Socialist Constitutional Democracy in the Age of Accountability (责)

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Before I start, I wanted to thank the organizers of this year's ECLSA conference for putting together for a wonderful and thought provoking program this year. Many of the presentations push forward the envelop in terms of our knowledge of both Chinese theory and practice, on the one hand, and the sophistication of outsider engagement with theory and practice on the other. I will look forward to carefully studying many of the papers presented this year. I wish to apologize as well for my inability to join you in person this year. A series of unfortunate events made this the first time in many years that I have been unable to greet old friends and encounter new ones. And lastly, I thank Flora Sapio, who both organized this marvelous panel on which I am grateful to play a small role, and to agree to stand in for me by reading my remarks today. I owe her a great debt.

My remarks today will briefly touch on the conjoining of two theoretical trajectories that, in the West, are rarely conjoined. More the pity for our understanding of the world as it is. But is an oversight that merits correction. What are these theoretical trajectories? The first is the development of a theory of democratic behavior that extends beyond the conventional orthodoxies we sometimes mistakenly come to believe are both complete and impregnable. I will suggest that, indeed, conventional *exogenous* democratic theory is not just pregnable but has in fact given birth to something quite remarkable. That is, it has opened the possibilities to theories of *endogenous* democracy. The second is the trajectory of the development of a robust Leninism that we have sometimes assumed is capable only of governance models in which power holders are essentially unaccountable. I will suggest that in seeking to more deeply embed the core postulate of *collectivity* within its own theoretical structures, emerging notions of

Chinese Leninism has given us a glimpse at the possibilities of an accountability based structure of governance that is in its essence robustly democratic.

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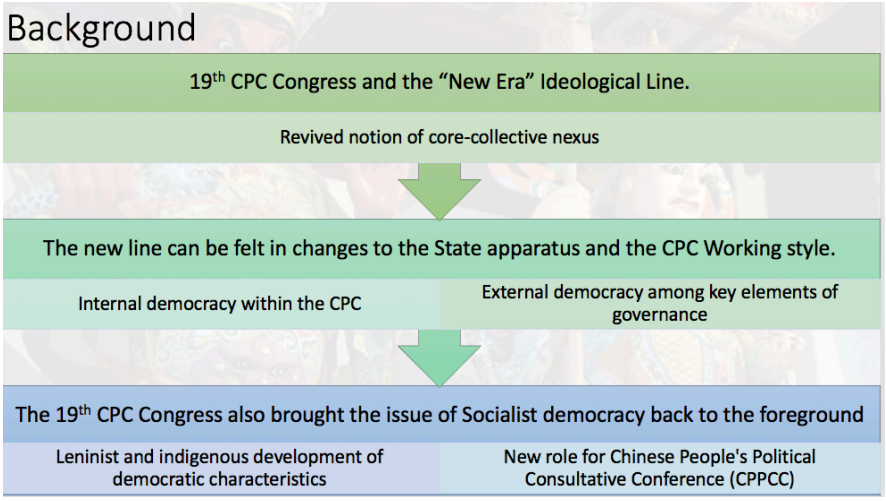

What has become clear after the 19th Congress of the Communist Party of China (CPC) is that the "New Era" addition to the CPC ideological line is having some very important and very quickly moving changes on the organization of the state apparatus and on the way on which the CPC asserts its leadership role. I will suggest that "New Era" socialist consultative democracy is not built around popular elections and the rise of political parties, but around engagement in governance exercised through the organs that bring together the CPC and the United Front parties within the Chinese People's Political and Consultative Conference (CPPCC).

It is in those institutions that socialist democracy will be developed—an exercise in endogenous democracy in contradistinction to the West's emphasis on exogenous democratic exercise. The nexus between state, CPC and United Front through the CPPCC, then, serves as the connective tissue between CPC and State constitutions, and between the political authority of the CPC and its exercise through the rule system it itself has mandated as its own political line. It expresses in contemporary form the ideals of the New Democracy thinking embraced by the CPC before the founding of the PRC.

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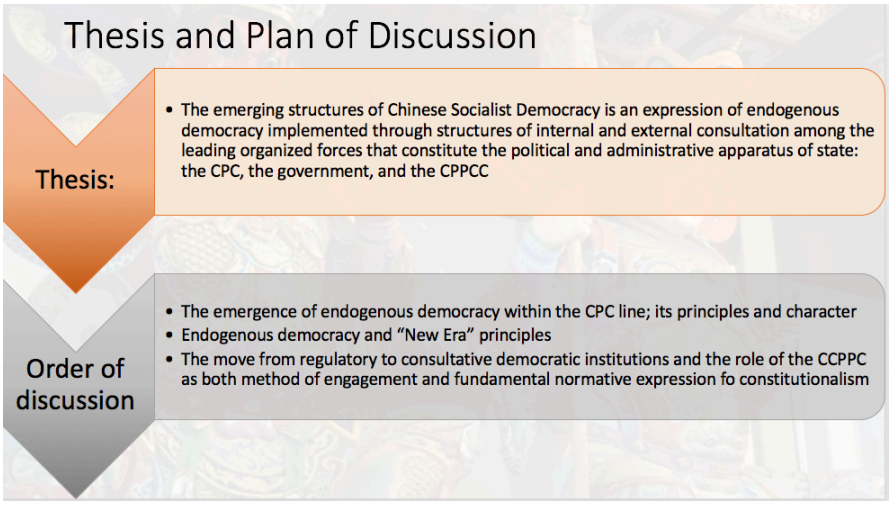

In this paper I examine the emergence of the CPPCC more closely in this context. Part 1 lays the groundwork, considering the development of notions of endogenous democracy within Chinese constitutional thought. Part II then ties this development to the emergence of New Era constitutionalism from out of the 19th CPC Congress and expressed in the transformations of CPC and State Constitutions in late 2017 and early 2018. Part III then considers this emerging framework within a larger shift—implied by the move to endogenous democracy—from regulatory to consultative mechanisms built around the centrality of accountability (and the rich vocabulary around 责). This endogenous consultative Socialist Democracy theory is to be understood as both a method of engagement and as a fundamental normative expression of socialist constitutionalism in the "New Era."

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Endogenous versus exogenous democracy—An Emerging Divide in Democratic Constitutional Theory

It makes sense to start with a consideration of the analytical framework. That requires a light engagement with some of the most intractable concepts in political theory and philosophy, one that have

been violently contentious over the last 300 years. These touch on the character of democracy as exogenous or endogenous, and the relationship of that principle to legitimate government.

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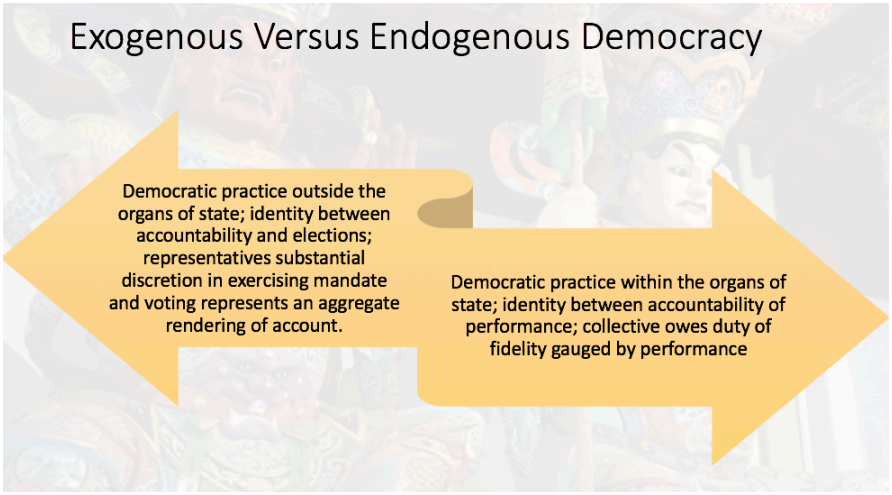

In earlier work I considered the question: Where does democracy happen? I elaborated an argument that what appeared to be the universal orthodox position of the West—that it occurs principally *exogenously*, and is manifested in the rituals of voting—may not be the only possible orthodoxy for democratic theory. I suggested that democratic institutions might be centered on *endogenous rituals*, manifested through the formalities of inter-institutional consultation undertaken through systems of collective and representational decision making. Moreover, I suggested, that the rituals of democracy would then decisively affect the construction and operation of a constitutional order.

Let us take a moment to consider the character of exogenous and endogenous democracy, and then consider their effect on the construction of constitutional orders. Within the conventional master narrative of constitutional democracy, democracy is practiced exogenously. That is its practices are centered on actions that all occur beyond the institutions of government. *Elections are the manifestation of the most basic foundation for the operation of democratic principles in a constitutional state grounded in popular sovereignty*. Beyond the formal connection between election and democratic accountability (assuming a privity between voters, their representatives, and the actions of the state), elections, serve important legitimating functions in Western constitutional orders. Elections, function as a social act and an act of social discipline. Elections serve as a means of managing popular violence. Elections serve as a measure of governmental legitimacy. Elections function as a ritual of affirmation of the mass democracy *grundnorm* as the basis of political organization, as a method of popular organization to support or undermine the state apparatus, and as an affirmation of belonging.

Each of these functions evidences an *exogenous* relationship to the state. The democratic act is fulfilled with the election of the representative. And formally, accounts are rendered by representatives to the people via elections. But functionally, elections may have lost their function of direct accountability for representative government. The modern administrative state makes it virtually impossible for the electorate to hold a small group of individuals accountable for the actions of the state and its administrators. There is no way to connect the dots. As a result, representatives in democratic states find themselves with substantial autonomy from the people to whom they are responsible. Yet none of them are the representative owes little by way of direct responsibility to the electorate to its desires. He represents the electorate by he is effectively not accountable to them for his everyday work, nor is he accountable for the many decisions that then devolve effective governance from the representative to the administrative officials to whom fall the great tasks of government.

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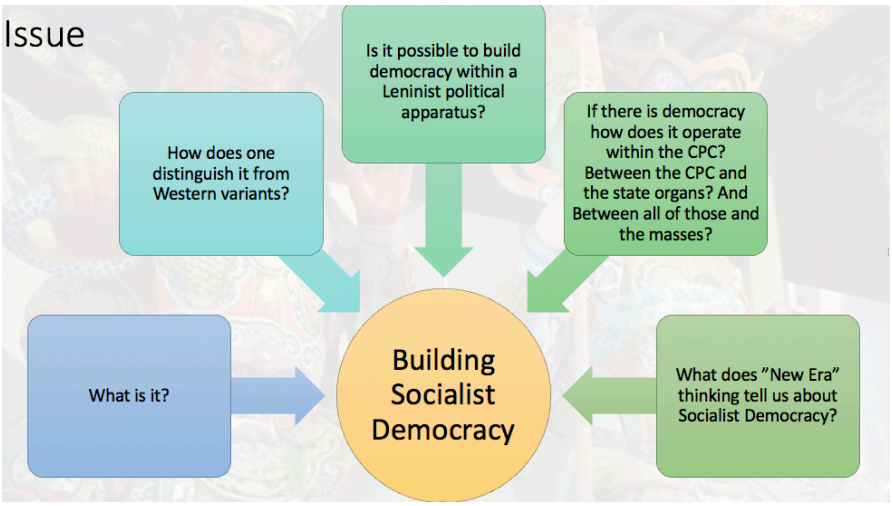

For the modern state, the resulting *democratic detachment* distances the electorate not just form their representatives but also form the organs of state. For the West this is an acceptable state precisely because of the other and important functions of elections I have just described. But for Leninist states, elections serve no such legitimating functions. Formal political authority is vested in the vanguard party and exercised administratively through the state apparatus toward specific ends—Marxist ends, rather than the satisfaction of electoral desires from time to time expressed through the persons of their representatives.

Party leadership poses a double legitimacy challenge: first the legitimacy of vanguard mass leadership within the vanguard, and then the legitimacy of leadership of the masses. Both require democratic responses, but not in the Western sense of election. Rather they suggest legitimacy through the operation of collective organizations in the service of the principles of

governance and the objectives of government for which the vanguard leadership was constituted. The identity in Leninism is between the ideal of collectivity and democratic action. Fidelity and accountability—a metrics of representational fidelity—rather than elections, mark the effectiveness of collective government. And, indeed, where Leninist states seek to mimic the forms of the West—especially its elections—the emptiness becomes apparent. It is not surprising then, that especially European Leninism with its false mimicry has been subject to ridicule and its pretensions to democratic functionality rejected.

To that end, Leninist approaches to democracy might be better expressed endogenously—within the operations of the political vanguard and the administrative organs of state. An endogenous element responds to the problem of democratic detachment within exogenous democracy and the irrelevance of the mechanics of election to the problem of representation in a Leninist state. It creates an identity between democracy and accountability which inevitably follows the construction of a political society grounded in the belief in the inexorable progress toward a very specific set of societal goals. But its center is not focused on the performance of elections but on the practice of collectivity, one that is disciplined through deep webs of fidelity and accountability by reference to objectives. And just as the danger for exogenous democracy through elections is populism and the rise of charismatic leadership whose object is to satisfy themselves, so the danger for endogenous democracy through accountability is the cult of personality producing a leadership core without a collective. The issue of the fiduciary character of the role of the representative within the state forms the fundamental problem of endogenous democracy. The individual ought to disappear within the web of fiduciary obligation that her actions represent. While it may not be clear what the collective might want, what is clear is that the collective would not want decision making grounded in personal agendas. To move beyond theory to practice--to develop rule and accountability systems to implement this approach presents the greatest problem to the operationalization of endogenous democracy. Thus, endogenous democracy worries about how representatives practice democratic action within government and how to avoid actions that serve individual rather than collective objectives.

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Endogenous Democracy and New Era Principles

Theory is one thing, and reality quite another. Is it possible to see glimmerings of this movement toward both a theory and the practice of endogenous democracy within Chinese Leninism? The answer is not clear but let me make some suggestions that point to the glimmer of possibility.

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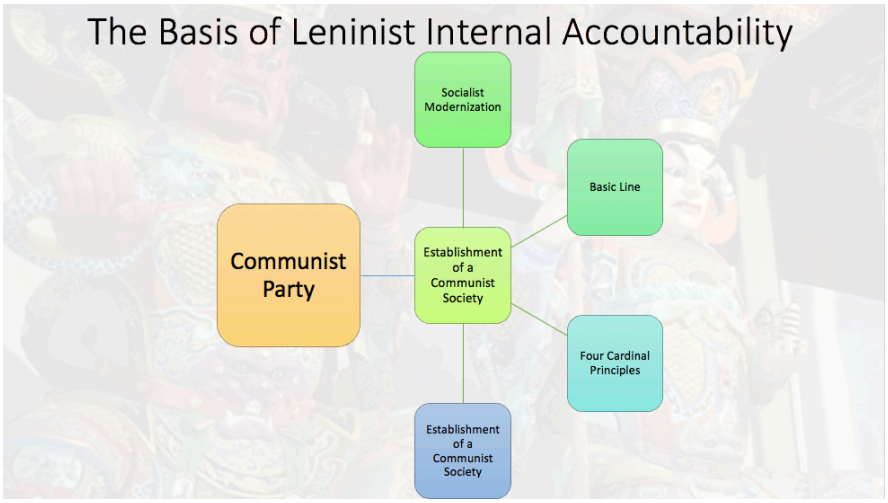

First, the CPC itself can exercise leadership only by a constant reaffirmation of its fidelity to its Basic Line. Western society does not have an objective other than to please itself (though that itself is a powerful enough goal). Leninist societies, on the other hand are bound by a fidelity to key objectives. The core objective is the establishment of a communist society in China. The principles through which that objective is to be realized include fidelity to core values—the CPC Basic Line, pursuit of socialist modernization, and operation consistent with the four Cardinal Principles. The principal means by which this is accomplished is through what the Chinese are

developing as a people's democratic dictatorship. That concept, completely incompatible with Western liberal traditions, has within it the possibilities of accountability based democratic structures.

Second, the CPC itself has developed key patterns of interactive relationships that both reinforce its leadership role but also provide a basis for internal and external accountability and discipline in its operationalization of its core objectives.

Internal accountability structures include the principles of democratic centralism, of the core and collective, and of consultation within the CPC itself. It also includes disciplinary measures that have become quite potent in the apparatus of disciplinary inspection. Of these the core and collective tends to reflect the basic division within society between vanguard leaders, the forces burdened with responsibility and accountable for it to themselves and to the people they serve, and the collective. From core and collective develops the axis of accountability. From the collective itself emerges the notions of consensus and consultation.

External accountability mechanisms include the mandatory axis between CPOC and people—the mass line. The mass line takes the logic of the collective-core principle of governance and exports it to the relationship between party and people. The implicit collectivity of leadership decisions through the power of the ministries and the need for consultation. The apparatus for consultation with academic and other expert stakeholders through back channels well-funded and established but out of sight of the masses (and outsiders). And lastly, it includes cultures of collectivity on decision making and policy implementation through consensus based action (even if the consensus is to some extent strategic).

Taken together, these suggest the building blocks for democratic engagement, but one internally driven. That is, it suggests the mechanisms through which an endogenous democratic structure can be built. And by that one can understand those structures as protective against cults of personality and the distortions of temporary popular infatuations. It points to structures

developed to ensure fidelity to the core long term objectives. It provides the cage of principle and regulation necessary to produce baselines against which the performance of the individual—as representative of the people, the state, and the CPC, can be assessed, and disciplined. And it provides mechanisms for substantial engagement among the operative elements of the political and administrative institutions to ensure a vigorous connection between overarching objective, leaders and the masses to which both are responsible. For the West, that the actual record has not lived up to this potential suggests that such endogenous democratic structures cannot be fully attained; for Chinese Leninist, that failure suggests a failure of implementation rather than of theory.

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Socialist Democracy and Inter-Institutional Accountability

Socialist Democracy and Inter-Institutional Accountability in the New Era

It was perhaps the need for context based development of core concepts, tied to the notions of the need for relevance in each historical era, that might have driven the further development of these principles of Leninist collectivity applied to emerging practices of consultative endogenous democracy. Xi Jinping, in his Report to the 19th CPC Congress was quite specific in seeking to bring theory forward to the "New Era."

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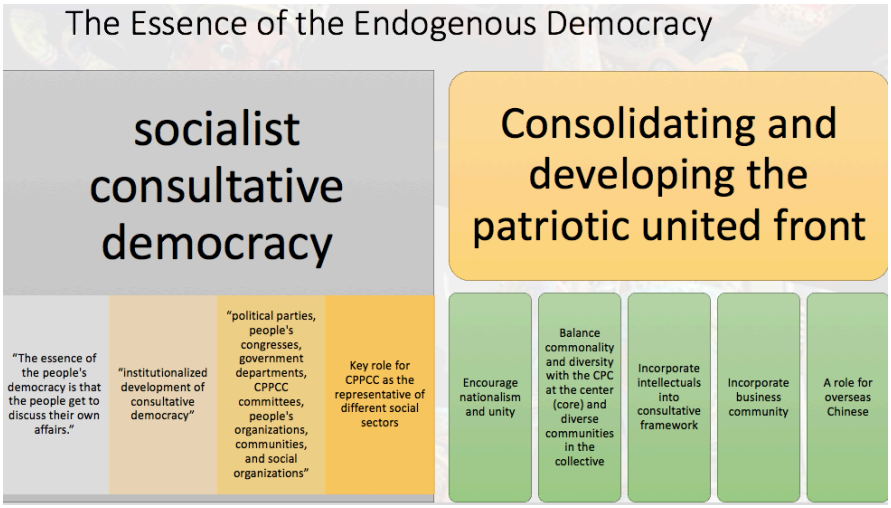
The 19th CPC Report groups the evolution and consolidation of consultative socialist democracy within six broad categories. *The first* centers on "Upholding the unity of Party leadership, the running of the country by the people, and law-based governance." These touch not just on the role of the CPC, but of the embedding of that role within a complex of supporting institutions. The idea resonates with the fundamental principles of core-collective, but now directed in a different way. That is, it characterizes the core-collective as a unified pair consisting of the CPC on one axis (the core) and other institutions (people's congresses, governments, committees of the CPPCC, courts, and procuratorates on the other (the collectives).

The second follows from the first. It focuses on "strengthening institutional guarantees" with the end of ensuring accountability to the people. Here the notion of representation, in the shadow of the overall objectives of the political project, and fidelity to both acquires an accountability element.

The fourth speaks to "advancing law based governance." This provides a grounding for the construction of the mechanisms of accountability, that is, of the rules against which performance and fidelity to the CPC and national project can be measured. It is also a means of memorializing the constant negotiations of the manner in which such objectives can be realized with the cooperation of the masses. It touches on the projects of integrity, and with it of social credit based disciplinary mechanisms. These help legitimate the CPC project by ensuring not just the fidelity of the representatives of the people to policy and practice, but also that such conform to the consensus objectives of the nation.

And the Fifth concentrates on "deepening reform of Party and government institutions and the system of government administration." This engages the project of broadening leadership down from the unified central government to the local level. It brings accountability down to the masses by shifting responsibility downward.

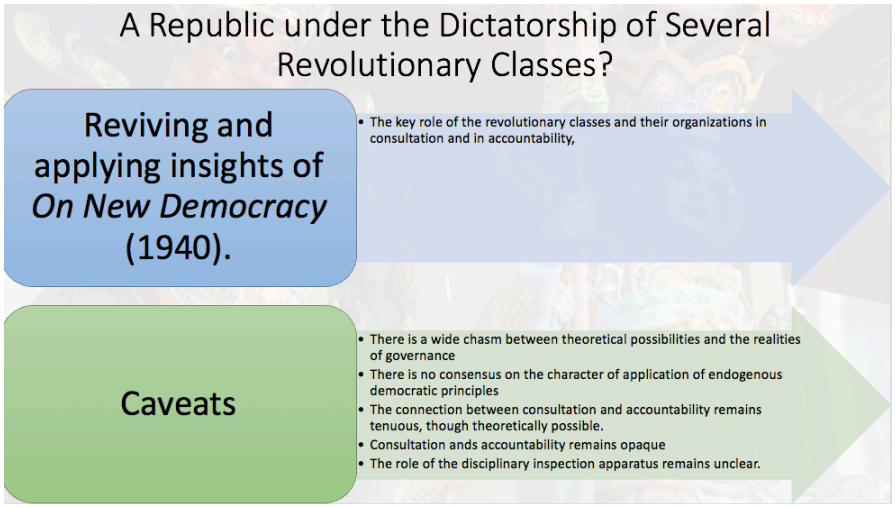
But it is the third, which speaks to "giving play to the important role of socialist consultative democracy" and the sixth, which focuses on "consolidating and developing the patriotic united front" that serve as the core of endogenous socialist democracy around which the other four categories serve collectively. I will end my remarks with a closer consideration of these.



What is the essence of consultative democracy? The 19th CPC Congress Report explains that "The essence of the people's democracy is that the people get to discuss their own affairs." But that process of consultation must be managed. And that management of popular expression is built around the mass organizations which serve to mediate between the raw and undiluted expression of popular opinion and the effective representation of that opinion for consumption by the political vanguard. In essence, the process is one that gives fuller expression to the first part of the mass line—"from the people", in a way that response is possible. That response completes the circularity of the mass line—"to the people." The 19th CPC Congress Report emphasizes "institutionalized development of consultative democracy." It then notes its proper venues—" consultations carried out by political parties, people's congresses, government departments, CPPCC committees, people's organizations, communities, and social organizations."

And among these organs, the CPPCC is to play a key role: "The CPPCC, as a distinctively Chinese political institution, is a major channel for socialist consultative democracy, and its committees are specialist consultative bodies." Theirs is the task of consultation to the ends of strengthening unity and democracy. Here is the operational heart of the endogenous democratic process. The CPPCC, the congress of all of the political bodies that together with the vanguard represents all China, is tasked with the objective of mediating between state political and administrative organs, and vigorous consulting on the other. Consulting is meant to be a two way street: it the object of consultation is both to deliver consultation up but also to produce consensus downward. In these crosscutting obligations lies accountability as well.

The CPPCC role is extended through the role of the patriotic united front in social consultative democracy. Here the object is unity, nationalism and the construction of a political demos out of a patchwork of ethnic and religious communities. Bound up in these relationships in CPC oversight guided by "the principles of long-term coexistence, mutual oversight, sincerity, and sharing the rough times and the smooth." But the efforts are not limited to ethnic groups. Reflecting a trajectory starting with Sange Daibiao—it includes incorporating intellectuals and business leaders as well. More interestingly, it also includes embedding overseas Chinese and returned Chinese and their relatives into the national political framework. Cuba has attempted something similar allowing diaspora Cubans to participate in the consultations over the 12018 draft Constitution. This last point is quite sensitive—it can easily be viewed as an interference with the internal affairs of other countries in which such overseas Chinese have become citizens.



What is then centered is socialist consultative democracy built around the CPPCC? The nexus between state, CPC and United Front through the CPPCC, serves as the connective tissue between CPC and State constitutions, and between the political authority of the CPC and its exercise through the rule system it itself has mandated as its own political line. It expresses in contemporary form the ideals of the *New Democracy* thinking embraced by the CPC before the founding of the PRC.

Does the 19th COC Congress Report suggest an evolution of the notion of the utility of the construction of a Republic under the dictatorship of several revolutionary classes? Clearly that is not possible under the CPC Basic Line; but its insight can be applied to the internal governance of the state even as the leadership authority is maintained by the vanguard. That itself required the development of democratic structures that were endogenous and that focused consultation on the administration of the state rather than on the exercise of political authority.

The operation of the state, the place where norms are operationalized through the state apparatus, is a broader consultative space now emphasized by the 19th CPC Congress focus on consultative democracy under the leadership of the CPC as the basis of the project of developing socialist democracy. Developed for a new era, the insights of the New Democracy can be applied to move China closer to an endogenous and accountable democratic structure within the constraints of its ideology.

The theoretical castle in the sky I have just described remains a glimmering. It is far from reality. But its bits and pieces are now clearly identified and may eventually produce a coherent operational transformation more clearly visible in the operation of the state. And thus, I end by *forcing reality to intrude on this theoretical reverie*: First, there is a wide chasm between theoretical possibilities and the realities of governance. Second, there is no consensus on the character of application of endogenous democratic principles. Third, the connection between consultation and accountability remains tenuous, though theoretically possible. Fourth, consultation and accountability remains opaque. Lastly, the role of the disciplinary inspection apparatus remains unclear.

Conclusion

All societies believe themselves democratic. The concept of democracy, however, has proven to be both elusive and malleable. Recent centuries have sought to discipline that connection between the construction of political institutions and the principles of democratic organization. Contemporary life has brought to the center a challenge that had long existed on the periphery of democracy and its organizing principles—the problem of the way that democracy can be expressed. Over the course of these remarks I have endeavored to sketch out a theoretical possibility that democracy, long expressed principally exogenously to the political institutions that administer government, might also be expressed

endogenously within the institutions of political and administrative authority. I suggested that the organizing principles of Leninism provide a very useful framework within which this possibility could be studied and understood. I suggested further that Chinese Leninism has, in fact, already made substantial efforts to theorize, and to a lesser extent to implement, principles of endogenous democracy within its organizational structures and in its working style. I explored the inherent compatibility of endogenous democracy to the construction of Chinese socialist democracy. I noted the strong connection between accountability, systemic fidelity, and the principles of an endogenously based political organization. Lastly, I described the developed of a theoretical foundation for such structures with Chinese characteristics, and noted the long road from theoretical possibility to well implemented operational structures. What Chinese efforts demonstrate, at least preliminarily and in theoretical form, is that endogenous democracy is substantially compatible with Leninist state organization. But it may be worth considering whether the accountability principles at the base of endogenous democratic theory might also find expression in Western systems as well.