has no specialized training beyond college, her job is to assist Zhang in managing the firm's parent and subsidiary firms. These range for instance, from acting in Zhang's stead in socializing with bureaucrats, to filing administrative paperwork and attaining permits. This may be why Shang sought Long's help. By tapping into her experience and the

[160] While SIG is far from being equivalent to a large military organization in size and complexity, it employs approximately eighty individuals at its headquarter in Central City, and approximately three hundred staff members in operations across five municipalities. It indirectly employs over 2,000 employees, through the use of subcontractors.

relationships she has developed with local bureaucrats, he would be able to complete the assignment more efficiently and satisfactorily than if he tried to do it alone.

But to state the obvious at the risk of beating a dead horse, Long would not have been present in SIG, nor would she have acquired these ties or experience, without her formal organizational position at the firm. Seen through this lens, both actors drew, albeit indirectly, from formal roles and rules of conduct within SIG. The same applies when these organizational actors step outside of SIG and interact with the bank's agent, Xi, and the administrative officers of the IBLR, Kang and Wei.

But when norms of reciprocity extend from private to public organizations, cooperation commonly translates to corruption.[161] Long was not remiss in her duties by helping Shang with an administrative task that he was less capable of completing efficiently even though it was not her responsibility to help. Nor did she violate firm rules by indulging Shang in a personal favor. It becomes less clear if this was the case for Wei the bureaucrat when, either in sympathizing with the multiple trips that the SIG managers have made, or as a favor to his boss (or as a favor to Long), overlooks the appraisal violation.[162]

I do not mean to gloss over violations of rules or vindicate corruption, but offer a sociological analysis of a case that on the face of it looks like corruption or patrimonial authority, but is in fact the governance of substantive rationality. In scrutinizing individual-level interests and organizational-level contracts, one would find that these

[161] For a reconceptualization of corruption as the violation of social obligation and duty, see Scheppele (1999). For a theoretical extension of how Weber's types of domination relates to law and society, see pg. 8 in Swedberg (2003).
[162] Later in the narrative, Shang asks Xi to permit a stranger to forge his signature and act as a signatory of the bank.

actors on the ground are behaving in accordance to formal rules and protocol, and not undermining their respective organizations' interests to serve private ends.

I suggest that evidence of breaking formal rules, blurring divisions of labor, or violating regulations, are attempts at *substantive rationality*: the reliance on extra-organizational rules and informal norms in the attempt to achieve an organizational end.[163] The following table summarizes the informal and formal norms organizational actors relied on to achieve substantive rationality in the narrative.

[163] For an analysis on the blurring of private and public lines Eastern Europe, see Scheppele (1999:514-522). For an interpretation of transgressions of formal rules as instances where formal rules have yet "caught up" to all the messy and presumably informal details of social life, or as a residue of previous institutions, see Stinchcombe (2001) and Scheppele (1999), respectively.

TABLE 2

RULES GOVERNING ECONOMIC AND PUBLIC ACTORS

Impetus	Unit of Observation and Governance	Rule Type	Drafting/Enforcement Body	Espoused by Organizational Actors from	Impetus in Detail
Expectation	Individual	Informal	Social, Market, and Juridical Institutions	IB, IBLR	*Expectation* is equivalent to calculated confidence on the part of SIG. It is an operating assumption that SIG will behave rationally, and thus honestly, since fraud would be more costly for the firm than honesty
Coalition	Organization	Contract	Participating Organizations	IB and ID (IBLR) directly, IB and SIG indirectly, since investment in ID entails membership	*Coalition or association* is an agreement between participating parties to pursue business in the interest of both organizations
Status	Organization	Informal, Economic Dependency	Feature of Dyadic Organizational Interaction	SIG and ID (IBLR)	*Temporal Organizational Inequality* at the level of organizational actors
Provincial Policy	Organization/Institution	Legislative	Central Administrative Government	ID (IBLR)	*Performance assessement* informs job mobility decisions for officials in the party apparatus

In *When Formality Works,* Stinchcombe (2001) posits that formality is an abstraction of social life. And more precisely, the creation of a concept or theory based on a *subset* of empirical reality. If we accept this as a premise, then formal *rules* are uses of abstraction to impose order on the complexity and informal details of social life. Take for instance, the role of rule makers. Presumably when judges set legal precedents, or when legislators pass bills, these "rule-makers" apply existing rules to the problem at hand, but also innovate upon these abstractions. But when amendment, or the coordination of action to change rules, is more costly relative to its violation, it would come as little surprise that people respond by violating them to achieve their ends. I refer to this orientation among individuals, forgoing formal rules to achieve organizational ends, specifically those inscribed in its function and purpose, as *substantive rationality.*

While Stinchcombe's focus is not on drawing a demarcation between formal and less formal forms of rationality, his conception of formality leads to a radical departure from Weber's conception of rationality. While both concepts (i.e., I'll call them Stinchcombean and Weberian) describe an individual's impetus for action, Weber uses *substantive rationality* (henceforth, SR) as a foil to its formal and instrumental counterpart.[164] That is, the Weberian version of SR characterizes people's motivation to achieve *value*-oriented as opposed to *ends*-oriented goals.[165] A civilian for instance, who volunteers to fight against an imminent threat (e.g., fascism, communism, imperialism, and the like) is prioritizing his or her convictions over realistic constraints (e.g., odds against combat survival and probability of defeat). I extend upon Stinchcombe's

[164] For an analytical treatment of Weberian forms of rationality, including substantive rationality, see Kalberg (1980).
[165] For the primary imperative behind the delineation of motives beyond economic calculation, see pg. 21 in Weber (1978).

treatment of rules to posit that *substantive rationality* is not a foil to, but a subset of formal rationality. Furthermore, while it may draw on extra-formal values, it is not value-oriented but instrumental in aim, sharing the same means-end orientation as instrumental forms of rationality.[166]

Examples of substantive rationality abound in the empirical literature. Greif (1989) suggests that when cooperation produces gains in efficiency that fail to be captured by market or legal institutions, private orders of economic institutions emerge (pg. 866). One such example is the capacity among Maghribi traders to depend on agents located in distant trade centers where formal penal codes for fraud were difficult to enforce. The traders relied on their agents' to hold in esteem, a reputation of honesty that stem not from ethical or religious tenets, but self-regard for future revenue.

Substantive rationality however, can violate existing rules or conflict with normative values governing procedure and course. In *Men Who Manage*, Dalton (1959) observes that professional obligations among departments are not necessarily respected. Instead, friendships and expectations of reciprocity outweigh organizational protocol in securing cross-departmental cooperation. Other scholars have focused on the role of using illegitimate means to achieve legitimate or widely accepted ends. Merton's (1938) conception of *deviance* for instance, reframes the phenomena as the innovation upon existing means to achieve legitimate ends. Pioneering roads "less traveled by" however, can be perceived as legally or normatively problematic.[167] In *Seeing Like a State,* Scott (1998) suggests that effective practices among marginalized populations (i.e., the

[166] I define substantive rationality differently from organic institutions, where rules and norms that have no central design and arise from the iterative interaction of a group of people. Menger's (1996) conception of organic institutions is compatible with Stinchcombe's (2001) conception of informality, whereby organic institutions predate and may give rise to formal institutions. I emphasize that substantive rationality as defined here, is a response, rather than an antecedent, to formal organizations.

[167] The expression alludes to a Robert Frost poem, *Roads Not Taken.*

agrarian poor) can be treated by formal authorities (i.e., the state) as illegitimate, and excluded from policy implementation.

Returning to the narrative, Wei did not know that the banker was in fact, an imposter. The banker was in fact a bystander Shang recruited in the hallway. After we arrived, Shang got ahold of Xi but he was unable to make it in time. Industrial Bank was at least twenty minutes away without traffic, and with the evening rush hour setting in, we would have to return the next day, making a fourth trip that week to IBLR. "The banker, the banker. Where's the banker?" She raised her hand to indicate that she was in fact the banker. Wei directed his question toward her. "The property numbers don't match up (*dihao buyiyang*). What do you do when there isn't enough room?" She was stumped by Wei's question. There were four extra digits on the permit than there was designated space for them on the form. Before she could respond, one of the members of the party waiting behind us shouted, "Just squeeze it in! Write in smaller characters!". Shang, not knowing what to do as well, reiterated the unsolicited advice, "Right right right, just squeeze it in!" Wei simulated annoyance at the outbursts, "What are you doing asking *him*? I'm asking the bank!" Turning to her, Wei asked, "What if I wrote, 'et cetera' (*deng*) in lieu the actual digits? Would that work?" Neither Shang nor Long said anything. "It would." She answered, "That would work."

Wei asked Long to review the documents of interest while Shang pulled her aside and asked her to follow him out to the hallway. "When you sign the documents later, sign as Xi Fang. "How do you write that?" She asked, referring to Xi's given name. "Squared, like having four edges." Shang replied. She nodded to show that she

understood, and confirmed the address of the bank with Shang. Then they headed back into Wei's office.

Long was chatting with Wei about how the property would be used. "It's both commercial and industrial?" Wei remarked in surprise. Then seeing that she was back in the room, he waved for her, "The comrade from the bank, see if the numbers here are correct". Shang leaned in next to me to vet the document with her. She pretended to check through the information on it. Once she heard Shang utter, "It's right, it's right". She turned to Wei to confirm. "Yes it's correct." He then slid over another set of documents, "See if there are any problems with these."

When formal rules governing an exchange are in limbo, parties of interest pursue a substantive rationality: they grope for rules and norms from an existing and familiar set of values that allow them to fulfill a shared end. At face value, when individuals exercise substantive rationality, the relationship appears particularistic, comprised of traditional values emphasizing obligation and loyalty to the individual or group to which one is bound. What results is the appearance of trust,[168] when risks to the coordination are seemingly obviated or forgotten. In the next section, I dispel the notion of particularism as the explanatory form of governance and posit that what appears as individual-level trust and/or reliance on traditional norms is in fact, organizational-level resolution of risk to the observed exchange, obviating the need for vigilance among transacting parties.

Returning to the moment when Shang and Xi agreed to have someone impersonate the latter as an agent of the bank: the two appeared to rely on some mixture of both: 1) a shared interest in attaining the same ends and 2) social norms and sanctions

[168] I omit defining and using "trust" to characterize the relationship and motivation among actors here because it remains conceptually vague, connoting reciprocity, calculativeness, and/or solidarity; for a critique of trust as a useful analytical concept, see Williamson (2001).

in the event of defection.[169] Both Shang and Xi have an interest in attaining the encumbrance permit in a timely fashion—Shang more so than Xi since the bank's release of funds to SIG is contingent on receipt of the permit. The risk of defection would consist of either: a) Shang "ratting out" Xi by revealing incriminating information against him to his employer for neglecting his responsibility to due diligence (i.e., reasonably protecting the bank against opportunities for fraud) or b) Shang defrauding Xi, or both.

Shang betraying Xi was less likely to transpire since he would have little to gain from doing so. Both parties had agreed to the charade order to fulfill expedient ends, for Xi, it was to obviate the need for making yet a third trip to the IBLR. The same could be said for Shang, whereupon reporting Xi to his boss that the former had violated his duties to Industrial Bank would result in having to start over again with another agent of Industrial Bank, further delaying the bank's release of funds to SIG.

Shang defrauding Xi however, was probable. Both Shang and SIG would have an incentive to use the opportunity to take advantage of Xi, if only to acquire more loans from other creditors at a later date without actually getting Xi's consent or approval. Xi was likely aware of encumbrance rights-related fraud that have been used to swindle creditors of late, where local reports of counterfeit encumbrance right permits used to defraud creditors abound. Yet he had chosen *not* to act vigilantly by being physically present to supervise and authenticate the permit's provenance. Xi had discounted the likelihood of opportunism based on nothing else, aside from expectations derived from

[169] In lieu of using trust as a concept, I offer some of its less conventional definitions that are pertinent to the relationship at hand. That is, trust indicates: 1) a calculative impetus or 2) disincentives to defection. This conception of trust best characterizes Gambetta (2000) clarification of the concept, positing that trust is manifested in "…the probability that he will perform an action that is beneficial or at least not detrimental to us is high enough for us to consider engaging in some form of cooperation with him" (pg. 217). For a critique however, of attributing calculative tendencies to trust, see March and Olsen (1989), who attribute the outcome of an exchange motivated through expectations for reciprocity as an economic transaction, not trust (pg. 27).

legal (e.g., imprisonment) and extra-legal (e.g., reputational costs) sanctions that serve as deterrents for Shang to do so.[170]

Xi was not the only person of interest here who had been remiss in observing due diligence and formal procedure. Wei, the IBLR bureaucrat, had omitted to ask the supposed banker who signed the forms for identification. He assumed that she was who Shang said she was. If he had done so, he would have discovered that the banker did not meet proper clearance as a proxy.[171] Had he observed protocol, he would have also learned that the banker curiously lacked credentials indicating that she worked for Industrial Bank, and did not have in her possession, an affidavit granting her power of attorney.[172]

Granovetter (1985) alludes to the possibility of confidence rackets as a liability of intimacy: we are less guarded toward those we trust. In the cases of Xi and Wei, they viewed the managers they dealt with as acquaintances—or possibly even sometimes as friends—with whom they engaged in arm's length transactions. They had forgone observing organizational protocol in lieu of extra-formal sanctions that they expected to be "just as good as" if not better than, formal rules. As luck or foresight would have it, they were right that whatever sanctions they presumed to be at work had deterred the managers as potential opportunists.

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[170] Provincial law enforcement have reported several kinds of encumbrance rights-related fraud, these include: 1) falsified encumbrance rights (Anhui Province Lu'an Municipality People's Intermediate Court v. Liu 2015); 2) "double-dipping" as in issuing multiple encumbrance rights on the same property to multiple creditors (Anhui Supreme Court v. Wang 2013); and 3) submitting encumbrance rights to creditors based on falsified property (i.e., land use) rights (Anhui Province People's Government Office of Financial Working Committee 2016).

[171] Wei may have failed to do so because the onus is on the party granting encumbrance rights to their property, to verify the identity of their creditor.

[172] For identification requirements among signatories and proxies, see Section II, Clauses 7 and 9 in Ministry of Land and Resources (2008).

The upshot of all of this is to propose that these organizational actors—the banker, bureaucrat, and managers—acting on the behalf of their employers, had broken procedural rules governing encumbrance and consent. I posit that while they were deterred by extra-formal sanctions, their coordination is not an appeal to traditional authority or reliance on cultural norms, but rather giving precedence to their (and their employer's) interests. These are firms that have longstanding local ties and clientele that would be costly to lose in the interest of committing fraud or reputational damage.

I take this case as a jumping off point into this chapter's thesis: what appears as a particularistic exchange is in fact, a formalist one, governed by rules inscribed on paper and enforced with the might of the state. Substantive rationality occurs when formal institutions conflict. That is, when formal rules governing one area of government or jurisdiction contradict or undo that of another. In instances of substantive rationality, individual-level exchanges *appear* to be governed by particularism due to contradictions in or gaps between formal institutional rules governing the means of achieving organizational ends (e.g., SIG needing a permit to attains funds from Industrial Bank). In other words, what looks like traditional authority on the ground is in fact rational when viewed from the purview of organizations as opposed to individuals.

Revisiting the narrative, Long calling Kang, the Deputy Bureau Chief of IBLR, on his personal line may suggest impropriety, the mixing of friendship with business, or cronyism. The fact that she even has the mobile phone number to someone in a position of power at IBLR intimates that this was an instance of particularism, if not favoritism, since Kang likely withholds his personal contact information from the general public.

Accepting for a moment, that if China's formal industrial policy (i.e., achieving colossal magnitudes of growth) is a given,[173] then holding bureaucrats charged with this responsibility to a Weberian ideal-typical standard for a technocracy governed by legal-rationality authority is unreasonable if awkward. It would call for bureaucrats to operate in separate spheres from their constituents. This would entail for instance, an explicit prohibition of congregation or socialization between economic and public actors, thereby preventing particularistic bonds in being forged.[174]

If such a standard were the aspired benchmark, then the "fatal conceit" of this Weberian policy would be the systemic creation and institutionalization of technocrats who behave like armchair philosophers.[175] Except armchair theorists are harmless, but armchair technocrats pose a danger to themselves and their constituents, implementing policy in a frictionless economy of their imagination, free of the extant constraints facing local economic actors.

The hypothetical, if stylized, implication in applying Weber's benchmark of legal-rationality to the modern-day Chinese bureaucracy is indeed intended to get readers to sympathize with hard constraints imposed on civil servants to adhere to national growth targets, but also to the fact that private coordination with local bureaucrats, including junkets and karaoke, is not only encouraged, but part of standard policy.[176] A feature of both SIG and the local government is that in both organizations, reception personnel

[173] As of writing, the extant policy anticipates an increase of 7 percent per annum in Gross Domestic Product.
[174] Interestingly, this had also been a concern for Adam Smith (1976) who was afraid that a local business directory, or "public register" would lead to conspiratorial price fixing, see pg. 145 (or alternatively, Volume I, Chapter X, Section C). Granovetter (1985) has noted the implication of Smith's policy prescription: to achieve frictionless, competitive markets requires people to behave in an asocial manner.
[175] The irony is that implementing policies that "work in theory", spelled the demise of China's former planned economy.
[176] The exception being of course, episodes of anti-corruption campaigns, such as one that has followed Xi's incumbency.

(*jiedaiyuan* 接待员), or an officially designated "reception department" (*jiedaichu* 接待处) administer the day-to-day guest hospitality functions.[177] It is in this context where business cards, including mobile numbers, such as Long's and Kang's, are exchanged.[178]

What is important to note however, is that while mobile numbers are exchanged at the level of the individual, local transparency and pro-investment policies have led to improved communication at the level of the organization. That is, in the effort to improve customer service among civil servants, local governments issue district-level directories of the local executive and administrative government to local businesses.

These directories, often referenced by personnel in the General Affairs Department during the course of my field observations there, are the annotated equivalent to a White Pages of local administrative units. They include contact information to each department (e.g., Fire Safety, Taxation, Subdistrict Office), and under each department heading, a list of the positions, names, and direct lines to key personnel in each department. They remind me of pocket-sized guidebooks, smaller than a Steno notebook in size but in half as many pages, make transparent the size and scope of the local government.

Returning to the moment when Long reached for her cell to call Kang during our first attempt at IBLR, about the administrative delay caused by his absence, I hope I have persuaded readers that this was less of an instance of particularism but formalism: that is, formal government and administrative policy that allow bureaucrats to better coordinate

[177] These departments are not only recognized by the central government, they were the sites for policy reform in anti-corruption campaigns. In 2012, Premier Wen Jiabao set constraints to be implemented nationwide for reception related expenses (*gongwu jiedai jingfei* 公务接待经费) in government organs, see Wen (2012).

[178] Not unlike their American counterparts, these are also opportunities for private capitalists to learn about "news" of government policy important to their investment, or lobby local officials for pro-investment policies (e.g., local financing terms).

with local investors.[179] And if readers remain unconvinced, then I hope this chapter would encourage them to challenge tropes suggesting individual-level corruption and personal aggrandizement—without scrutinizing aggregate level contracts and policies. In this instance, Kang became aware of SIG's immediate administrative hindrance, and—if one recalls, there were three other parties waiting at Wei's office at IBLR—that of other firms in need of processing encumbrance rights. All of whom, I believe, were not unlike Long and Shang. Neither the managers nor other agents at the SIG, needed to bribe Kang or exercise undue coercion in the form of gifts of cash or goods in kind. Instead, organizational alliances have already placed their respective organizations within IBLR's favor.

Furthermore, IBLR is intimately connected with municipality, provincial, and national level growth policies.[180] It was established as an offshoot of the municipal-level bureau in order to meet the demands of the newly established Industrial District. The jurisdiction has also been integral to the "861" Plan for stimulating province-wide investments and growth.[181] Provincial authorities, whose promotions are intimately tied to performance, set growth targets to be met by municipal leaders.[182] By the end of 2015, for instance, the Provincial Commission for Development and Reform (*shen kaifa gaige*

[179] Land and Resource bureaus that have been reported to go above in beyond in customer service. For an account of a bureau in Liuzhou, Guangxi Province, recognized by the municipality for having established "emergency" and "exceptional" lanes in its lobby for expediting permit processing, as well as providing door-to-door service, see pg. 53 in Pan (2005).
[180] In order to protect the confidentiality of my informants, I can only disclose province-level, as opposed to municipal or district-level policies.
[181] The 861 Plan was an outgrowth of the central-level Tenth Five-Year Plan, see Anhui Province Development and Reform Committee (2013).
[182] For an empirical analysis documenting the role of economic performance in the mobility among provincial leaders, see Li and Zhou (2005). While I cannot reveal the district-level performance targets, the language of the provincial report emphasizes the urgency to which local level administrators perceived the targets: "…Across the top and bottom ranks of the Province, all have steadfastly centered on the Provincial Committee and the Government's decision and deployment....", see pg. 1 of Anhui Provincial Development and Reform Committee (2016).

weiyuan hui 省开发改革委员会) assessed eighteen municipalities for their performance against planned targets.[183]

At the organizational level, IBLR was also connected to local firms as a debtor—it has owed local investors years in arrears. One of those investors is SIG. The 861 Plan paved the way for local level policies to attract investors to Industrial District, a locale that had primarily engaged in subsistence farming in rural regions where villagers left for factory towns in Guangdong province in the late nineties to find work (and more recently for the provincial capital). Those who stayed behind in the nineties, primarily engaged in subsistence farming.

For over three years, IBLR cited administrative challenges in earmarking local revenues for its stimulus plan, and by 2014, it had still failed to settle its debt with SIG. The investment subsidy that it owes the firm was for the property over which the managers and Xi were applying encumbrance rights. This was a primary reason for why Long was familiar with Kang, the former infrequently contacted the latter for updates on these funds, if only to stay on his radar should Industrial District finally make good on its debt.[184]

Xi's employer, Industrial Bank, had entered into a strategic partnership (*zhanlue hezuo xieyi* 战略合作协议) as part of Industrial District Management Committee's efforts to attract investment and fund ventures within the district. At the time of the

[183] For the original reports, see Anhui Provincial Development and Reform Committee (2015, 2016)
[184] Long, in discussion with author, January 2015.

manager's conversation with Wei, who had lamented IDMC's debt to the bank, IDMC has over 300 million USD in district bonds underwritten by Industrial Bank.[185]

While SIG did not form a partnership with Industrial Bank, Industrial District's investors were permitted privileged access and terms to the bank's financing options. There are better (i.e., trust), and worse (i.e., moral hazard) reasons for Xi's motivation to cooperate with Shang. One interpretation of him chancing the possibility of being bilked is that the risks to the exchange were absorbed by Xi's employer—due to the latter's contract with Industrial District. In other words, Xi had been more trusting or risk-taking than he would have otherwise been because he had assumed that if Shang were to defraud Industrial Bank, such an outcome was not something that he was liable for since company policy not only permits but encourages mortgage lending agents within the bank to give priority to investors like SIG.

Conventional explanations for systemic corruption suggest that patrimonialism[186] begets institutional insecurity, leading to a vicious cycle where legal-rational authority is continuously undermined and ignored in the attempt to overcome individual insecurity (Erdmann and Engel 2007). I do not disagree with its empirical manifestation in other contexts (see Chapter 3) but argue that this is not the case in the aforementioned narrative.

Public actors were not using their offices for personal gain. Instead, cooperating actors representing SIG and IBLR, adhered to aggregate level rules where they neither violated the interests of the public and private organizations they serve, nor the overarching organizational obligations to which they were bound. I posit instead that the

[185] Earlier in the narrative, Wei had lamented Industrial's debt. Although Wei's estimation of the District's debt nor the claim cannot be independently verified, the Management Committee had issued multiple rounds of debt bonds underwritten Industrial Bank.

[186] The concept is characterized by patriarchal authority as the modal form of domination and where public power and private interests are seldom distinguished.

violations committed by these actors are explained by a formal coalition between public and private organizations, where organizational boundaries have been redrawn to bound disparate actors to unified interests. These new boundaries however, conflict with existing rules on the ground, leading observers to see these violations as instances of particularism or corruption.

Whereas the previous chapters center on the construction of stable rules and protocol when formal rules are unstable, this chapter builds on this organizational dilemma of managing uncertainty—when contradictions in formal rules arise—but focuses on the property of rules governing an interaction. Weber's work on domination has classified authority into legal-rational, traditional, and charismatic varieties. With the exception of charismatic authority, legal and traditional forms of authority are based on a system of rules. Taking these ideal types characterizing the property of rules as a point of departure, I call into question exchanges between private and public actors that suggest particularism attributed to traditional or charismatic forms of authority.

I argue that what appears as particularism or even corruption, such as in the case presented, could be explained by aggregate level rules that: 1) motivate organizational actors and 2) have resolved the extant organizational uncertainty, obviating the need for individual-level vigilance. Specifically, rule infringements among individuals in fact suggest adherence to aggregate-level rules and organizational logic. Gaps or contradictions between aggregate-level rules governing organizations (e.g., administrative performance targets or contracts between brick and mortar organizations) and individual-level rules governing piecemeal exchanges on the ground (e.g., procedural rules governing contracts), lead scholars to attribute leniency granted to individual

violations of "on the ground" rules to particularism or irrationality. When parties to an exchange respond in ways that appear as trust or conviction in shared traditional values, say, by putting themselves at unwarranted risk in an exchange, this change in formal protocol is motivated by aggregate-level rules that have defined individual purpose and obviated opportunism, negating culpability for the individual responsible for accepting such risks.

VI CONCLUSION

The preceding chapters thus far suggest that people, acting on the behalf of their organizations, rely on and construct stabilizing technologies to resolve uncertainty, whether in the form of networks or entry into formal agreements. Chapter 3 documents how organizational actors actively construct and deploy these technologies. The first of these cases suggests that particularism, or non-universal exemption, applies to strategies to resolve regulatory dilemma at the individual level where private citizens use social networks as a resource to resolve regulatory problems.

The second case demonstrates how firm actors deploy this new technology to resolve uncertainty and proposes that rule instability is not from broad or ambiguously written rules but overriding policies and a formal party-state organization. Whereas the transgressor in the first case relied on the help of acquaintances in his network, the violating actor in this case, draws on formal networks to resolve the problem. While the first case in the narrative is characterized by potentially opaque rules governing the transgression, which mitigates culpability on both the part of transgressors and regulators, the third case shows how a regulator issues a citation based on well-defined and clear rules governing the violation at hand.

The last of these empirical cases demonstrates that in a system where rules may override one another, private organizations draw on legislative policy to override administrative rules. It demonstrates that organizational grafting onto the party apparatus is an affiliation in name, or conferral of status at best. Political status and organization

within the private firm does not however, guarantee access to information and resources from the state.

In order to access the latter depends on activating sponsorship from local civil servants, who are vested in meeting legislative policy, specifically, economic performance measures. In other words, these civil servants are also placing "bets" on private firms when they advocate for local champions. This last case suggests that even within formal coalitions, private actors need to appear economically viable to local bureaucrats in order to lobby their support. I argue that such signaling does not demonstrate particularistic authority or patron-clientelism, but rather, adherence on the part of both parties to formal rules.

What happens when formal rules contradict each other? A key assumption in the literature of developmental authoritarianism is that such an organization achieves growth through maximizing executive power, thereby codifying unstable rules by design. I argue instead that it is through the cumulative decisions of an individual in managing contradictory rules, by adopting a habit of sidestepping and bending them given immediate constraints, that destabilize their legitimacy.

Chapter 4 draws on a case study of how public and private economic actors attempt to resolve a dilemma created through administrative mandate. In pivoting attention instead to local definitions of the situation by public and private actors, I aim to revise a dominant conceptualization of corruption through modifying the assumptions upon which these models are derived. These include actors' knowledge of relevant rules and their deliberate violation of these rules and their obligation to the public. The

implication of this insight is that corruption can be produced by behavior among those who earnestly observe extant protocol and norms of good public conduct.

The upshot of this is that while the commission of substantive subversion is due to organizational constraints, the commission of rule violation is due to their incongruity. One implication of this theory for the study of social networks in China is that *guanxi*, or the reliance on relationships as a feature of Chinese society, is not necessarily a product of Confucian or agrarian legacy, but a technology of control adopted by individuals to reduce organizational uncertainty when rules are in flux.

Chapter 5 builds on the theme of corruption and contradiction in rules by drawing attention to the empirical reality of formal rules in bureaucratic organizations: they may not only contradict one another, they may also override one other. When contradictions occur, Chinese administrative protocol permits rules from higher-level jurisdictions (e.g., central) to override lower-level jurisdictions (e.g., provincial or sub-provincial).[187] It follows that when formal systems are *not* congruent with one another, organizational actors do not adhere to proximate rules erected by the municipality (i.e., administrative regulations that directly govern the transaction at hand), but rules derived from a provincial level economic imperative (i.e., legislative policy regarding economic growth).

Together, this and the preceding chapters call into question the characterization of regulators (or the regulated) as corrupt when they violate procedural rules by adhering to economic policy (or privileged organizational alliance). It challenges the characterization of such rule violations as instances of patrimonial or neopatrimonial authority, or the arbitrary exercise of power. Rather, if universalism is defined as the organization-wide

[187] See Wang (1991:243) for local discretion in legislation as long as these do not contradict the Constitution or central regulations; and see Scot-Tanner (1999), who observes that party mandate may override rules stated in the Constitution and central-level regulations.

application of rules, then what appears in the narrative as particularism would be in fact, universalism.[188]

Theoretical Contributions to Existing Literature

The forgoing chapters document the spectrum of strategies a private firm deploys in response to resolving acute administrative problems (e.g., a regulatory citation) or chronic policy dilemmas (e.g., a moratorium on mining operations). Chapter 3 focuses on the various strategies organizational actors deploy to predictably resolve environmental uncertainty, ranging from their reliance on reciprocity as a habit, to routinizing social networks as structures through which organizational problems are solved.

Of these, the active construction of a coalition between the firm and the state-party apparatus suggests organizational acquiescence through compliance. To this point, SIG established various political and civic associations within the private firm in order to augment access to public resources and support, indicating conscious and active conformity—as opposed to unsuspecting or passive forms of acquiescence such as habit or imitation—to new state-legitimizing structures imposed by the party apparatus.

Focusing on the interactions between private entrepreneurs and local bureaucrats in China, Chapter 4 extends upon and distinguishes *content inconsistency* as an antecedent to organizations adopting resistance as a strategy from its original formulation (Oliver 1991). Whereas the term has been defined as a conflict between external rules

[188] Universal rules however, do not necessarily produce universal benefit. Formal systems of law have been considered by critical legal scholars to privilege advantage and access to certain groups; see Morton Horwitz (1999) for bias in procedural law for the wealthy, and for a classic statement in public choice economics of interest group pluralism, or the competition among organized groups for influence in public policy outcomes, see Chapter 19 in Buchanan and Tullock (1962:282–94). See also Weber (1949) enjoining social scientists to be cognizant of institutionalized privilege (pp. 19-27).

imposed on the firm of interest and its goals (pp. 160, 164-167), the chapter pivots to the set of institutional arrangements inherent in China's administrative bureaucracy that lead to internal inconsistency between rules themselves. The case calls attention to the interaction between contradictory economic policies and discretionary power on the ground that empower local civil servants to innovate based on existing protocol and norms that may violate central-level regulations.

Research on organizational coupling (i.e., de facto implementation of formal policies) and decoupling (i.e., de facto disregard of formal plans) has found that both varies with the matrix of power within the firm.[189] Chapter 5 suggests that this may be extended beyond the organization and superimposed upon inter-organizational relationships. The account suggests that economic dependency gave rise to a *formal corporate coalition* between a government administrative organ and a commercial bank, and an *informal corporate alliance* between the administrative district and the private firm. These associations in turn give rise to organizational inequality that privilege the more powerful actors with exemption from procedural rules governing administrative transactions.

[189] They find for instance, that when firm executives are more powerful than the governing board of directors, with the latter representing shareholders' interests—external constraints (i.e., stock buyback plans) are less likely to be implemented.

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