

# Rebutting Sino-Russian Political Discourse and Getting Rights Right

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Though both the Russian Federation and the People's Republic of China (PRC) engage in aggressive information warfare against the United States and other countries of the West, they tend to do so in different ways. Russia inclines toward a "[firehose of falsehood](#)" approach – which seeks more to disorient, confuse, and destabilize more than actually to convince – while China traditionally prefers to offer what has been called a "[replacement narrative](#)" that it seeks to persuade others to believe as an *alternative* to what is actually the case.<sup>1</sup>

Yet both of these authoritarian revisionists have also come in recent years to agree upon a broad and (more or less) consistent narrative that critiques Western conceptions of universal human rights and democratic governance, and that counterposes against those conceptions a value-discourse rooted in "non-interference" with the "internal affairs" of sovereign nations. This emergent Sino-Russian discourse is flagrantly self-interested, of course, for it amounts in practice to an argument by unelected dictators for avoiding meaningful electoral accountability to the peoples to the populations they oppress. Yet this discourse has also proven surprisingly attractive to some audiences in the international environment, even while Western leaders have shown themselves to be perhaps equally surprisingly *ineffective* at offering compelling responses to the ethical claims it makes.

This essay explores and critiques these modern Russian and Chinese arguments. Herein, we try to take those arguments seriously enough to grasp that they make at least *some* interesting points about the genuine tension between the value-claims of individualist rights-

based universalism and those of national sovereignty – at least as both are conventionally understood. But we also –attempt to point the way toward a conceptual resolution of this tension.

### “Democracy” and Legitimacy

One relevant element of Russia’s and China’s contemporary anti-Western discourse relates to the idea of what counts as “democracy” in the first place. Simply put, those two authoritarian regimes criticize Western democratic practice and suggest that they themselves have found a qualitatively better way to be “democratic.”

One should not make too much of this, of course, for it is hardly a new phenomenon for dictators and would-be dictators to dress up their self-justificatory ideologies of power as somehow being more faithful to “democracy” than is *actual* democracy. It is perhaps part of the tribute that vice pays to virtue – or perhaps, if you will, a demonstration that at the rhetorical level, at least, history *has* indeed “ended” in the triumph of “democracy” as the only acceptable cloak in which to wrap political power – that so many dictators have made fidelity to “true” democracy such an important part of their legitimacy narratives.

It is quite common for dictators to *claim* democratic legitimacy. Even the reclusive brutes who rule North Korea announce periodic “elections” in which Kim Jong-Un is said to win between 99 percent and 100 percent of the vote. And the regime of Vladimir Putin in Russia goes to a fair amount of trouble to establish “Kremlin-friendly parties co-opted to provide a veneer of legitimacy” – that is, pseudo-parties real enough to create a simulacrum of political contestation and attract at least some anti-government votes, yet without any danger of their presenting any real challenge to the kleptocratic security service oligarchy Putin heads.

Even the purportedly modern and “scientific” as the former Soviet Union, after all, claimed to represent “genuinely popular socialist democracy”<sup>2</sup> – namely, what was said to be “directed democracy, *i.e.*, democracy directed by the party and the state in the interest of the further development of socialism and the building of

communism.”<sup>3</sup> “Communism alone,” Lenin contended, “is capable of giving really complete democracy.”<sup>4</sup>

It is actually quite rare in the modern world to come across unapologetic royal absolutists – of whom Hassanal Bolkiah of Brunei, Haitham bin Tariq of Oman, Mswati III of Eswatini, and Salman of Saudi Arabia would appear to be the only ones left – while theocrats such as Iranian Supreme Leader Ali Khamenei or Pope Francis are rarer still. Most other rulers, even dictators, prefer to claim some kind of “democratic” authenticity for themselves.

Indeed, it is a common rhetorical device for the populist strongman to claim that *he* – and often he alone<sup>5</sup> – is the true vehicle through which the voice of the authentic people expresses itself, thus in effect claiming the ultimate democratic legitimacy. (This also allows those who disagree with such a leader to be branded “enemies of the people.”) As George Packer noted not long ago, “[populism seeks and thrills to the authentic voice of the people.](#)” All in all, it is difficult to find any locus of political power that does not lay claim to some sort of “democratic” foundation.

So there is nothing new about dictators wrapping their power in the cloak of “democracy.”<sup>6</sup> Yet there is something different, and arguably more interesting – or at least more novel – about contemporary Russian and Chinese propaganda discourse about rights and values and how they connect to the concept of democracy. While most autocrats eager to claim “democratic” legitimacy for themselves impliedly concede the validity of Western concepts by organizing shambolic and stage-managed “elections” that produce pre-determined results, today’s emerging Sino-Russian discourse tries to offer what aspires to be an alternative underlying theory.

## **How Autocrats Define Democracy**

As many scholars have noted in recent years, authoritarian governments in the modern global information environment have devoted considerable time and effort to promoting their own distorted and self-justificatory versions of concepts such as “human rights” and “sovereignty.”<sup>7</sup> And indeed both the Chinese Communist Party (CCP)

and Putin's government in Russia claim to be paragons of a form of "democracy" truer than that of the Western liberal variety. The CCP has been especially vocal in this respect, professing itself to have found a form of democracy that is – as Xi Jinping claims – "higher and more effective ... than [in] capitalist countries."<sup>8</sup> This is only one piece of a broader narrative in which Beijing claims to have developed a form of modernity and governance superior to Western liberal democracy:

China's leaders believe they have arrived at a new form of human civilization – one based on a strong state with surveillance at its core – that is more efficient, stable, and responsive than [Western] democracy. They also sense that the time is ripe to sell its virtues.<sup>9</sup>

This modern vision of how "democracy" fits into this schema is of a vintage even older than the traditional Communist claim to offer what Mao Zedong called "freedom with leadership and ... democracy under centralized guidance, [rather than] anarchy."<sup>10</sup> In a conceptual thread that runs at least as far back as the Chinese nationalist writer Liang Qichao (1873-1929), "democracy" is not said to be about allowing the people to choose their rulers, but rather merely consists of ensuring that there exists a *channel of communication* between the people and those who rule.<sup>11</sup>

This conception itself, moreover, draws upon ideas even more deeply rooted in Chinese history, perhaps most of all the Confucian belief that it is the obligation of a benevolent Emperor to listen to the voices of the people and use the resulting insights to inform his governance. (As Confucius put it in the [Analects](#), "the man of distinction ... examines people's words.") The Liangist idea of a channel of communication was how that listening was to occur: Confucianism created "'a bilateral moral contract between the ruler and his subjects' – to be aware of and responsive to 'the needs of the people.'"<sup>12</sup>

This framing has persisted into modern times. As John Garver has observed,

From a Chinese populists' perspective, 'democracy' meant serving the people, benefiting and helping the people, *not* the people's choosing and perhaps changing their rulers. Popular election of leaders and strong protection of individual rights might actually stand in the way of a strong but benevolent state.<sup>13</sup>

Similarly, PRC President Hu Jintao declared on the 90<sup>th</sup> anniversary of the Party's founding that the CCP must

consult the people on policies, learn about their needs, and seek suggestions from them. We must listen to their views, truthfully reflect their wishes, help alleviate their hardships, and protect their economic, political, cultural, and social rights and interests in accordance with the law. ... In this way, we can learn more about the actual conditions of the people, address their concerns, and give them a warm feeling that we care about them.<sup>14</sup>

CCP officials [vilify Western democracy](#), while declaring their one-Party system to represent a better form, which they term "whole-process people's democracy." According to the PRC's [State Council Information Office](#) (SCIO),

[d]emocratic consultation is a special feature of democracy in China. ... Democratic consultation ... derives from the best of traditional Chinese culture .... In China, the standard practice is to hear people's voices, act on their needs, and pool their ideas and strength.

Like the benevolent Emperor of old, the CCP is said to listen to the people, and *this* – the Party alleges – is the highest form of "democracy."

Whole-process people's democracy is a comprehensive and coordinated system involving extensive and regular participation, ensuring that the people's voices are heard and their wishes are represented in every aspect of China's political and social life.

Make no mistake, of course: for all its invocation of the noble people, this vision is fundamentally authoritarian, for there can be no doubt about who is *actually* calling the shots. The CCP's leadership is declared to be "the fundamental guarantee for whole-process people's democracy," for it is "the governing party" and all others must "accept its leadership." "Governance by the Communist Party," Hu noted, means that the Party "leads and supports the people in acting as the masters of the country[,] and mobilizes and organizes them."<sup>15</sup>

Nevertheless, this discourse *does* represent at least a *claim* to democratic legitimacy - and Moscow has joined Beijing in singing this tune. Today, [Russian and Chinese leaders](#) define democracy as "a means of citizens' participation in the government of their country with the view to improving the well-being of population and implementing the principle of popular government." Through this lens, there is nothing wrong with dictatorship, provided that the ruler informs his decision-making by listening to the people's voices.<sup>16</sup>

And this discourse, too, is not entirely wrong that there is a sort of legitimacy that a ruler - even an authoritarian one - can acquire by attending to the needs and legitimate desires of the ruled and seeking to meet them as far as he can. A leader of any sort is unquestionably *more* legitimate if he does this than if he does not.

By itself, however, that observation cannot get us to a satisfactory solution to the challenge of establishing a sound operating system for governance, for it cannot intelligibly answer questions about why *that* ruler (as opposed to someone else) gets the chance to choose between benevolence and wickedness, and about what is to be done if he chooses the latter. Hearing such discourse from mouthpieces for Russian and Chinese autocrats, moreover, underlines the ways in which - absent some form of rights-based guardrails - such a discourse of benevolence serves to protect and to privilege those who have opted for wickedness and wish to avoid accountability for their choice. We need something more.



## Sovereignty, Democracy, and Non-Interference

Notably, the Sino-Russian theory of “democracy” does not stop at the water’s edge, as it were for it offers a values-discourse that speaks to international affairs as well – where Russian and Chinese propagandists talk emphatically about the importance of national “sovereignty” and the need to avoid infringing upon it. They advance a concept of sovereignty the absolutism of which is central to their rejection of the concept of universal human rights.

As explained in a Sino-Russian [“Joint Statement of the Russian Federation and the People’s Republic of China on the International Relations Entering a New Era and the Global Sustainable Development,”](#) it is said to be “only up to the people of the country to decide whether their State is a democratic one” in the Western sense. If the people “decide” that their country will be a dictatorship, that’s their own business, and it is “interference” in that country’s “internal affairs” – and thus a violation of national sovereignty and an offense against its “democratic” self-government – for outsiders to second-guess such “choices.”

Such argumentation is used to explain their antipathy both to international efforts to promote Western-style electoral democracy and to the idea of universal human rights in the first place. Chinese and Russian officials also say that countries should enjoy “information sovereignty” – that is, that governments have the right to control what information their populations are permitted to see and what views they are permitted to express.<sup>17</sup> (This includes the right to [“cyber-sovereignty,”](#) which Xi Jinping has described as each country’s [“right to choose its own Internet development path, its own Internet management model, and its own public policies on the Internet.”](#)) All such things are strictly “internal” matters, to be left to the unfettered discretion of national rulers and safeguarded against outside influences in the name of protecting sovereignty.

As Russian and Chinese officials describe things, therefore, the idea of universal individual human rights is basically a category mistake. For them, in effect, the fundamental rights-holder is the nation itself – or, more specifically, the national people in the collective

sense – rather than the individual human being. According to the Sino-Russian communiqué of the [2022 Joint Statement](#), it is a “universal human value” – and apparently the *only* truly universal one – that the rest of the world must “respect the rights of peoples to independently determine the development paths of their countries and the sovereignty and the security and development interests of States.”

[Because] every nation has its own unique national features, history, culture, social system[,] and level of social and economic development, [the] universal nature of human rights should be seen through the prism of the real situation in every particular country, and human rights should be protected in accordance with the specific situation in each country and the needs of its population.

In the Russian telling, this is sometimes referred to as the principle of “sovereign democracy,” a term apparently coined in 2006 by Putin’s then-deputy chief of staff, Vladislav Surkov.<sup>18</sup> This phrasing makes clear that making choices about a country’s political “operating system” is the prerogative not of the mass of actual, living, individual humans who live in that country, but rather of the sovereign people as some kind of an abstract and collective whole – represented by the ruling regime, *in loco parentis*, as it were, for the citizenry.

To be sure, Russian discourse is less clear about an autocrat’s moral duty to listen to the needs of the people than is the CCP’s quasi-Confucian theorizing about benevolently listening to the voices of the people. Nevertheless, Russian folk tradition does have a concept of the *tsar-batiushka* – the “benevolent little-father tsar”<sup>19</sup> – who, it is felt, will naturally do the right thing for his beloved people if only their entreaties can make their way past his bad ministers and nobles. And Vladimir Putin himself makes rather a show of sometimes seeming to listen – such as by participating in his annual ritual of a [news conference during which he takes live and phone-in-audience questions](#).



Both Russian and Chinese officials, however, clearly believe that “democracy” need not necessarily involve anyone actually voting in ways that might matter. In effect, it is each country’s sovereign right to choose for itself how to extend rights to individual citizens – or apparently whether to do so at all – and they are emphatic that it is an offense against national sovereignty for outsiders to question such choices. According to the Joint Statement, it is wrong for “[c]ertain States” to “impose their own ‘democratic standards’ on other countries.”

Arguments about the importance of “non-interference” in “internal affairs” have been central to Russian and (especially) Chinese international discourse for years,<sup>20</sup> but it is only relatively recently that Kremlin and CCP propagandists have attempted to build out such a theory to this degree, and together. This discourse thus represents a qualitatively new step in these regimes’ revisionist challenge to prevailing international norms.

### **Real Tensions and Challenges**

As noted, the Sino-Russian discourse on sovereignty, rights, and democracy is obviously intended to rationalize both dictatorship at home and international rules that would voice no objection to those regimes’ myriad human rights violations, while yet claiming some purported degree of “democratic” legitimacy for such abusive rule. However cynically and self-interestedly they are advanced, however, the arguments employed in service of such self-exculpatory special pleading are nonetheless given some credence and indeed deserve additional attention in part because they do actually highlight a genuine conceptual tension between individual and communal agency that we ignore at our peril.

It does follow from the concept of national sovereignty, for instance, that there must indeed be *some* decisions that are the prerogative of a sovereign people to make for themselves, and upon which they have the right to insist even if outsiders find such choices disagreeable. Not for nothing, for instance, did so many of the countries of the world demand, struggle for, and then eventually obtain their independence during the era of decolonization in the 20<sup>th</sup>

Century. Modern humanity clearly places great stock in a people's ability to make its own choices in the world. That certainly seems "democratic," too.

At the same time, however, it would seem equally to follow from the idea of democracy – even from the conveniently attenuated "channel of communication" version promoted by Russian and Chinese propagandists, and *especially* from any stronger version that actually seeks to give citizens a meaningful role in choosing their leaders – that *some* rights of individual humans must be protected against infringement by ruling elites. One can hardly claim, for example, that Kim Jong-Un is either accountable or even *listens* to the people of North Korea while his grand-familial dynasty oppresses them, and that is surely a great injustice indeed.

The rights of sovereignty are intended to protect the collective agency of the sovereign people as a whole, while individual human rights aim to protect individual citizens precisely *against* actions taken by such a collective. Each makes value-claims upon modern international society that seem ethically compelling. How balance these values against each other, however, is less clear. The Sino-Russian answer to this question – namely that an autocratic ruler can do anything he wishes – seems grotesquely inadequate, but to over-privilege individual rights would risk doing injustice to the value-claims of sovereignty, which cannot intelligibly be served if every country were *required* to interpret and protect an expansive bundle of rights in precisely the same way.

The tension between collective and individual rights, to the degree that there is one, is often met in domestic jurisprudence through concepts of constitutionalism – that is, the delineation and privileging of fundamental rights in some foundational document that makes them resistant to abridgement even by majoritarian democratic processes. Most obviously, in the United States, this is accomplished by the [Bill of Rights](#) set forth as the first ten amendments to the U.S. Constitution.

(A system of [parliamentary sovereignty](#) such as that of the United Kingdom approaches this differently, inasmuch as – in

principle – Parliament can make or unmake any law it chooses, even if this involves running roughshod over the individual rights of some citizens. In that sense, at least, the British system actually *does* tend to accept some of the Sino-Russian value-claims of sovereigntist absolutism, in privileging sovereignty over individual rights. In practice, however, parliamentary sovereignty is constrained by a thick web of custom and precedent – and of course by the legislature’s accountability to voters through periodic elections. This last is a crucial point, and we shall return later to the need to ensure that any privileging of sovereignty rests upon a foundation in meaningful popular choice in determining how and when the sovereign collective rights-bearer is constituted, authenticated, and maintained.)

When it comes to managing the tension between collective agency and protections for individual agency, a constitutionalist solution works tolerably well in practice. Even constitutionalism, however, arguably doesn’t *quite* answer the conceptual mail, because even a constitution can be amended and – in principle – might with effort be made to say just about anything. Legal scholars have debated whether it is possible to pass an “[unamendable amendment](#)” to a constitution, for example, and [whether a constitutional amendment could itself be unconstitutional](#). It remains difficult, however, to imagine a coherent foundation for such an effort without reference to a value discourse that is essentially exogenous to the democratic process (*e.g.*, Natural Law, religious authority, or some foundational philosophical logic), for it would need to make claims *against* democracy by disallowing certain types of enactment even if *everyone* voted for them.

When it comes to the international arena, tension between the privilege given to individual human autonomy and that given to collective autonomy manifests itself in precisely the natural-sovereignty-versus-human-rights problem highlighted – however self-interestedly – by modern Sino-Russian discourse. As noted earlier, the question of just what the rights and parameters of sovereignty actually are in this respect is particularly important here, inasmuch as the sovereign state – and, impliedly, the sovereign people, the presumed existence of which gives the state its moral foundation – is hugely consequential in international politics and legality.

As its name suggests, “international affairs” is, first and foremost, *a system of states*. In the positivist tradition, the state is the foundational unit of the system, and despite the growth of international human rights law in recent decades, states’ consent to be bound remains the most fundamental source of international legal legitimacy. This is most obvious in the contractual mechanisms of treaty law, but even customary international law grounds itself in sovereign consent, as evidenced by state practice accompanied by *opinio juris* (states’ belief that such behavior is required by law).

This emphasis upon state sovereignty – epitomized in the famous Lotus case at the Permanent Court of International Justice in 1927, which articulated the understanding that states are, as a sort of baseline default setting, subject to *no* legal rules, and can thus act in any way they wish so long as their behavior does not contravene an explicit prohibition – has for years made it legally challenging to argue for any qualification on the prerogatives of state sovereignty beyond simply what states have themselves explicitly (by treaty) or implicitly (in customary law) *agreed* to accept. The idea voiced in recent years that there exists (or should exist) an international “Responsibility to Protect” (R2P) populations against genocide, war crimes, crimes against humanity, and other such ills, for example – under which interventions would be justified even without permission from and against the will of the state where such evils were occurring – has accordingly been subject to much debate and criticism.

At the doctrinal level, treaty law suggests the possibility of inherently invalid contracts in its concept of *jus cogens doctrine*, pursuant to which *certain* things – presumably the very worst sorts of wrongs the international community can imagine a state might seek to undertake – cannot validly be agreed by treaty. As it is said in Article 53 of the Vienna Convention on the Law of Treaties, “[a] treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law.” (A treaty to commit genocide, for instance, would presumably thus be a nonstarter.) *Jus cogens* doctrine remains troublingly unsatisfying and vague in its practical contours, however, and even then still cannot bring itself to claim that its own meta-rules are *truly* invariant, for they are still said to be subject to replacement

“by a subsequent norm of general international law having the same character.” (If the community of states comes to agree that what was previously a *jus cogens* prohibition has been replaced by an alternative super-rule that now *permits* – or obliges? – what the prior rule prohibited, in other words, then the replacement version is the new rule.) Peremptory norms thus clearly do *not* have the sort of status antecedent and exogenous to state consent that might be claimed by Natural Law or by religious commandment.

These issues might perhaps matter less if two of the three most powerful states on earth were not ruled by regimes that now advance arguments strongly privileging state sovereignty over individual human rights, and that make such claims a cornerstone both of their approach to international law and politics and of their agendas of destabilizing geopolitical revisionism. As we have seen, both Moscow and Beijing, in effect, now openly argue that (a) Western approaches to international propriety based in universal values such as human rights and democratic civil rights are actually infringements upon the sovereignty and autonomy of other peoples who may have other values, that (b) Russia and China have the right to determine their own political systems without being lectured or stigmatized by the rights-focused imperialism of Western values, that therefore (c) we in the West should shut up about human rights and recognize that the “democracy” in which we also place such value is in truth valueless. In an age of information confrontation, these narratives thus present a major challenge to the United States, the United Kingdom, and all our likeminded allies, friends, and partners.

### **An Inadequate Response ... So Far**

In large part in response to such challenges, the Biden Administration organized “Summits for Democracy” in 2021, 2023, and 2024, and has “set out to support democracy globally as a major foreign policy priority.” In terms of actually directly addressing and rebutting the *arguments* made by Russian and Chinese propagandists, however, most Western leaders have done remarkably little – usually offering little more than a re-assertion of the contested proposition that individual human rights *are* indeed universal and must be enforceable against tyrannical governments, coupled with the (quite accurate)



observation that Russia and China make the claims they do precisely in order to avoid accountability for their regimes' systematic abuse of these rights.

The "[Summit for Democracy Declaration](#)" issued in connection with the Summits for Democracy is a case in point. It calls for holding accountable "those responsible for human rights violations and abuses," and it decries "repression ... of human rights defenders." But on the conceptual challenge actually raised by Russian and Chinese anti-democratic discourse – the seeming tension between the universalism of individual rights and the prerogatives of state sovereignty, which Moscow and Beijing would emphatically resolve in favor of the latter – the Declaration says literally nothing. In effect, it just talks past the Sino-Russian narrative, preaching smugly to the converted rather than making any serious effort to convert.

At best the Declaration merely *implies* that state sovereignty cannot be raised as a counterweight to individual rights. At worst, it evades the issue entirely, pretending that there is no tension there that need to be addressed at all. Such an approach represents neither an intellectually compelling answer nor one likely to be persuasive to many countries, especially in the Global South, with whom the United States shares an interest in pushing back against Russian and Chinese revisionism, but which are nonetheless at least *somewhat* sympathetic to arguments stressing the importance of the national sovereignty they struggled for so long to obtain during the era of decolonization.

While thus not offering nearly enough in terms of philosophical argument, moreover, the Democracy Declaration says too much in other respects. To be sure, it does not start off too badly, observing that the "common characteristics" of all democracy include

free and fair elections that are inclusive and accessible; separation of powers; checks and balances; peaceful transitions of power; an independent media and safety of journalists; transparency; access to information; accountability; inclusion; gender equality; civic participation; equal protection of the law; and respect for



human rights, including freedoms of expression, peaceful assembly, and association.

Yet the temptation to compile a laundry list of political desiderata was apparently too great for its drafters to resist. The attentive reader will already have noted that the abovementioned list of the “common characteristics” of *all* democracies includes adherence to progressive norms on gender equality.<sup>21</sup> In the paragraphs that follow, moreover, the Democracy Declaration box-checks a great range of additional causes that would seem to be only tangentially, if at all, related to democracy promotion. These include “strengthened labor laws and enforcement,” and “economic inclusion,” as well as the need to fight “discriminatory structures, social norms, and gender stereotypes, and sexual and gender-based violence” – not to mention “pollution, climate change, and environmental degradation, including loss of biodiversity, and their adverse effects.”

The net effect is to import an entire political agenda into the concept of democratic governance. If a government does not make these causes central to its policy agenda, the reader might thus infer, it cannot truly be considered “democratic.”<sup>22</sup> (No doubt for this reason, and rather awkwardly, 12 of the 74 countries who signed the Democracy Declaration felt compelled to note their “reservations or dissociation from the text” of one or more of seven of the document’s 21 paragraphs – fully a third of the document.) The declaration promulgated in connection with the Biden Administration’s Democracy Summits, one might thus say, conflates democratic with a “d” with democratic with a “D.” Its overall credibility and persuasiveness suffer accordingly.<sup>23</sup>

As a response to the challenge of Sino-Russian discourse, such pronouncements are wholly inadequate. If the major Western states and their friends and partners are really to rebut Russian and Chinese contentions, and if we hope to engage persuasively in narrative combat with Moscow and Beijing over such matters – especially vis-à-vis third parties we are trying to win to our side in such struggles – we need to do better.

## A Better Answer?

It is not too difficult to imagine a more coherent response, however – and one, moreover, that does not simply *ignore* but rather *addresses* the vexed question of how to reconcile our ethical commitments to the vindication both of human rights *and* of national sovereignty. So can we protect the autonomy of the individual as a rights-bearing subject *and* protect that of the “[imagined community](#)” of the *collective* rights-bearing national “self”? We think so.

One approach would be to treat these competing narratives in an essentially dialectical fashion – as a conflict between thesis and antithesis, as it were, for which a potential synthesis is to be sought that draws upon the insights and value propositions of each while reconciling them in a way that can be defended in terms that make sense *within* each of the competing frames. The key to such a synthesis can perhaps be found in remembering what should in some sense be obvious: namely, that the national “self” whose prerogatives in the choice of governmental “operating system” it is the objective of Sino-Russian sovereignty discourse to protect is a collectivity that is *made up* of individual persons. Accordingly, in order for *it* to enjoy rights of sovereign choice, there needs to be some protection for the rights of the individual constituent humans whose aggregated volitional internalization of collective identity is necessary in order for there to be a “nation” in the first place. (A population of people not permitted to think and act for themselves cannot legitimize functional nationhood precisely because, in such circumstances, one cannot know what mode of governance they desire – or even whether they truly feel themselves or desire to be a nation at all.)

This suggests the need to return, in some sense, to a more classically liberal idea that focuses upon delineating a “minimum package” of rights capable of protecting the integrity of choice-making in both the individualist *and* the sovereigntist paradigms – and of some conception of rights that requires the ruler to pay attention to and be accountable to the ruled. The key here lies with the abovementioned point that protecting the right of any sovereign national people to act *as* a collective sovereign “self” requires that the process of identifying

that “self” and articulating its interests be protected against usurpation or coercion.

If one takes sovereignty seriously, in other words, one needs a way of knowing that *this* particular collectivity is indeed a genuine national “self,” and that whomever claims to speak on its behalf actually does so. (A mere aggregation of prisoners acting under duress and dancing to the command of their jailer, for instance, cannot count.) In order to know this, even the sovereigntist discourse thus requires some recourse to democracy in the *Western* (not Sino-Russian!) sense of free and fair individual involvement in collective political choice-making. And this, in turn, requires some concept of protected individual rights – and on a universal basis, no less, not subject to abridgement even *by* collective choice. Simply put, the imperative of protecting the rights of national sovereignty requires that individual humans have enough enforceable rights claims *against* the collective that they are capable of constituting that collective in the first place.

This answer to the problem, of course, requires that the individual rights in question not be *too* extensive. If this bundle of rights is not kept to a genuinely “minimum” package, one risks overly constraining the scope of the governance and collective lifeways choices available to the sovereign whole. (If every arguably desirable thing is given the status of an inalienable “right,” the sovereign whole loses its autonomy, for there would be very little left to choose. That really would be akin to the sort of values-imperialism that Sino-Russian propagandists decry.

For sovereignty to be meaningful, the sovereign entity must be able to decide significant things for itself *as a self*, not merely perform ministerial functions on behalf of a crowd.) This suggests the need to restrict the inalienable “core” of protections to what is minimally necessary in order for humans to constitute and participate as citizens in a sovereign polity – that is, a bundle of rights not reaching much (if at all) beyond universal adult suffrage with the secret ballot, coupled with freedom of speech, expression, and belief, and freedom from arbitrary arrest, detention, and coercion by the government.

Such a vision would not preclude giving citizens *additional* rights, of course. Such further protections, however, would not be “core” rights that should be protected even against collective sovereign choice-making itself, but rather – in effect – “statutory” rights, created by and protected within a framework of law authored by and subject to adjustment by the community acting *as* sovereign. These additional rights could be as extensive (or as narrow) as the community wishes, but the structural core of rules needed to protect the integrity of sovereign constitution would have a special, privileged status within the overall framework.

To be sure, this approach of delineating a privileged but minimalist “core” of rights would not reach – and indeed would actively resist – the promiscuous proliferation of fundamental “rights” one sees in much 20<sup>th</sup> and 21<sup>st</sup> Century [Western jurisprudence](#) and [international human rights thinking](#), and in [some countries’ constitutions](#). At the same time, however, this system would still represent a *vindication* of the individual rights discourse against which Russian and Chinese regime propagandists have pitted themselves. It would emphatically insist that there *are* some individual rights that are indeed fundamental and universal, and these would be precisely those protections (*e.g.*, citizens’ freedom of speech and right to choose their leaders in free and fair elections) that the authoritarian regimes of Vladimir Putin and Xi Jinping most fear.

Both of the competing value claims here, in other words, would be in some deep sense both honored and vindicated, for this approach dissolves the seeming tension between sovereign rights and individual ones. At least with respect to such a “minimum package” of protections, the two discourses turn out to be, in fact, symbiotic.

### **And There’s More ...**

Indeed, such a vision might also offer additional benefits, such as perhaps in helping point the way toward a more genuinely “democratic” vision of international rulemaking. A clear understanding of the role of protected individual agency in sovereign constitution and in legitimating the acts of the sovereign collectivity *as such*, for example, could help solve what one of us has called

the *origins problem* of conventional internationalism – that is, its positivist roots in the decisions of functionaries many of whom lack any right to speak for such purposes on behalf of the sovereign populations whose will and consent necessarily represent the fundamental source of legitimacy for *anything* done in the international arena.<sup>24</sup>

Through this lens, it is perhaps ironic that Chinese propagandists promote what they call “[democratic relations between nations](#),” for they might not like the *actual* importation of democratic legitimacy into global rulemaking. For international legal rules to be valid as resulting from the chosen self-constraint of sovereign nations, after all, one would need to be confident that each sovereign actually really *was* one, and that the entity that claims to speak for it really does so – which, as we have seen, requires reference to some kind of rights-protected collective choosing by the population thereof.

Nevertheless, democratic politics and international legitimacy are indeed closely linked. They are tied together, moreover, not *despite* national sovereignty, but rather precisely *because* such sovereignty is so important. Precisely to the degree that one values national sovereignty and takes it seriously, in other words, one must ensure its authenticity – which means protecting the freedoms of individual humans enough that they are able, freely and meaningfully, to come together and to act *as* a nation.

Moreover – and with further irony – this approach to articulating and defending a “minimum package” of core individual rights could *also* serve to protect the conceptual and moral integrity even of the kind of essentially autocratic governance system that Chinese traditions of Confucian ethics claim to embody.<sup>25</sup> As noted earlier, it is quite central to Confucian concepts of authority that while filial piety requires the people to obey their Emperor, the Son of Heaven also has the obligation, in return, to listen to the people’s needs and to rule benevolently. If he does not do so, he risks losing the Mandate of Heaven, being thereby overthrown and (hopefully) replaced by a *properly* virtuous ruler.<sup>26</sup> As Confucius himself reputedly said, the lord



of the realm is like a boat, and the people are like the water: ordinarily, the water supports the boat, but it can also overturn it.<sup>27</sup>

So far so good, at least in theory. But if the good of the people is truly the objective – as Confucian ethics surely demands that it be – is not waiting for the cataclysmic dynastic denouement of outright revolution after years of corruption and abuse rather *late* in the game to start thinking about corrective mechanisms? In the real world of human fallibility in which no ruler can be expected to be *entirely* virtuous, cannot a genuinely benevolent notion of governance ensure that some kind of guardrails exist to protect the people’s interests long before things deteriorate into such misery, hardship, and bloodshed?

It is in this context, that modern scholars such as Chih-Yu Shih have tried to apply a “Foucauldian notion of governmentality” to understanding Chinese conceptions of governance. In this view, *counter-governmentality* is the mechanism used to “discipline an enlightened autocrat,” whose obligation it is to show “self-restraint and benevolence” and to be guided by idea of serving the people. Counter-governmentality thus works to “compel[] the autocrat back onto the track of benevolence.”<sup>28</sup>

The crucial point here, however, is that this mechanism cannot work if the autocrat uses his power to short-circuit the feedback mechanism that gives him insight into the *needs* of the people whom he is expected to serve benevolently in order to retain the Mandate of Heaven. In theory, Confucian governance relies upon the people’s ability to [address memorials to the Emperor](#) making him aware of their distress. It is also part of the ethical obligation of dutifully loyal Confucian officials to offer “counsels and admonishments” to their ruler to help him keep on the path of virtue.

According to the great Confucian sage Mencius, “[h]e who restrains his prince, loves his prince.”<sup>29</sup> The philosopher Xunzi (3<sup>rd</sup> Century B.C.E.) agreed, noting that enlightened lords honor and reward officials who “engage in remonstrating, contesting, guiding, and restraining” in this fashion, and it is only “a benighted lord” who punishes such candid counsel.<sup>30</sup> There is even ancient precedent from the Zhou Dynasty (1046-246 B.C.E.) for employing an official called the



*xiaoshi*, who played “a sort of devil’s advocate function, criticizing the ruler’s policy choices, and working to remedy his political mistakes.”<sup>31</sup>

Such feedback mechanisms are thus structurally essential to the Confucian schema. Where they are blocked off, and the system thus “keep[s] wrongs hidden,” the state faces – as Xunzi declared – “catastrophe.”<sup>32</sup> And this returns us, perhaps incongruously, to the enduring power of rights discourse. Simply put, it would appear that even China’s *own* ancient traditions of autocratic governance cannot themselves really work without at least some reliance upon notions of protected individual rights – that is, rights enforceable *against* the government – because without them such feedback cannot be ensured.

The “minimum package” of such rights that would be needed within such a Confucian context to prevent the short-circuiting of such mechanisms might perhaps be even “thinner” even than the package required in order to vindicate the authenticity of national sovereign constitution discussed earlier, but even here autocratic governance must perforce give at least *some* grounds to universal human rights. A ruler’s blindness to the realities of his realm largely precludes his benevolence, with the result that without inalienable protections for the people’s ability to voice distress and discontent – thereby providing *opportunity* for such benevolence – the legitimacy of Confucian governance collapses even on its own terms. As Shih has observed, the “blind spot of Confucianism” is “inattention to the idea of rights as a normative option in the case of abusive autocracy.”<sup>33</sup>

## Conclusion

Our point here is not fundamentally about either international rulemaking or ancient Confucian governance, of course. It is a broader one, focused more specifically upon the tension that modern Russian and Chinese regime narratives suggest exists between the prerogatives of national sovereignty and the universality of individual human rights. We believe this tension, however, is illusory, or at least that can be successfully resolved through the delineation of a “minimum package” of individual rights capable of protecting the authenticity and integrity of sovereignty itself. If international lawyers and ancient Confucians can learn from this, so much the better – but our main point

is simply that modern rights discourse need not founder on the shoals as Russian and Chinese propagandists claim that it does. We believe there is a sound and defensible way forward that allows us to be faithful to the ethical commitments of individual liberty and to those of national sovereignty *at the same time*.

This is not to suggest, of course, that even *this* conception of a “minimum package” of “core” rights would necessarily be an infallible safeguard against the sorts of wrongs that deny individuals their ability to constitute themselves into a socio-political community capable of sovereignty. Schemas of legal restraint, even “minimum ones,” cannot reliably work entirely in a vacuum, and it is hard to see how they can survive without at least some basis in moral and political tradition, incarnated in customs and social institutions. (This is why, even as the American Founders worked to design a governance model that tried to rely upon such virtue as little as possible by maximizing the use – as James Madison put it – of “[ambition ... to counteract ambition](#),” their ranks still included thinkers like John Adams, who once wrote that “[\[p\]ublic virtue cannot exist in a Nation without private, and public Virtue is the only Foundation of Republics.](#)”) Law cannot wholly substitute for such culture, and we do not pretend here that it can – merely that there are better and worse approaches to articulating approaches to the protecting of legal rights, and we offer what we think is a pretty good one.

Nor, when advocating for a “minimum package” approach, do we mean to suggest that there is necessarily only one specific way to articulate or to protect “core” rights in a fashion faithful to our vision. One of the authors of this essay, in fact, has argued extensively elsewhere<sup>34</sup> that there may be different ways in which the same good can be protected by a legal right, and that the specifics of how that right is formulated and enforced will be shaped by the historical, cultural, and other circumstances of the society in which this effort is being undertaken. It is possible, in other words, to imagine a degree of variation in the details without impugning the legitimacy and integrity of the resulting protections.<sup>35</sup> Some basic conception of right thus may be universal – or at least the good that such a right is intended to *protect* – but that is not to say that any given specific syntactical or juridical

formulation always has to be treated as if brought down from Mt. Sinai chiseled into stone.

Yet we remain convinced that rights discourse can still do far more than Russian and Chinese propagandists would have one believe to protect the integrity of political communities, the ability of individual humans to form and live meaningfully in them, and the genuine benevolence of governance. And it can do so more coherently and effectively when it sticks to the irreducible basics of this undertaking than when it is forced to navigate the promiscuity of casual “rights” proliferation that one too often sees in Western political culture. In a world of challenges both practical and principled, there is, we believe, a *via media* here that can help rights discourse find its footing once more.

\* \* \*

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*The views expressed by the authors herein are entirely their own, and do not necessarily represent those of anyone else.*

#### NOTES:

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- (1) This contrast is perhaps less sharp today than it once was, for Chinese campaigns on the Internet seem increasingly to have been promulgating Russian-style disinformation as well as more traditional varieties of Sino-promotional narrative. (According to [one expert](#), the object of much recent Chinese activity “is not necessarily to change hearts and minds but to muddy the discourse to the degree that it’s impossible to form an anti-China narrative.”) On the whole, however, the distinction still seems sound.
- (2) *Radio Moscow Broadcast* (March 8, 1957) (quoted in Raymond S. Sleeper, *A Lexicon of Marxist-Leninist Semantics* (Western Goals, 1983), 121).

- (3) Sleeper, *A Lexicon of Marxist-Leninist Semantics*, 80 (quoting *Scientific Communism, A Glossary* (1975), 56-57, and *Fundamentals of Marxism-Leninism* (1961), 738).
- (4) Sleeper, *A Lexicon of Marxist-Leninist Semantics*, 80 (quoting V.I. Lenin, "State and Revolution" (1917), in *Selected Works*, vol. 7 (International Publishers, 1937): 82). Not that this "democracy" really meant very much, of course. According to Lenin, such "the more complete it is the more quickly will it become unnecessary of itself."
- (5) And they *are* generally male.
- (6) Historically, however, it is a fairly reliable rule of thumb that if a country has the word "democratic" in its official name – e.g., the Democratic People's Republic of Korea or the German People's Democratic Republic, or even the Democratic Republic of the Congo – it is nothing of the sort.
- (7) See, e.g., Anne Applebaum, *Autocracy, Inc.* (Random House 2024), 120-21 (noting tendency to define "human rights" as "the right to development, which is something that can be defined and measured only by governments," and use of term "sovereignty" as "the word that dictators use when they want to push back against criticism of their policies").
- (8) William C. Hannas & Huey-Meei Chang, "Chinese Technology Transfer," in *China's Quest for Foreign Technology: Beyond Espionage*, eds. William C. Hannas & Didi Kirsten Tatlow (Routledge, 2021), 5.
- (9) Josh Chin & Liza Lin, *Surveillance State: Inside China's Quest to Launch a New Era of Social Control* (St. Martin's Press, 2022), 254.
- (10) Mao Zedong, "On the Correct Handling of Contradictions Among the People" (February 27, 1957), in Mao Zedong, *Selected Readings from the Works of Mao Tsetung* (Languages Press, 1971), 437.
- (11) Christopher A. Ford, *China Looks at the West: Identity, Global Ambitions, and the Future of Sino-American Relations* (University Press of Kentucky, 2015), at 276 (citing Andrew J. Nathan, *Chinese Democracy* (University of California Press, 1985), 46, 49, & 57-58).
- (12) Ford, *China Looks at the West*, 271 (quoting Wanfang Tang, *Public Opinion and Political Change in China* (Stanford University Press, 2005), 4-5).
- (13) John W. Garver, *China's Quest: The History of the Foreign Relations of the People's Republic of China* (Oxford University Press, 2016), 789.
- (14) Ford, *supra*, at 276-77 (quoting Chinese President Hu Jintao Delivers a Speech at CPC Anniversary Gathering (Full Text), *Caijing.com*, July 2, 2011, <http://english.caijing.com.cn/templates/inc/webcontentens.jsp?id=110762255&time=2011-07-01&cl=104&page=all>).
- (15) Hu Jintao, *Report to the Seventeenth Party Congress*, October 15, 2007, [http://news.xinhuanet.com/english/2007-10/24/content\\_6938749.htm](http://news.xinhuanet.com/english/2007-10/24/content_6938749.htm).
- (16) Even in Mao Zedong's day, it was claimed that the CCP doctrine of the "mass line" allowed Party leaders to learn from the people about reality as a means to inform policymaking. See Chih-Yu Shih, *Confucian Governmentality and Socialist Autocracy in Contemporary China* (Bristol University Press, 2024), 49.
- (17) See, e.g., Peter Pomerantsev, *This is Not Propaganda: Adventures in the War Against Reality* (Public Affairs, 2019), at 82; Jonathan E. Hillman, *The Digital Silk Road: China's Quest to Wire the World and Win the Future* (Harper Business, 2021), 7.

- (18) See Orlando Figes, *The Story of Russia* (Metropolitan, 2022), 275; Fiona Hill & Clifford G. Gaddy, *Mr. Putin: Operative in the Kremlin* (Brookings, 2015), 67-68; see generally Alfred B. Evans, Jr., "Power and Ideology: Vladimir Putin and the Russian Political System," *Carl Beck Papers in Russian and East European Studies*, no. 1902, January 2008, 15-18 & 25; Walter Laqueur, *Putinism: Russia and Its Future with the West* (Thomas Dunne, 2015), 190; Deborah Welch Larson & Alexei Shevchenko, *Quest for Status: Chinese and Russian Foreign Policy* (Yale University Press, 2019), 201.
- (19) See Figes, *The Story of Russia*, 191.
- (20) See, e.g., Zhongying Pang, "The Evolution of China's Soft-Power Quest from the Late 1980s to the 2010s," in Burcu Baykurt & Victoria de Grazia, eds, *Soft-Power Internationalism: Competing for Cultural Influence in the 21<sup>st</sup>-Century Global Order* (Columbia University Press, 2021), 211-12; Shin-Hwa Lee, "The Theory and Reality of Soft Power: Practical Approaches in East Asia," in Sook Jong Lee & Jan Melissen, eds., *Public Diplomacy and Soft Power in East Asia* (2011), 25. Such statements have been given particular emphasis in China's dealings with the countries of the Global South ever since the [Bandung Conference](#) of 1955.
- (21) It is worth noting that the Biden Administration issued a "[national strategy](#)" document on this topic, suggesting its prioritization by promulgating it in 2021, before publishing their [National Security Strategy](#), [National Defense Strategy](#), and [Nuclear Posture Review](#).
- (22) Somewhat awkwardly – and no doubt for this reason – 12 of the 74 countries who signed the Democracy Declaration felt compelled to note their "reservations or dissociation from the text" of one or more of seven of the document's 21 paragraphs.
- (23) This is a temptation to which the Biden Administration has succumbed on other occasions as well. The October 2022 U.S. *National Security Strategy*, for instance, lists a remarkable range of progressive political priorities as "national security" issues – among them promoting voting rights, "advance[ing] equity and root[ing] out systemic disparities in our laws," "invest[ing] in women and girls," and "be[ing] responsive to the voices and focus on the needs of the most marginalized, including the LGBTQI+ community," see The White House, *National Security Strategy*, October 2022, 16-20, available at <https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf> – making it sound as if it must be a "national security" imperative for the United States to implement the entire domestic policy agenda of the progressive wing of the Democrat Party. Cf., Christopher A. Ford, "Assessing the Biden Administration's 'Big Four' National Security Guidance Documents," National Institute for Public Policy *Occasional Papers*, vol. 3, no. 1, January 2023, <https://nipp.org/wp-content/uploads/2022/12/OP-Vol.-3-No.-1.pdf>. President Biden has also described anyone who fails to endorse his domestic policy agenda – specifically, Republicans who do not support the right to choose [abortion], [the] right to privacy, [the] right to contraception, [and the] right to marry whom you love" – as being "a threat to our personal rights, to the pursuit of justice, to the rule of law, to the very soul of this country," and even "to democracy itself." The White House, "Remarks by President Biden on the Continued Battle for the Soul of the Nation," September 1, 2022, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/09/01/remarks-by-president-bidenon-the-continued-battle-for-the-soul-of-the-nation/>.
- (24) Christopher A. Ford, "Democratic Legitimacy and International Society: Debating a 'League of Democracies,'" in Saul Takahashi, ed., *Human Rights, Human Security, and State Security, Volume 3* (Praeger, 2014), 27-28. There, it was also observed that "[f]or anyone who takes these scholars seriously on the legitimacy benefits of democratic process, the international community clearly does not need more 'democracy' among nations, for such mere all-comers majoritarianism is actually not genuinely democratic to the degree that it involves and empowers nondemocratic players. Rather, real reform of international institutions – and indeed the legitimacy of international law more broadly – would seem to require democracy *within* participating polities ... [which may in turn require us] to reconceptualize norm-creation and institutional operations in international society, by giving some kind of privileged status to the choices made by democratic polities and devaluing (or at least sharply bounding) the legitimacy of those made by processes involving other types of states."



- (25) We do not mean to suggest here that the modern CCP regime actually *does* represent a system coherently faithful to Confucian notions of virtue and paternalistic benevolence, of course, merely that it seems increasingly to invoke the vocabulary of Confucian morality to justify itself.
- (26) *See, e.g., Ford, China Looks at the West*, 271. For the origins of the Mandate of Heaven, *see, e.g., Yuri Pines, Foundations of Confucian Thought: Intellectual Life in the Chunqiu Period, 722-453 B.C.E.* (University of Hawai'i Press, 2002), 56-59, 62, 71, & 207. For a very general overview of Confucian conceptions of order, *see Christopher A. Ford, The Mind of Empire: China's History and Modern Foreign Relations* (University Press of Kentucky, 2010), 29-38.
- (27) *Xunzi: The Complete Text*, trans. Eric L. Hutton (Princeton University Press, 2014), 70 & 336.
- (28) Chih-Yu Shih, *Confucian Governmentality and Socialist Autocracy in Contemporary China* (Bristol University Press, 2024), 17-19 & 37.
- (29) Quoted in Ford, *China Looks at the West*, 273.
- (30) *Xunzi*, at 39 & 134-35.
- (31) Ford, *China Looks at the West*, 272 (citing Chen Shengyong of Zhenjiang University).
- (32) *Xunzi*, 262-63.
- (33) Shih, *Confucian Governmentality*, 146.
- (34) *See, e.g., Nigel Biggar, What's Wrong with Rights?* (Oxford University Press, 2020).
- (35) To offer a simple example, Americans, Canadians, and Dutchmen live under systems that approach these challenges somewhat differently, and they might well disagree on exactly what is the best way to protect the most important rights humans have. Yet none, surely, could credibly argue that the others live under a lawless tyranny. (Nor would any of them presumably disagree that Russians, Chinese, and North Koreans *do*.) There is surely room for different human communities to find answers that accomplish the great goal – provided, of course, that they do indeed accomplish it – but in a manner whose varying inflections suit their particular characters.



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