

THE VALUE OF VAGUENESS AS THE DOOR TO SOCIAL CHANGE AND EMERGING PROTESTS IN CHINA-LESSONS LEARNED FROM CHINA'S NEIGHBORS

“HANHU” 含糊

“VAGUE, AMBIGUOUS”

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POWER POINT OUTLINE
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WHAT IS VAGUENESS

GENERALLY

ARBITRARY OR PRINCIPLED?

WHERE IS THE FLOOR?

WHERE ARE THE BOUNDARIES?

INTERACTION WITH THE 6 VALUES OF CONFUCIANISM (CHINA)

1. RITUALS, PROPRIETY, ETIQUETTE
2. LOVE WITHIN THE FAMILY
3. RIGHTEOUSNESS
4. HONESTY AND TRUSTWORTHINESS
5. LOYALTY TO THE STATE
6. BENEVOLENCE AND HUMANENESS TOWARDS OTHERS

INTERACTION WITH 4 OF THE 5 NOBLE STRENGTHS OF BUDDHISM (CHINA, MYANMAR, THAILAND)

1. FAITH

2. ENERGY


3. MINDFULNESS

4. CONCENTRATION

5. WISDOM



WHICH ALLOW THE GREATEST FLEXIBILITY FOR
CHANGE?



IN CHINA, VAGUENESS IS THE BRIDGE BETWEEN HUMANISM (ESSENTIALLY CONFUCIANISM) AND LEGALISM

LEGALISM AS DEVELOPED IN ANCIENT CHINA RESTED ON THE BELIEF THAT NOBLE EXAMPLE, EDUCATION, AND ETHICAL PRECEPTS ARE USELESS, AND THAT PEOPLE NEED A STRONG GOVERNMENT WITH A CAREFULLY DEVISED CODE OF LAWS, ALONG WITH A POLICING MECHANISM THAT WOULD STRINGENTLY AND IMPARTIALLY ENFORCE THOSE RULES.

LEGALISM BELIEVES THAT PEOPLE, IF LEFT TO THEIR OWN DEVICES, ARE BAD, AS OPPOSED TO HUMANISM, WHICH BELIEVES THAT PEOPLE COULD BE GOOD IF LEFT TO DEVELOP.

IN CHINA, VAGUENESS COMES BETWEEN A SUPREME BEING LAYING DOWN THE RULES (LEGALISM) AND MAN'S ADVANCING WITH AN INTERNAL COMPASS (CONFUCIANISM, BUDDHISM) AND ALLOWS PEACE RATHER THAN CONFLICT

WHERE DOES VAGUENESS APPEAR?

STRUCTURALLY:

IN THE CONSTITUTION

IN THE CRIMINAL LAW

OPERATIONALLY: IN INSTITUTIONS

THE ADMINISTRATION

NATIONAL PEOPLE'S CONGRESS

THE COURTS (APPLYING THE LANGUAGE TO THE FACTS)



WE DIGRESS FOR A MOMENT, WE NEED TO KEEP IN MIND THAT CHINA IS ABOUT THE SAME SIZE AS THE UNITED STATES.

IS THERE A DIFFERENCE IN THE VALUE OF VAGUENSES GEOGRAPHICALLY?
WHAT WOULD DE TOCQUEVILLE SAY IF HE WERE VIEWING CHINA TODAY
INSTEAD OF THE UNITED STATES IN THE 1830'S (*DEMOCRACY IN AMERICA*,
1835)?



ARE NOT THERE GEOGRAPHICALLY FOUR CHINAS?

1. PEOPLE'S REPUBLIC OF CHINA ("MAINLAND")
2. HONG KONG SPECIAL ADMINISTRATIVE REGION ("SAR") ["ONE COUNTRY, TWO SYSTEMS" FOR 50 YEARS (UNTIL 2047, 32 REMAINING YEARS)]
3. MACAO SPECIAL ADMINISTRATIVE REGION ("SAR") ["ONE COUNTRY, TWO SYSTEMS" FOR 50 YEARS (UNTIL 2049, 34 REMAINING YEARS)]
4. REPUBLIC OF CHINA ("TAIWAN") (CONSIDERED BY THE PEOPLE'S REPUBLIC TO BE A PROVINCE AND HISTORICALLY A PART OF GREATER CHINA) (CURRENTLY SEPARATE UNTIL INTEGRATED BACK INTO CHINA DE FACTO THROUGH TRADE AND OTHER INTERCHANGES, OR MILITARILY UPON ABANDONMENT BY THE UNITED STATES, OR POLITICALLY UPON ELECTION OR VOTE IN TAIWAN, OR A COMBINATION OF THESE EVENTS)



FOR PURPOSES OF THIS DISCUSSION ONLY, WE WILL REFER TO THE FOUR GEOGRAPHIC AREAS AS THE FOUR CHINAS, ALTHOUGH IN MAINLAND CHINA'S VIEW THEY ARE ALL PART OF ONE CHINA HISTORICALLY AND AT PRESENT.

IS IT PRODUCTIVE TO LOOK AT HONG KONG AND THE PROTESTS THERE THROUGH A STRAW, OR IS IT USEFUL TO LOOK AT SOCIAL CHANGE AND PROTESTS IN THE CONTEXT OF CHINA'S GOALS?



WHAT DOES VAGUENESS LET YOU DO?

HOW DO THE CITIZENS AND THE GOVERNMENT DEAL WITH IT?

WHO ULTIMATELY RESOLVES QUESTIONS OF VAGUENESS:

THE EXECUTIVE?

THE NATIONAL PEOPLE'S CONGRESS?

THE COURTS (IS THIS POSSIBLE IN EACH OF THE FOUR CHINAS)?

THE PEOPLE (THROUGH REVOLUTION)?

WHAT IS THE BASIC GROUP OF TAKEAWAYS FROM THIRTY THOUSAND FEET AS TO THE VALUE OF VAGUENESS FOR SOCIAL CHANGE AND EMERGING PROTESTS IN CHINA?

1. ALLOWS THE INTERESTED PARTIES TO WORK OUT ISSUES WITHOUT LOSING FACE
2. ALLOWS THE GOVERNMENT TO ADJUST WITHOUT LOSING POWER
3. ALLOWS FOR A DISTILLATION OF IDEAS
4. ALLOWS FOR A DILUTION OF UNREALISTIC DEMANDS
5. ALLOWS FOR PRAGMATIC RESULTS BASED ON EXPERIENCE--THE CHINESE WAY
6. ALLOWS FOR A GOVERNMENT AND SOCIETY BASED ON CONFUCIANISM AND BUDDHISM, RATHER THAN BASED ON LEGALISM,
7. ALLOWS FOR THE GOVERNMENT TO SWITCH BACK AND FORTH BETWEEN CONFUCIANISM AND LEGALISM AS WARRANTED BY EXPERIENCE (AVOIDS TROUBLES OF ANCIENT DYNASTIES WHICH HAD AN ENTRENCHED OR DOMINANT BELIEF SYSTEM FOR GOVERNING SOCIETY)



WHAT ARE SOME EXAMPLES OF VAGUENESS (ILLUSTRATED IN THE HANDOUT) (ATTACHMENT A)

A. CONSTITUTIONS:

THE COMPASS

B. CRIMINAL LAW MAINLAND

THE MAP



WHAT IS YOUR CONCLUDING GROUP OF TAKE AWAYS FROM THIS DISCUSSION ON THE VALUE OF VAGUENESS?

HOPEFULLY. THREE OF THEM

LETS YOU ALLOW CHANGE WITHOUT LOSING FACE OR POWER

LETS YOU EVALUATE MOVEMENT

LETS YOU SEEK PRAGMATIC RESULTS THROUGH EXPERIENCE, OR AS CHAIRMAN MAO MIGHT SAY IF ASKED, "SEEK TRUTH THROUGH FACTS"



AND THEIR FIRST COUSIN: LETS YOU AVOID ARTICULATED
EXTREMISM

AND THEIR SECOND COUSIN: LETS YOU MAKE CHANGES
PROMPTLY WHEN NECESSARY TO CHANGE POLICIES TO CURE
UNREST

AND AS MACHIAVELLI (WHO KNEW SOMETHING ABOUT PEOPLE
AND GOVERNMENT) MIGHT SAY, VAGUENESS LETS YOU DEFINE
THE CRIME AS WELL AS THE PUNISHMENT AS CONDITIONS
CHANGE

FINAL EXAMINATION FOR ATTENDEES

TAKE HOME EXAMINATION (PASS/FAIL)

QUESTION 1: WHO INTERPRETS THE CONSTITUTION IN CHINA'S GOVERNMENTAL STRUCTURE;

ANSWER: STANDING COMMITTEE OF NATIONAL PEOPLE'S CONGRESS (ARTICLE 67.1)

QUESTION 2: WHERE IS THE INTERSECTION OF THE ASPIRATIONS OF THE OF THE PEOPLE AND THE INTERESTS OF THE GOVERNMENT?

ULTIMATE ANSWER: THE CRIMINAL LAW

QUESTION 3: WHO HAS POWER ULTIMATELY TO INTERPRET THE CRIMINAL LAW IN CHINA?

ANSWER: STANDING COMMITTEE OF NATIONAL PEOPLE'S CONGRESS (ARTICLE 67.4)



THANK YOU FOR YOUR ATTENTION.
QUESTIONS, OBSERVATIONS?

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