**rule of law/法治(Fǎ Zhì)**

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| Final Remarks | PAN Wei, Hans-Peter Freymann | 28 Feb 2022 |

In summary, the rule of law from a European perspective is a decisive part of a control of sovereignty in order to ensure compliance with human rights in a system of checks and balances, specifically by means of free, protected elections and by means of an independent court system.

From the Western perspective, democracy and the rule of law are inseparable. In this context, it should not play a decisive role whether the underlying concept of democracy is more liberal (e.g., USA, Great Britain) or more oriented toward emphasizing the social responsibility of the state (e.g., Germany, France).

If one asks why the rule of law has such a strong position in Europe, there are certainly various reasons. The millennia-long influence of a monotheistic religion with fundamental values is just as much a part of it as the emphasis on the individual in an economic system that places the individual in the foreground. The decisive factor, however, is the historically grown willingness to guarantee and defend human rights. This requires a special regulatory mechanism, which was finally found in the present form of the constitutional state, that is committed to the rule of law.

The particular emphasis on social regulations, to restrict the free wills of rulers and masses alike, appears to me a wide-spread practice of all political civilizations in the past and present. The difference lies only in two things: how authoritative the regulations are; and who and/or what are responsible in creating and revising the regulations to fit in social evolutions.

In China, with regard to social regulation, problem-solving pragmatism has been more crucial than the philosophical ideas of justice, either for individual or for group. The Chinese utilitarian attitude derives from the long history of small-scale and independent family farming, and from the lack of monotheistic religion. In modern time, although China’s law making involves people’s representatives from all social strata and ethnic groups, the emphasis is on borrowing laws from advanced nations to join the Western world and still on enforcing laws according to particular conditions. A more remarkable difference lies in that the law making body is less authoritative than the executive bodies, so as to maintain the political unity of a nation of 1.4 billion people with an area equivalent to the entire Europe. The actual practice of the Chinese legal system operates like the Common Law system rather than the Continental Law system; while its basis, rather than the democracy of partisan politics, is a top-down Confucian governing group at all levels. That might be considered draconian in the West, it nevertheless still functions so far.

By the way, personally from a Chinese perspective, I see the historic and European emphasis on “law and order” differs from today’s Western emphasis on “democracy-based rule of law”, which may partially explain the difference between the “rule of law” in Europe and “rule of lawyers” in the United States.