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Constitutional Promises and Authoritarian Realities: How Constitutions Shaped, and Failed to Shape Democracy in the ROC and the PRC

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Abstract

Both the Republic of China (ROC) and the People's Republic of China (PRC) started out with constitutions promising democratic principles and social welfare; however, the two governments diverged greatly in outcomes despite early similarities. This paper compares the constitutional evolutions of the ROC and PRC across three parallel phases: their founding periods (1912–1949 in ROC; 1949–1957 in PRC), eras of authoritarian consolidation (1949–1987 in ROC; 1957–1978 in PRC), and reform periods (1987–2000 in ROC; 1978–2012 in PRC). Constitutionalism was analyzed through three lenses: ideology/structure, enumerated rights, and practical implementation. This paper argued that both constitutions originally embraced democratic ideals but failed to prevent authoritarianism. The PRC repeatedly revised its constitution, weakening its credibility. Only the ROC, through Chiang Ching-kuo's 1987 decision, transitioned to a functioning democracy. Ultimately, despite ideological differences, both systems revealed that constitutional outcomes were determined more by individual leaders than by the texts themselves, highlighting that constitutions, in practice, serve political power more than they constrain it.

Keywords: Comparative constitutionalism, Authoritarian regimes, Leadership and political reform

1. Introduction

Before the ROC and the PRC emerged, China had been governed by dynasties rooted in Confucian ideals of hierarchy and centralized rule. During the final years of the Qing Dynasty, the last dynasty to rule China, efforts such as the Self-Strengthening Movement failed to restore power to the dynasty. Even so, they reflected a desire for reform and modernization that would pave the way for the future governments of China. The ROC was founded by Dr. Sun Yat-sen in the wake of the fall of the Qing Dynasty in 1912. Sun's Three Principles of the People (national independence, political democracy, and social welfare) were adopted by the ROC under the Kuomintang (KMT), or Chinese Nationalist Party. The ROC remained in power until it was defeated in 1949 after a civil war. The Chinese Communist Party (CCP), led by Mao Zedong, established the PRC in mainland China while the ROC government retreated to Taiwan. The PRC followed Marxist-Leninist ideology, aiming to create a democratic socialist state. The ROC and the PRC initially claimed democratic ideals in their founding constitutions. However, the period of power consolidation during Martial Law and the Cultural Revolution, respectively, showed that their constitutions themselves could not prevent authoritarian dictatorship. Successive leaders repeatedly rewrote the constitution, undermining the value and legitimacy of having a constitution at all. The ROC was only able to transition into a true, multi-party democracy due to the single action of Chiang Ching-kuo's in 1987 to depart from authoritarianism.

This paper investigated why two constitutions, in such proximity to one another and both promising similar ideals, produced such divergent outcomes. Were there hidden meanings behind the words of each constitution, or was it something beyond what was on any paper? By comparing the practical constitutional evolutions of the ROC and the PRC, this study highlighted the limits of constitutional design in preventing authoritarianism. While prior scholarship

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often examines each case separately, this comparative analysis fills the gap by pitching these two governments together to pinpoint exact points of divergence and similarity.

2. Historical Background

2.1 ROC timeline

During its first period, the ROC sought to reunify a fragmented China marked by foreign spheres of influence and warlordism. From 1927 to 1949, the KMT ruled a unified China, promulgating China's first constitution in 1946, based loosely on Western democracy. Recognized internationally as the legitimate government of China, it was an Allied power during WWII and a founding member of the United Nations. After WWII, rising Cold War tensions, internal corruption, and the rise of communism led to its decline in popularity. In 1949, the KMT engaged in a civil war against the CCP, sending the party into a period of attempts to retain and consolidate power. Ultimately, the KMT was defeated and banished to Taiwan, where it enacted Martial Law to maintain control and suppress dissent. In Taiwan, the KMT was backed by the United States due to its status as a strategic ally during the Cold War. This second period of authoritarianism was justified by the broader anti-communist context of the war, along with its recognition as the 'true' government of China. The lifting of Martial Law in 1987 after thirty-eight years marked the end of the KMT's period of authoritarianism. The third period of the ROC's history began with the official lifting of Martial Law by President Chiang Ching-kuo. During this period, Taiwan developed political and economic reforms and democratized away from its authoritarian period. This period ended with the formation of a true, multi-party democracy in Taiwan with the peaceful transition of power from the KMT to the Democratic Progressive Party in 2000.

2.2 PRC timeline

The PRC, successor to the ROC, was established in 1949 by the CCP under Mao Zedong's leadership after its victory in the Chinese Civil War. Mao's vision for the PRC was founded on Marxist-Leninist principles and aimed to transform China into a socialist democracy. Coming from a peasant family, Mao emphasized a rural workers' revolution. In its first period between 1949 and 1957, the PRC focused on civilian rule and a gradual transition to socialism, taking inspiration from the Soviet Union. While the United States did not recognize the PRC, China's international involvement (for example, in the Korean War in 1950) demonstrated the PRC's active global status. However, between 1955 and 1957, Sino-Soviet relations began to deteriorate as the Soviet Union began a de-Stalinization policy. To continue China's socialist conversion at a rapid pace, Mao started a militant, authoritarian period to radicalize PRC policies and augment urban growth. The Great Leap Forward (1958-1962) and the Cultural Revolution (1966-1976) were both defining events during this period. The Great Leap Forward aimed to industrialize China rapidly through communal agriculture; it was a catastrophic failure that resulted in famine. The Cultural Revolution campaigned to reclaim support for the PRC and eliminate all counter-revolutionary influences. Following Mao's death, the third period of the PRC began with Deng Xiaoping's presidency in 1978 and his reforms toward a market economy. During this time period, while the CCP remained dominant, reforms such as opening-up policies (that shifted the centrally planned economy to a more market-oriented one, inviting foreign investment and technology to enter) theoretically de-radicalized China; in practice, the PRC was still far from true democracy. The end of the period, in 2012, was marked by President Xi Jinping's return to a centralized system through his abolition of presidential term limits.

3. Literature Review

The secondary sources on the topic of the constitutionalism of the ROC and the PRC encompass a large time period, from just before the formation of the ROC in the early 1900s to recent revisions on the PRC and ROC constitutions in the 1980s. This allows for a broad contextual view on the long-term evolution of the constitutions. Their topics, however, are more specific. Since the project was be based on Leigha Crout's *The Evolution of*

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Constitutionalism in the People's Republic of China: Past and Present, this literature will also be organized by its methodology. It will evaluate existing scholarship in three themes: ideology and structure, enumerated rights, and implementation. Existing scholarship also touches on other factors for evolution, such as foreign influences (especially in the case of the PRC's close ties with the USSR) and internal conflicts.

It is important to evaluate Crout's source at the beginning of this review. First, Crout briefly discusses the beginning of the shared history between the ROC and the PRC in China before the PRC took power and the ROC moved to Taiwan. She also establishes the importance of acknowledging the influence of Confucianism and Legalism on the two constitutions throughout history, since both, being central parts of Chinese social and political history, are reflected in either constitution. These provide a strong context for her main argument that the "fragmented development of constitutionalism in the PRC, marred by warring ideologies" caused very non-linear changes, leading to a unique Chinese constitutionalism different from preceding (unspecified) ones (Crout, 2021). Though her paper only addresses the PRC, the same method can be applied to the ROC on a relative timeline as it effectively analyzes a constitution's structure and effects.

According to scholarship, an essential component of constitutionalism in China is the role of ideology and structure. Hangzhou University's Department of Law Assistant Professor Wen Li's *Philosophical Influences on Contemporary Chinese Law* establishes that the role of the Chinese legal system is based on its historical and sociological culture, namely Confucianism and Legalism, making them inseparable (Li, 1996). This source provides valuable context for the shared history of the PRC and ROC and the underlying themes in their constitutions; it does not take into account the CCP's direct attempts to move away from traditional ideologies during the Great Leap Forward as well as the different history of Taiwan which the ROC had to adapt to. Most other scholarships focus on the obvious goals of the PRC and ROC. For example, *A Nuanced History: China's Constitutional Making in the 1950s* by lawyer Xiuyuan Hu, who describes the intended ideology of the PRC constitution in its newest stages (Hu, 2020). For the most part, throughout revisions, the constitution aimed to lay down the foundation of a completely socialist state, causing the perception of democracy of the constitution to fluctuate when more radical reforms were made. This source is valuable for its use of a variety of primary sources, including folk song lyrics about the Constitution, to showcase the fluctuations. The ROC is based on democratic capitalism, and this is also key in its constitutionalism. A report on *Taiwan's Constitutional Reform: Domestic Inspiration and External Constraints* by Jiunn-Rong Yeh, Minister of the Research, Development, and Evaluation Commission of Taiwan, argues that most of the revisions of the ROC constitution have been reactionary, shortsighted, and ineffective in reaching its democratic ideal (Lin & Rong, 2004). However, the argument is made from the present perspective that Taiwan needs a new constitution; it does not include much historical context regarding the reactionary nature of the changes.

Other types of sources focus more on the wording of the constitutions instead of their basic ideologies. For example, an article on *The Evolution of Fundamental Rights Legislation in PRC* by Fan Jizeng is valuable for its interweaving of USSR influence and the implementation of human rights legislation in the PRC (Fan, 2015). It argues that the USSR had the strongest influence on this legislation that has lasted until today; it does not take other ideologies like Confucianism and Legalism into account in its methodology. It is also inconsistent with other claims in scholarship that human rights legislation was greatly decreased in later revisions of the constitution. Another source, *Survival of the Fittest: The Endurance of the ROC Constitution and the Constitution of Japan* by Chien-Chih Lin, on the endurance of the ROC constitution, also uses the presence of human rights legislation, specifically in the form of a bill of rights, as its method to explain the fact that the ROC constitution has lasted until now (Lin, 2014). It provides a unique perspective on how to view the ROC constitution by comparing it to the Japanese constitution, which influenced the original ROC constitution. Even so, it lacks acknowledgment of the ROC's provisional revisions and declaration of Martial law.

Finally, there is the analysis of the judicial systems of the PRC and ROC as the implementation of their constitutions. For example, Chien-Chih Lin (2016) compares courts in the PRC and ROC in another article, *Constitutions and Courts in Chinese Authoritarian Regimes: China and Pre-Democratic Taiwan in Comparison*s, "by analyzing the different functions of constitutions and courts." This source looks at courts as the method of comparison and concludes that they reflect the divergent strategies of the PRC and ROC governments. This methodology is valuable since it provides evidence for practical implementations of the two constitutions. Even so, it does not address

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the evolution of these strategies or any shared history or similarities between the PRC and the ROC. These types of sources often use the American judicial system as a baseline and de-emphasize inherent ideological differences between the two countries. For example, Lin makes the analogy that the differences between the two constitutions were similar to Thomas Jefferson's and James Madison's, failing to mention larger historical and cultural differences. Another source, *A Comparative Perspective on the United States and Chinese Constitutionalism* by Pu Zenguan (1989) directly compares the US and Chinese constitutions, arguing that the PRC constitution has consistently had a clear definition of itself but has been interpreted ambiguously compared to the American one. This source provides a broad perspective on the interpretations of the constitution in courts and congressional assemblies but lacks analysis of specific historical information to explain its argument. For example, the author makes generalizations about the outcomes of court and congressional assemblies instead of citing specific cases. In addition, there are contradictions within itself over how the US Constitution is interpreted and revised, likely due to the author's lack of experience in American studies compared to Chinese studies. However, the word remains valuable for context and situating Chinese constitutionalism within a broader framework and provides metrics for interpretation of constitutions.

Overall, the literature is comprehensive, covering the PRC and ROC constitutions as two separate entities. However, it does not take into account the shared history between the two or how the ROC constitution influenced the PRC constitution as its predecessor. Furthermore, throughout modern history, though the two systems had oppositional ideologies, many of the actions of the governments were parallel (for example, the declaration of Martial Law in Taiwan and the Cultural Revolution in China were both authoritative and radical compared to the ideologies outlined in their original constitutions).

4. Methods

This project drew from the methodology of Leigha Crout's *The Evolution of Constitutionalism in the People's Republic of China: Past and Present*, exploring the topic in a wide time range but through three particular measurements of evolution: Ideology and structure, enumerated rights, and practical implementation. These were the dependent variables of this project. While Crout's paper uses judicial implementation as a category of analysis, this project used practical implementation since it allows for a broader reflection on the effects of the two governments' constitutional evolutions. More specifically, this practical implementation section examined specific cases where principles of the constitutions are reflected, as they are accessible and clearer compared to using court cases. These measurements and analyses were applied to the ROC constitution, added to for the PRC, and used to compare the two governments. This methodology showed both the written changes in the constitutions and how they were interpreted and implemented by the government. Evidence was pulled most importantly from the constitutions of the ROC and the ROC, along with other both translated state documents such as the Temporary Provisions of the ROC. Transcripts of spoken interviews and speeches were also an essential to understanding the effects of constitutional changes. Relying on English translations of these documents posed risks of faulty translations as well as biases from the translators; however, the essence and meaning of the documents were preserved.

5. Period 1: ROC 1912-1949; PRC 1949-1957

The foundations of both the ROC and the PRC were deeply shaped by the political and social upheavals of the early 20th century. The ROC was founded by Sun Yat-sen and the KMT, whose leaders were all educated abroad and influenced by Western liberal and nationalist ideals. In contrast, the PRC rose after a brutal civil war and was led by Mao Zedong and the CCP, whose ideology was shaped by Marxist-Leninist thought and the experiences of rural peasants. Mao called for China's gradual transition into a complete socialist state. Both governments began in periods of instability with the urgent need to unify the nation. While the foundational ideology of the ROC in its first period differed from that of the PRC in that the PRC's was based in socialism, both constitutions were outwardly democratic, embracing core principles of popular sovereignty and individual civil rights in their constitution preambles and structures as long as they were beneficial for their long-term goals.

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5.1 Ideology and Structure

The key difference between the founding constitutions of the ROC and the PRC is evident within their preambles and first articles. The preamble of the ROC's first constitution stated that the State's authority was "received from the whole body of citizens" (Constitution of the Republic of China. (1946) [ROC Const. 1946], Preamble). Through this, the ROC constitution directly affirmed the democratic principle of popular sovereignty. On the other hand, the first constitution of the PRC had no such wording in its preamble. State authority did not come from the whole body of citizens; instead, it was justified as the "general desire of the people" who were called to rally in a "common struggle" (Constitution of the Peoples Republic of China. (1954) [PRC Const. 1954], Preamble). This phrasing was representative of the PRC's ideological commitment to socialism and framed the constitution as a collective revolution led by the people.

Simultaneously, however, the preamble and following articles repeatedly labeled the PRC as a democratic state. For example, Article 2 established people's congresses, creating democratic centralism by exercising state power through the will of the people (PRC Const. 1954, art. 2). Furthermore, Articles 21-52 separated powers in the PRC government, making the National People's Congress for legislative function as the supreme organ of state power, a Standing Committee to regulate and interpret the National People's Congress, and a State Council for executive function as the supreme organ of administration (PRC Const. 1954, art. 21-52). The ROC constitution also separated powers while going a step further by implementing checks and balances. In Articles 25-105, Government power was divided into five branches (or Yuan): the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan (for civil service employment regulation), and the Control Yuan (for audit and monitoring) (ROC Const. 1946, art. 25-105). Each branch had distinct functions and the authority to supervise and limit each other. For example, as stated in Article 57, the Legislative Yuan may request the Executive Yuan to amend its policy statements if two-thirds of members approve of reconsideration. These checks and balances reinforce the democratic ideology of this document (ROC Const. 1946, art. 57). While the first PRC constitution lacks complete checks and balances and differs in phrasing from the first ROC constitution, democratic principles are nevertheless embedded in its structure and framework, albeit with a socialist context. Regardless of the differences in their preambles, both constitutions reflect the basis of democratic principles throughout its articles.

5.2 Enumerated Rights

The first constitutions of the ROC and the PRC were also very similar in that civil rights were clearly and individually listed. They took up 14 articles in the ROC constitution and 16 articles in the PRC constitution. The rights themselves were also similar in both scope and substance. Each constitution affirmed the essential freedoms of speech, assembly, association, religion, privacy of correspondence, and residence. They also protected against unlawful arrest, upheld the inviolability of homes, and actively encouraged political participation through voting, petitioning, and running for elections. While the PRC constitution included a few additional rights, for example, the right to work guaranteed by a planned development of the national economy (Article 91) and the right to rest and leisure through working hours and holidays prescribed by the state (Article 92), they simply reflected its socialist foundation and did not diminish the democratic nature of the constitution (PRC Const. 1954, art. 91-92). The majority of its enumerated rights were still shared with the ROC constitution. These similarities reflect the ROC and PRC's mutual goals to legitimize their states by aligning them with universal democratic ideals.

While these rights seemed well protected across both constitutions, qualifiers were embedded in both constitutions. For example, in the ROC constitution, Article 23 states that all freedoms and rights enumerated in preceding articles are inviolable "except as may be necessary to prevent infringement upon the freedom of others, to avert an imminent danger, to maintain social order, or to promote public welfare" (ROC Const. 1946, art. 23). This article created a built-in mechanism that gave the state broad discretion to limit civil liberties with no objective written restrictions. The PRC constitution, while lacking a single, explicit article like the ROC's Article 23, had similar qualifiers on its rights. For example, Article 8 protects the rights of peasants to own land and private production while simultaneously stating that the "policy of the state towards rich-peasant economy is to restrict and gradually eliminate it" (PRC Const. 1954,

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art. 8). While the right to private property is a democratic ideal, it comes with a socialist aspect. This article shows how the PRC's constitution's enumerated rights were embedded in the broader framework of socialist transformation. For both the ROC and the PRC, individual liberties were guaranteed by the constitution as far as they aligned with each state's goals, regardless of whether those goals aimed towards a liberal or a socialist democracy.

5.3 Practical Implementation

While both the ROC and the PRC were relatively moderate during this time compared to later periods, in both governments, the implementations of the democratic guarantees in their constitutions were inconsistent and already shaped by political expediency. Especially in the ROC, public demonstrations and political activity were tolerated when they aligned with government objectives, but constitutional protections were only truly upheld when they served state interests. Certain protests were tolerated or even encouraged by the ROC. For example, the May Fourth Movement in 1919, a series of student-led protests that opposed the government's "weak" attitude toward foreign involvement from Japan in China, was supported by the KMT (Shi, 1967). Though the protests technically criticized the government, their broader effects were an increased sense of nationalism. The impact of the movement stemmed from the ROC's upholding of constitutional rights to protest and petition, highlighting a moment when democratic guarantees were practically implemented. Even so, the reason why the movement was allowed was that it promoted national pride, which was beneficial for the ROC. The PRC's first period also presented a seemingly consistent record of democratic constitutional implementation, but, similarly to the ROC, it was less due to ideological fidelity and more to a more politically unified landscape that already mostly supported the PRC's goals. In the immediate aftermath of the Chinese Civil War, the PRC had the broad support of peasants and workers, who made up the masses behind most large political activity. For example, the 1957 Shanghai Workers' Strike involved over 36,000 workers demanding better management and labor conditions. While the strike disrupted industrial production, its leaders were not persecuted, and it even led Mao Zedong to instruct officials to "eliminate bureaucracy" in support of the workers (Lin, 2012). The lack of crackdowns or arrests following this strike signaled that the PRC was willing to uphold constitutional rights and honor its promises as a state led by the working class. However, it was only because the strikes aligned with Mao's socialist vision for China. In this way, both the ROC and the PRC appeared to implement the constitutional promises during their first periods, but these rights were already being interpreted through the lens of political convenience. This pattern of selective implementation intensified in later periods as both governments narrowed the space for political activity.

6. Period 2: ROC 1949-1987; PRC 1957-1978

By 1946, the ROC and the CCP were engaged in full-scale civil war, fighting for control over China's government and political direction. In 1948, the CCP began to gain a decisive advantage through military victories and increased popular support, while the ROC had low morale and was seen as corrupt. Under additional pressure due to the global spread of communism, the ROC attempted to centralize government power and suppress the communist rebellion with a series of temporary provisions on its constitution that implemented wartime measures. After its defeat in 1949, the ROC retreated to Taiwan, where it established a separate government. Although it maintained claims to both China and Taiwan, it was met with resistance and skepticism from some of the Taiwanese population. Growing tensions between native Taiwanese and mainland Chinese eventually led to the ROC's enactment of Martial Law. This began the period known as the White Terror, during which thousands of political dissenters and other perceived enemies of the state were repressed and persecuted by the KMT. Later, after the CCP's initial period as the ruling party of China, Mao launched campaigns to quickly radicalize and reshape Chinese society under growing pressures from the Cold War. These included the disastrous Great Leap Forward and the Cultural Revolution, which aimed to fix it. When the PRC and the ROC entered their respective power consolidation periods, both their leaders exploited their emergency powers to revoke rights and establish authoritarian dictatorships. While Taiwanese documents imposed more explicit restrictions on rights compared to the PRC's constitution, which granted rights conditionally, the practical outcomes were similar, and citizens experienced similar levels of repression.

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6.1 Ideology and Structure

During their second periods, the ROC and PRC deviated from the democratic principles outlined in their original constitutions. While the ROC did not formally rewrite its constitution as the PRC did in 1975, it first implemented the Temporary Provisions Effective During the Period of Communist Rebellion in 1948 and then Martial Law in Taiwan in 1949, effectively overriding and reshaping its original constitutional framework. The Temporary Provisions expanded presidential power dramatically. For example, the presidential term limit was abolished. The very first article also stated that the president could take "emergency measures to avert any imminent danger" without the approval of the Legislative Yuan as prescribed in Article 39 of the constitution (ROC Temporary Provisions, 1948, art. 39). This effectively allowed the president to act unilaterally based on his subjective assessment of a threat to the government's stability. Furthermore, the end of the Period of Communist Rebellion during which these provisions were effective could only be declared by the president (ROC Temporary Provisions, 1948, art. 15). Under the constitutional Five Yuan system, government power had been distributed among branches designed to supervise and limit each other. However, this indefinite extension of emergency powers eliminated the separation of powers and the checks and balances that had characterized the ROC as a democratic state. The Executive Yuan held central authority while the other branches were reduced to secondary roles. These changes demonstrated the ROC's departure from its initial democratic framework and its transition to an authoritarian system with the justification of national security and anti-communist resistance.

Instead of implementing documents to override its constitution, the PRC completely revised the constitution in 1975 to reflect a new period in its socialist transformation. While the PRC's original 1954 Constitution had the language of democracy through popular sovereignty and the separation of powers, the 1975 revision completely centralized power to the Chinese Communist Party. The preamble recognized the "victory of the new-democratic revolution and the beginning of the new historical period of socialist revolution" (Constitution of the Peoples Republic of China. (1975) [PRC Const. 1975], Preamble). This formally stated that the goal of democratization had been achieved to the extent the CCP was willing to allow, shifting the state's focus now entirely towards the pursuit of full socialism. This shift is evident within the first article of the constitution: Article 1 of the original constitution states that the PRC is a "people's democratic state," (PRC Const. 1954, art. 1) but Article 1 of the new 1975 constitution calls it a "socialist state of the dictatorship of the proletariat" (PRC Const. 1975, art. 1). This explicit wording signals the PRC's turn toward one-party authoritarian rule. Just as the ROC's Temporary Provisions centralized power, the PRC consolidated all political authority under the Communist Party by redefining the purpose of the state itself. In both cases, language that emphasized democracy was replaced by frameworks that legitimized centralized, authoritarian rule indefinitely.

6.2 Enumerated Rights

During the ROC and PRC's second periods, rights were explicitly overridden or redefined because the governments prioritized ideological conformity to increase support. In the ROC's Temporary Provisions, Article 12 revoked the right of courts to exercise a referendum on measures such as martial law. Martial Law directly suspended many constitutional protections entirely. For example, demonstrations, gatherings, rumor-mongering, and striking were strictly prohibited and punishable by death regardless of their purposes (ROC Martial Law, 1949). Since no clear legal standard for this was specified, any form of political activity could be deemed as subversive activity and cracked down upon. These regulations aligned with the broader loss of democratic structures during this period as they eliminated fundamental rights to political participation and dissent. In the PRC, the 1975 Constitution redefined civil liberties to prioritize loyalty to the socialist cause. The articles enumerating rights were condensed, only taking up four articles as opposed to sixteen in the original constitution. While many of the rights listed remained the same, there were additional articles that made them conditional. For example, Article 28 guaranteed basic civil liberties such as freedom of speech, press, religion, etc., but Article 12 stated that all culture, education, and literature must serve proletarian politics. Furthermore, Article 13 states that speaking out freely must be a form of carrying on the socialist revolution (ROC Martial Law, 1949, art. 13). These qualifications demonstrated that civil liberties were now tools to advance the PRC's ideological agenda.

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While the PRC's restriction of civil liberties seemed less drastic compared to the ROC's Martial Law, their immediate impacts were effectively the same. For both governments, the curtailment of civil liberties was closely tied to the governments' goals. The aim of the PRC was to reshape society and culture according to socialist principles. Political participation was necessary to engage the people and increase mass support for the revolution. The PRC focused on controlling political activity and civil rights instead of completely suppressing them – they allowed for certain freedoms as long as they were explicitly advancing pure socialist ideals. In contrast, the ROC was not attempting to fundamentally change Taiwan's society; instead, it focused on maintaining its government stability. Instead of guiding citizens toward an ideological transformation, it sought to eliminate all political activity and consolidate power. Though their methods and foundational goals differed, the act of limiting civil liberties successfully furthered their goals, either by shaping society or stifling opposition.

6.3 Practical Implementation

The events and themes of the White Terror in the ROC and the Cultural Revolution in the PRC are parallel examples of how both governments suppressed dissent and centralized control. These movements were systematic implementations of both governments' revised constitutional ideologies, which enabled authoritarianism. In Taiwan, Martial Law measures provided the legal framework for a four-decade-long period of repression: the White Terror. The provisions that authorized emergency presidential powers to suspend basic constitutional rights were completely, almost eagerly, invoked right away. This is clear in individual cases of victims of the White Terror. Tu Chaoji was an ordinary citizen working at a radio station in 1951 when he was arrested for association with political dissenters. According to his oral history, he was never granted a fair trial, and he was coerced through deceptive interrogation tactics and pressures to sign a false confession (涂朝吉, personal communication, 2014). This part of his testimony revealed the direct revocation of the right to due process. He was held for extended periods in overcrowded detention centers filled with others who had been arrested and detained unfairly according to the ROC's constitution. The suspension of judicial review enabled by Article 12 of the Temporary Provisions meant that Tu had no legal recourse. In fact, he was sentenced to ideological reeducation in a military prison for 15 years despite being a civilian (涂朝吉, personal communication, 2014). This directly violated Articles 77-81 of the Constitution, which stipulated that civilians are to be tried under civilian courts. Tu's case, along with many others during the White Terror, reflected the outright replacement of the ROC's constitutionalism with an authoritarian system in both writing and practice. Where the White Terror relied on police and military courts to silence all political dissent, the Cultural Revolution in the PRC relied more on mass mobilization for ideological conversion. Political activity was actually encouraged, as the masses were seen as the driving force of the revolution. Even so, the outcomes for any individuals deemed counter-revolutionary were very similar to in the ROC. The account of an anonymous man who had been a college student in Shanghai during the height of the Cultural Revolution is just one out of many examples of how the PRC's state ideology during the period overrode individual rights. He was imprisoned without any trial for association with his father, who was considered an intellectual. His father had been suspected of correspondence with people overseas, and both were deemed dangerous counterrevolutionaries (Hope in Prison, personal communication, 2016). He and others who were "in detention for review" underwent "reform through labor," or, in other words, political indoctrination (Hope in Prison, personal communication, 2016). This practice was reflective of those in the 1975 and 1982 Constitutions' reframing of civil liberties as privileges contingent on one's political status instead of as a universal right. Both Tu Chaoji's forced confessions and military imprisonment during the White Terror and this anonymous student's detention and ideological conversion illustrate the authoritative and coercive methods the ROC and PRC employed during their second periods to enforce political loyalty, illustrating the systematic erosion of democratic principles in both governments.

7. Period 3: ROC 1987-2000; PRC 1978-2012

The late 20th century was a crucial turning point for both the ROC and the PRC as they adjusted to the failure and successes of their earlier policies and responded to changing domestic and international pressures. Throughout

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the 1970s and 80s, the ROC lost diplomatic recognition from many major countries and faced increased international isolation as the PRC gained global legitimacy as the government of China. Within Taiwan, decades of Martial Law and authoritarian rule created new demands for political liberalization, especially as the ROC grew increasingly disconnected from mainland China and the government's original claims to it. Chiang Ching-kuo, despite having risen to power through the authoritarian system his father, the previous president, had built, recognized the need for political reform and moved the ROC toward democratization. Martial Law was lifted in 1987, and the government laid the groundwork for Taiwan's transition into a fully functioning democracy with a series of small amendments and additions to its original constitution. On the other hand, the PRC remained on its path from period two. After the chaos of the Great Leap Forward and the Cultural Revolution, the Chinese constitution was revised twice by President Deng Xiaoping. These two revisions together represent the PRC's third period. He moved away from extreme Maoism and towards a modernized economy. However, while there were economic and superficial legal reforms, the political structure remained tightly controlled by the CCP. The government continued its violent suppression of protests calling for political reform, such as one in Tiananmen Square, which ended in a massacre. Overall, by their respective third periods, the ROC and PRC diverged: Taiwan transitioned toward a true, multi-party democracy aligned with its constitutionalism, while the PRC maintained its single-party authoritarian rule, selectively invoking constitutional reforms while ignoring others in its practical implementation.

7.1 Ideology and Structure

The ROC's focus shifted toward rebuilding its genuine constitutional democracy in Taiwan. Although its original constitution had always formally emphasized democratic ideals, they had been overridden during the White Terror period. However, the Legislative Yuan proposed a bill to lift Martial Law in 1987. The bill invoked Article 39 of the constitution, which gave the Legislative Yuan the authority to petition the president to end Martial Law (ROC Bill, trans Feng, 1987). This indicated a return to emphasis on checks and balances within the government and an effort to restore the legitimacy of the Legislative Yuan after decades of executive dominance. The bill was also a response to growing concerns about Taiwan's international image: it emphasized the need to present Taiwan as a modernized state to maintain global support and distinguish itself from the PRC. Although the bill itself was an incomplete representation of the ROC's democratization, since its reasoning was mostly superficial, the fact that Martial Law was repealed means a full return to its original constitution, which, as explained in the analysis of the first period, was democratic. The branches of the government moved away from authoritarianism and honored the constitutional framework.

Meanwhile, the PRC took the opposite path while similarly attempting to restore legal order and establish a place in the international community after its second period. Instead of returning to its original constitutional ideals, the PRC again revised its constitution, once in 1978 and then in 1982. This led to some incremental changes in the government structure, but never a return to its original democratic constitution. The 1978 Constitution still entrenched the absolute leadership of the CCP, but its goal now was to "de-Maoize". Its preamble announced the end of the Cultural Revolution and its radicalism and the beginning of an economy-focused modernization period. For example, Article 7 decreased the government's control over the communes, or collective farms, that were previously centralized under Mao's policies (Constitution of the Peoples Republic of China. (1978) [PRC Const. 1978], art. 7). This decentralized the government and reintroduced a separation of powers, but only to benefit the socialist communal economy. These reforms allowed for more local governance, but they did not truly diversify power. The 1982 revision of the constitution was a continuation of the one in 1978, further refining the government's structure while still firmly upholding one-party domination. It introduced the principle of a socialist market economy in Article 6, which allowed more freedom in private enterprise and competition (Constitution of the Peoples Republic of China. (1982) [PRC Const. 1982], art. 6). This also reduced some of the power that the central government held, but the overall direction of the economy was still under state control. Despite these small steps that adjusted and reformed the authoritarian government, both constitutions maintained the dominance of the CCP as the core leadership of China.

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7.2 Enumerated Rights

The ROC made small amendments to its original constitution, largely upholding its legitimacy but reforming it for modernization. The most important amendment was the Third Amendment in 1994, which introduced the direct election of the president (ROC Constitution Third Amendment, 1994). This granted citizens the genuine ability to influence the political landscape of their country and eventually led to a change in the dominant party in Taiwan, unlike how, in the PRC, the president continued to be chosen by the CCP. Another key example of the divergence between the ROC's and PRC's rights by the third period were the attitudes of the governments towards indigenous and ethnic minority groups in each country. In the same 1994 amendment, the ROC also changed how official documents referred to the indigenous minorities in Taiwan. Prior to this amendment, indigenous groups had been labeled as 'mountain people,' a term that carried negative connotations and a sense of marginalization. The new terminology, 'aboriginal' or 'indigenous people,' was not only a more politically neutral and respectful term, but it also symbolized a shift in the government's recognition of these groups, implicitly granting them more rights as ROC citizens. In contrast, Article 3 of the 1978 Constitution, which addressed ethnic minorities within China, actually became more oppressive. It gave all minority nationalities within China the freedom to preserve but also reform their customs (PRC Const. 1978, art. 3). The key addition of the word 'reform' gave the state power to alter or suppress aspects of culture and tradition under the justification of modernization. On a broader scale, the number of articles guaranteeing the rights of citizens increased, so the structure of the constitution itself was more similar to the original 1954 one. This increase gave the illusion that civil liberties were becoming more valued. However, the qualifiers and limitations introduced in the second period remained. Article 51 of the 1982 Constitution restricted citizens from exercising freedoms of speech, press, assembly, and association in any way that could "infringe upon the interests of the state, of society, or of the collective" (PRC Const. 1982, art. 51). This language effectively nullified the freedoms that the constitution stated just a few articles before. These subtle additions or changes in language and structure may have made the third-period constitutions of the PRC seem more progressive, but in reality, they further consolidated CCP power and limited rights.

7.3 Practical Implementation

The gap between constitutional promises and realities was especially stark in the PRC during this period. Even while the 1982 Constitution of the PRC theoretically became more tolerant, or even supportive, of political activity, its implementation was limited and applied selectively. On the other hand, the ROC's constitutional rights, now being protected again, were much more universal, even when political activity went against the government. A clear, comparable example of this was the case of Liu Xiaobo in the PRC and of Li Ao in the ROC. Liu Xiaobo was a literary critic and human rights activist who called for democratic political reforms such as the end of CCP dominance in China (Franke, 2025). He supported the Tiananmen Square protests and was arrested multiple times for his advocacy. Liu's work in the drafting of Charter 08 encapsulated his lifelong advocacy for democracy and civil liberties. The Charter criticized the PRC's infringements on the rights of citizens to freedom and the pursuit of happiness, mandating that change was necessary (trans Link, p. 3). It outlined 19 specific points, including the implementation of an independent judiciary, the direct election of public officials, and freedoms of assembly and expression, among others (trans Link, p. 5). Many of these demands mirrored wording and rights already promised in the 1982 Constitution. By this point, the PRC was supposed to be in a modernization reform period according to its constitution. However, the gap between rhetoric and reality was made clear when Liu was arrested just two days before the charter's planned release. In 2010, Liu received the Nobel Peace Prize for his long and non-violent advocacy for human rights in China. However, he was unable to receive the award as he was in prison, sentenced to 11 years. He was prohibited from publishing essays and giving talks due to being charged for "the crime of counter-revolutionary propaganda and incitement, a dubiously defined charge used frequently to silence political dissent by the PRC" (Xiaobo, 2010). In the ROC, on the other hand, Li Ao similarly criticized the ROC and advocated for liberal democracy and civil rights. During the White Terror period, he was persecuted by the ROC for his outspoken views. However, once Martial Law was lifted, the ROC's political climate shifted, and Li Ao regained his rights and his platform. In 2001, he was even

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elected to the Legislative Yuan, where he continued to critique both the KMT and other opposition parties. He continued publishing and making bold speeches, demonstrating how the ROC's constitutional freedoms were meaningfully upheld once Martial Law ended. These are just single examples in the PRC and the ROC, but their opposite experiences reflect the divergence between the two governments during this period. The ROC's full return to its original constitution allowed previously suppressed voices like Li Ao's to re-enter the political landscape. On the other hand, the PRC's continued repression of dissenting voices reveals the limitations of its constitutional reform, showing how the text has lost its functional reality.

8. Conclusion: The Overarching Similarity Behind the Different Outcomes

Although the outcomes of the third periods of the ROC and PRC diverged, a closer examination of historical documents revealed that the driving forces behind both were the same: neither the ROC's transition to democracy nor the PRC's continued authoritarianism resulted from their constitutions, but rather from the decisions of their respective dictators Chiang Ching-kuo and Deng Xiaoping.

In the case of the ROC, constitutional transformation was significantly influenced by Chiang Ching-kuo's decision to pursue democratic reforms. While the ROC constitution had remained largely unchanged since its 1947 enactment, the addition of documents that overrode it continuously proved how easy it was to mold a state's social and political structure to fit its goals. However, it was similarly easy to remove those documents and return to its original democratic ideal since the constitution remained legitimate. Chiang's decision to lift Martial Law in 1987 allowed for the gradual introduction of democratic processes that altered the ROC's political trajectory. The Third Amendment in 1994 was not just a legal reform; it was a pivotal moment in the ROC's transition from an authoritarian regime to a multi-party democracy. Thus, the ROC's path to democracy was not solely a result of constitutional amendments but the result of decisive leadership choices that sought to reflect the changing will of the people.

Conversely, in the PRC, the failure to initiate substantial change can be traced to the precedent set by its early constitutional revisions. After Mao rewrote the constitution in 1954 to suit his plans for rapid radicalization, it, while continuously appearing to offer protections for civil liberties and democratic government structures, lacked enforceable guarantees and became increasingly malleable to the whims of those in power. As the constitution was rewritten again and again over time, it came to reflect the political priorities of the CCP instead of the core values of the original democratic socialist state the PRC was meant to be. The loss of true meaning and purpose of the constitution allowed for the continued centralization of power and an authoritarian structure, leaving the document itself largely irrelevant to the nation's social and political realities. In this way, the PRC's evolution remained in the hands of its dictator, not in its constitutional principles.

While these two governments seem to have had opposite trajectories and constitutional developments by their third periods, the forces behind these trajectories were actually the same. In both cases, the decision of one single dictator or president was enough to completely shift each nation's political system, whether it was to lift Martial Law in Taiwan or to rewrite the constitution at any time. The key role of Chiang Ching-kuo's personal decision in the ROC's lift of Martial Law is evident in the language used in the Legislative Yuan's Bill in 1987. Though the constitution granted the Legislative Yuan the political power to propose the lift, Section 3 stated that Chiang's determination and expressed desire to end the authoritarian period were the driving force of the reforms (ROC Bill, trans Feng, 1987). Furthermore, in the final section of the bill, the Legislative Yuan acknowledges that the motivation for the bill was to "raise the image of the Yuan," reflecting its passive role in the end of Martial Law and contrasting with Chiang's key one. In the PRC's case, the Tiananmen Square incident is a clear example of similar contrasting view and goals within the government. Within the CCP, dissenting voices, most notably from Zhao Ziyang, the General Secretary of the CCP, supported the Tiananmen Square protestors who called for human rights reforms. Ziyang took the lead within the party to launch reform plans and advocated for dialogue and moderation in handling the demonstrations. Despite mobilization supporting the protestors both outside and within the CCP, the ultimate decision for reform rested on Deng Xiaoping's shoulders. In a speech to his officers, Deng claimed to be the one "leading the government with resolve" and dismissed any dissenting views within the government (Deng, 1989). Deng's decision to suppress Tiananmen Square protests despite support for it, which led to a massacre, showed how

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real political power was dependent on the will of one man in China. Just as Chiang Ching-kuo's decisions led to democratic transformation in the ROC, Deng Xiaoping's decisions ensured the continuation of authoritarian rule in the PRC, and ultimately, the two governments' constitutions played a limited role in regulating executive authority.

While the constitutions of both the PRC and ROC underwent different reforms during their third periods, the true catalysts for their political paths were the individual decisions of the leaders at the helm. The constitutions, in both cases, played a secondary role, serving more as a tool for political legitimacy than as a genuine reflection of the desires of the people. This pattern extends beyond just China and Taiwan, illustrating the broader truth that constitutions, regardless of their perceived strengths, are ultimately shaped by those in power. The fragility of constitutional systems serves as a reminder that democratic state ideologies and functions are ultimately still subject to the will of a small number of people who hold power.

References

Charter 08. (n.d.). *Reporters Without Borders*. https://rsf.org/sites/default/files/Charter08.pdf

Chaochao, L. (2012, January 20). 合法化资源与中国工人的行动主义—1957 年上海'工潮'再研究 [Resources of Legitimacy and Chinese Workers' Activism: A Restudy of the 1957 Shanghai Workers' Strike]. *Chinese Journal of Sociology*. https://html.rhhz.net/society/html/2012-01-09.htm

Constitution of the People's Republic of China. (1954). https://ecommons.cornell.edu/server/api/core/bitstreams/f7bbb8b4-822c-467e-b51c-430e44430e4d/content

Constitution of the People's Republic of China. (1975). https://china.usc.edu/sites/default/files/article/attachments/peoples-republic-of-china-constitution-1975.pdf

Constitution of the People's Republic of China. (1978). https://china.usc.edu/sites/default/files/article/attachments/peoples-republic-of-china-constitution-1978.pdf

Constitution of the People's Republic of China. (1982). https://faolex.fao.org/docs/pdf/chn164427.pdf

Constitution of the Republic of China (Taiwan). (n.d.). *Laws and Regulations Database of the Republic of China (Taiwan)*. https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0000001

Crout, L. (2021, October 18). The Evolution of Constitutionalism in the People's Republic of China: Past and Present. *Indiana International & Comparative Law Review*, 31(3), 351–377. https://journals.indianapolis.iu.edu/index.php/iiclr/article/view/25751/23918

Deng, X. (1989, June 9). 邓小平在接见首都戒严部队军以上干部时的讲话 [Speech when Meeting with Military and Higher Officers of the Capital's Martial Law Troops]. *改革资料库 Reformdata.org*. http://www.reformdata.org/1989/0609/1777.shtml

Feng, T. (Trans.). (1949). Martial Law No. 1. *Headquarters of Taiwan Provincial Guards Department*. https://zh.wikipedia.org/wiki/%E8%87%BA%E7%81%A3%E7%9C%81%E6%88%92%E5%9A%B4%E4%BB%A4#/media/File:Martial_law_order_taiwan_may_1949.jpg

Feng, T. (Trans.). (1987). Legislation Bill (ROC 76th Year July 4th). *Headquarters of Taiwan Provincial Guards Department.* https://aam.ly.gov.tw/P000051_03.do/386

Franke, H. (2025, May 10). Political Developments in China. *Encyclopædia Britannica*. https://www.britannica.com/place/China/Political-developments

Hope In Prison, personal communication. (2016). *ULS Digital Collections*. https://digital.library.pitt.edu/islandora/object/pitt%3A7198582/viewer

Vol. 2026 (2) 128 – 140
ISSN 2688-3651 [online]

Hu, X. (2020, December 5). A Nuanced History: China's Constitutional Making in the 1950s. *SSRN*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3709929

Jizeng, F. (2015, December 18). The Evolution of Fundamental Rights Legislation in PRC: From Soviet Model of Human Rights Theory to Influence of the UN Universal Standard of Human Rights. *SSRN*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2704231

Li, W. (1996). Philosophical Influences on Contemporary Chinese Law. *Indiana International & Comparative Law Review*, 6(2), 327–336. https://mckinneylaw.iu.edu/practice/law-reviews/iiclr/pdf/vol6p327.pdf

Lih, C.-C. (n.d.). Constitutions and Courts in Chinese Authoritarian Regimes: China and Pre-Democratic Taiwan in Comparison. *International Journal of Constitutional Law*. https://academic.oup.com/icon/article/14/2/351/2526797

Lin, C.-C. (n.d.). Survival of the Fittest (?): The Endurance of the ROC Constitution and the Constitution of Japan. *American Journal of Comparative Law*. https://academic.oup.com/ajcl/article-abstract/62/3/775/2572202

Lin, G., & Yeh, J.-R. (n.d.). Taiwan's Constitutional Reform. *Wilson Center*. https://www.wilsoncenter.org/sites/default/files/media/documents/publication/No125.pdf

Lin, Y. (n.d.). Constitutional Evolution through Legislation: The Quiet Transformation of China's Constitution. *International Journal of Constitutional Law*. https://academic.oup.com/icon/article/13/1/61/689806

Liu, X. (2025, May 10). *Encyclopædia Britannica*. https://www.britannica.com/biography/Liu-Xiaobo

Liu, X. (2010). Liu Xiaobo – Nobel lecture (J. Latourelle, Trans.). *NobelPrize.org*. https://www.nobelprize.org/prizes/peace/2010/xiaobo/lecture/

Pu, Z. (n.d.). A Comparative Perspective on the United States and Chinese Constitutional Development. *William & Mary Law Review*. https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2021&context=wmlr

ROC Constitution Third Amendment 1994. Third revision of the constitution of the Republic of China. (n.d.). http://www.taiwandocuments.org/constitution03.htm

Shi, Z. (2019, April 25). 五四运动的五大历史贡献 [Five major historical contributions of the May Fourth Movement]. *共产党员网*. https://www.12371.cn/2019/04/25/ARTI1556163320376957.shtml

Temporary Provisions Effective During the Period of the Communist Rebellion. (1948). The Taiwan Documents project. https://andyreiter.com/wp-content/uploads/military-justice/tw/Laws%20and%20Decrees/Taiwan%20-%201948%20-%20Temporary%20Provisions%20to%20Supress%20the%20Communist%20Rebellion.pdf

White Terror Period. (n.d.). *National Human Rights Museum*. https://www.nhrm.gov.tw/w/nhrmEN/White_Terror_Period

Wu, W. (2014, March 3). 赵紫阳担纲启动政改方案 [Zhao Ziyang Took the Lead in Launching the Political Reform Plan]. *The New York Times (Chinese Edition)*. https://cn.nytimes.com/china/20140303/cc03wuwei

涂朝吉先生訪問紀錄 [Interview Record of Mr. Tu Chaoji]. (2014). *Taiwan Cultural Memory Bank*. https://tcmb.culture.tw/zh-tw/detail?indexCode=Culture_Media&id=327906