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Social Organizations and Political Institutions: Why China and Europe Diverged

Abstract

This paper discusses the historical and social origins of the bifurcation in the political institutions of China and Western Europe. An important factor, recognized in the literature, is that China centralized state institutions very early on, while Europe remained politically fragmented for much longer. These initial differences, however, were amplified by the different social organizations (clans in China, corporate structures in Europe) that spread in these two societies at the turn of the first millennium AD. State institutions interacted with these organizations, and were shaped and influenced by this interaction. The paper discusses the many ways in which corporations contributed to the emergence of representative institutions and gave prominence to the rule of law in the early stages of state formation in Europe, and how specific features of lineage organizations contributed to the consolidation of the Imperial regime in China.

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INTRODUCTION

Throughout virtually all of its history, China has been ruled by autocratic political institutions. Western Europe, by contrast, was the birthplace of democracy. A large literature discusses the origins of these differences between Europe and China. The goal of this paper is to highlight a key factor that contributed to the different evolution of political institutions in China and Europe, and whose importance in this context has been largely neglected: namely the very different internal organization of society in China vs Europe.

In the period corresponding to the early European Middle Ages, the reach of the state was totally absent in many places, or severely constrained by limited communication and transport infrastructure. In both parts of the world, the state could not effectively provide several basic club goods and local public goods, such as individual protection, risk sharing, trade and transport infrastructures, religious ceremonies, education. Both in China and Europe, these local public goods were provided by non-state organizations. But the nature of these organizations differed profoundly between these two parts of the world. In China, local public goods were largely provided by kin-based organizations, of which the clan was the prototypical example. In Western Europe instead, individuals cooperated by establishing associations of unrelated people who joined forces for a specific purpose – giving rise to what are commonly called corporations (Greif 2006a,b, Greif and Tabellini 2017). Clans and corporations performed similar functions, but they were built on very different principles. These primitive organizations had a profound influence on the economic, legal and institutional evolution of China and Europe, and their very different nature contributed to the bifurcation of political institutions between these two societies.

In this paper we review the key differences between the Chinese kin-based organizations and European corporate structures, explaining why they emerged. We then discuss how these different organizational structures shaped the evolution of political institutions in China and Western Europe. Our analysis is much more extensively elaborated in a forthcoming book (Greif, Mokyr and Tabellini 2023, henceforth GMT 2023), of which this paper anticipates some key messages.

The outline of the paper is as follows. In the next section we briefly summarize the key features of social organizations that emerged in China and Europe to facilitate cooperation and local public goods provision. Since these features are already known in the historical literature (see in particular Greif and Tabellini 2017), we can be quite succinct. In section II we then review the most convincing arguments that have been put forward in the literature to explain why democracy emerged in Europe but not in China. These arguments, emphasized in two important recent books (Stasavage 2020 and Scheidel 2019), point to the fact that China was able to build centralized state structures early on,

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before countervailing powers could consolidate and interfere with absolutist tendencies, while Western Europe remained internally and externally fragmented for much longer, forcing ruler to compromise and bargain with other powerful actors in society. The rest of the paper discusses how social organizations also contributed to this institutional bifurcation, facilitating the consolidation of central absolutist powers in China, while instead laying the foundations for the rule of law and representative political institutions in Europe.

Specifically, Section III discusses how the internal organization of society created strong countervailing powers to central authority in Europe but not in China. Section IV outlines the differences in the evolution of legal institutions between these two parts of the world, highlighting the role of clans in China, and the role of corporations in the evolution of European legal systems and in the sequence with which different state institutions emerged in Europe. Section V discusses the direct influence of corporate governance on political institutions, describing how many arrangements governing collective decisions in European corporations were transplanted and adapted to political bodies. Section VI discusses the special influence of two distinctive European organizations, the Western Church and self-governing towns. Section VII concludes.

I SOCIAL ORGANIZATIONS IN CHINA AND EUROPE

Social organizations can be viewed as social networks, i.e. as groups of people who interact regularly and cooperate on specific domains. Which social networks are more likely to form depends on prevailing homophily criteria, that is with whom people prefer to interact (Jackson 2008). This in turn is shaped by value systems and cultural traits. Traditionally, strong ties between individuals related by kin have facilitated cooperation within extended families. As social interactions became more complex, however, cooperation within families was no longer sufficient, and inter-family arrangements had to emerge to sustain cooperation. The social arrangements that emerged in China vs Europe in the second millennium AD were very different in this respect. In China, inter-family cooperation was organized within clans - patrilineal alliances among families who traced their origin to a common ancestor. In Europe, associations of unrelated individuals became central to the way individuals cooperated outside the family.

These different arrangements reflected differences in value systems. In China the Confucian tradition, encouraged by the imperial authorities during the Song and subsequent dynasties, emphasized ancestor worship and strong kinship ties. This in turn promoted extended family structures and facilitated cooperation between descendants of the same male ancestor. In Europe, the Catholic Church played a major role in reshaping family ties towards the nuclear family, and in diffusing a universalistic value system detached from one’s narrow community of friends and relatives. Between

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the 6th and 11th centuries, the Church doctrine strongly discouraged marriage between cousins and other relatives, insisted on women's consent to the marriage, dissuaded from adoptions and remarriage, prohibited all forms of polygamy (Henrich, 2020; Schulz, 2022). As noted by Goody (1983), these Church policies reduced the importance of unilineal descent and led to the dissolution of large kinship groups. This facilitated the emergence of the so-called European Marriage Pattern, namely late age of marriage, high rates of celibacy, neolocality (i.e. newly married couples living on their own), consensuality and bilineal descent customs (Hajnal 1982). As pointed out by Roland (2020), if ancestry is determined symmetrically from father and mother, the number of ancestors becomes quickly so large that common descent is no longer a viable criterion to organize social networks.

As a result of these different traditions, after the first millennium AD, while in China the clan based on ancestry became the paramount form of social organization, in Europe cooperation was instead achieved through a variety of other organizational arrangements among unrelated individuals, that following Greif (2006a,b), we call corporations.

The Diffusion of Clans and of Corporations

Although the growth of clans in China was a gradual, bottom-up process and hard to time exactly, it is generally agreed that clans spread as a major social organization among the commoners during and after the Song dynasty, at the turn of the first millennium AD, and they expanded further in the following centuries. Initially, clan activities centered on strengthening group consciousness through ancestral worship, but then they evolved to provide a variety of club goods and local public goods to their members, such as religious rites worshiping common ancestors, common schools and education, risk sharing through support for widows and orphans and, when necessary, protection against bandits or pirates. During the centuries after the Song, the clans's activities evolved. They promoted the social status and welfare of their members, they organized markets, cooperated with state officials in acts of public administration, resolved commercial disputes, and acted as political lobbies. In the words of Ebrey (1986, pp. 55-56): "Lineages organized around large estates appear to be the functional successors of communal families, like communal families they exerted considerable control over individuals, regulated their access to material benefits, and acted as a social and political unit in the larger society." Even when they did not hold common properties, lineages were important and flexible organizations, that produced for a community what individuals could not provide for themselves. Clans, however, did more than provide local public goods and cooperation; they became a pillar of local public administration, playing a central role in poor relief and tax collection and supplementing state action at the local level (without however having self-governing autonomy over a territorial

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jurisdiction). More recent scholarship has affirmed the centrality of the clan as the key unit of social organization in China.[2]

European corporate groups also diffused after the turn of the first millennium, to address the same basic social needs of Chinese lineage organizations: they provided mutual assistance and risk sharing, coordinated protection against external threats, performed religious functions, held collective rituals to strengthen collective identity, monitored the "good behavior" of their members, provided for burials, enforced contracts, intervened to resolve conflicts, helped to supply education and training, and facilitated financing of productive and trading enterprises.

Many European corporate organizations emerged in the Middle Ages. One of the earliest were monasteries and convents, already common in Merovingian times. The Church itself can be seen as a "mega corporation" in many ways. Universities emerged later, but were to become an unusually striking and viable example of corporations. With the urbanization that accompanied the slow but unmistakable recovery of its economy, Europe witnessed the emergence of self-governing cities and communes, as well as a number of independent city states. In those cities smaller corporations emerged, such as guilds, militias, and charitable organizations that managed orphanages and hospitals. These social organizations were created by people sharing a common objective, not an ancestor, and they were to a considerable extent self-governing.

The period between 1200 and 1500 marks the pinnacle of European economic and political associationism. Merchant guilds emerged to facilitate long distance trade. Joint ventures were formed to share risks and exploit economies of scale in trading arrangements. Merchants acquired responsibilities towards their financiers and had to manage complex networks of relations, with suppliers, customers and sub-contractors. Accumulation of theoretical and practical legal knowledge was organized and diffused in universities. Artisanal skills were maintained and transmitted by the apprenticeship system regulated by craft guilds. Self-governing cities developed sophisticated government arrangements, invested in tax capacity, bargained with sovereigns in order to gain national political representation. In short, corporations in Europe were central in many ways to the medieval economic revival.

Differences between Clans and Corporations

Both the clan and the corporation were organizations whose perpetuation did not depend on the participation of any particular individual. They fulfilled similar roles in supporting inter-household

[2] For instance, Shiue and Keller (2023), using the violence of the Ming to Ching as a plausibly exogenous treatment effect, illustrate that clan effects in the acquisition of human capital were central to the response to the shock. They use multi-generational lineage data from 500 couples of Tongcheng, a county of China's province of Anhui,Their, and show that kinship-based group effects are larger than village-based group effects.

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and inter-generational cooperation, and they had many features in common. They also evolved reflecting how the needs and demands of their members for club and local public goods changed with economic development and through interactions with the state. Nevertheless, clans and corporations differed in several key respects.

A first obvious difference is that clan membership was ascriptive, and for all practical purposes there was no exit option for its members. This was not the case in Europe, where people had choices in which cities to live, which monastery to join, or at which university to teach. As a result, the world of corporations was far more competitive than that of clans, and historical paths of the two systems diverged accordingly. But there were other important differences.

Enforcement

Clans and corporations relied on different methods of enforcement. Cooperation within a clan was sustained by repeated interactions over several domains. Deviant behavior in one domain was punished through ostracism and exclusion from future interactions in all domains. Cooperation among kin was also sustained by bonds of kin loyalty, the worship of common ancestors, and internalized social norms. In China, although clans had legal authority over their members, clan rules rarely specified punishments for transgression but relied on moral and social sanctions and rewards. Clan rules in China had primarily a moral rather than a formal legal character: they mostly admonished members to behave in ethical ways, and protect the weak and the poor (Ruskola, 2000, p. 1660). As one clan book rule states, "a clan without rules leaves its members with no moral standard of conduct to follow" (Liu, 1959, p. 22). The frequent interactions among kin-related individuals, clearly facilitated the operation of reputation mechanisms, and the threat of ostracism or even expulsion from the clan was a key deterrent against rule violations. Many of the rights and duties between family members did not even have to be written down, as they simply followed Confucian philosophy of filial piety and clan solidarity. Moreover, even when formal and explicit, most internal enforcement systems were extrajudicial. Violators of clan rules and of internal agreements could in principle be reported to the authorities for punishment, but generally this happened only as a last resort, after the clan had exhausted its internal procedures for enforcement and dispute resolution. The Chinese word for civil lawsuit was *xishi*, meaning "minor matter", which is informative about how imperial officials tended to see civil lawsuits (Ruskola 2000, p. 1659, Huang 2010, p. 21-22). At the highest level of abstraction this reflects the Confucian ideals that viewed formal law as redundant in a society in which wise men realized the unity of their interests.

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In accordance with this view, civil disputes were mainly resolved by mediation within the clan or the village. This was not due to a failing of the state. Rather, civil matters were seen as something that should rest in the hands of the family and of the community, and only if they failed would the imperial judicial system be involved. It was believed that if the state had ruled on all matters, then they would have to rule by law, and the law was not flexible enough to deal with the morality of the situation, unlike the kinship groups. During the Qing period most disputes in civil matters were resolved through social mediations by clans or local communities (Huang, 2010, p. 64). In about 40% of the cases in a selected sample, compromise was facilitated by comments issued by the local magistrate, who briefly reacted to complaints and petitions as they were received. These preliminary opinions clarified some of the implications if the magistrate was to issue a final adjudication, and this induced one of the parties to change its position, so that the ultimate resolution was achieved by arbitration and compromise within the clan or community. Importantly, the magistrate himself was generally not directly involved with mediation, which instead was conducted by the local notables. Only a remaining small fraction of cases was formally adjudicated by the magistrate, who applied the very detailed and concrete provisions of the Qing legal code.

A corporate organization, instead, was made up by unrelated individuals who got together because of common interest, rather than by dynastic bonds. Their cooperation was confined to the purpose for which the organization was created. Repeated interactions were also important in a corporation, of course, but to a smaller extent than in the clan, because the latter was a more comprehensive and multi-dimensional social network governing cooperation and individual behavior in a much wider range of areas. Hence, in a corporation enforcement of cooperative behavior required more formal and explicit procedures than in a clan. Rules governing relations among members of corporations in Europe generally relied on legal procedures and coercive measures, reflecting the weaker moral obligations within a group collected on the basis of common interest. In the merchant communities, the ultimate sanction was loss of reputation and ostracism, but even without the power of enforcing penalties, disputes were resolved by courts based on codes of law or previous jurisprudence (Berman, 1983). Such formalities are most transparent in the late Medieval European cities that developed legal codes to enforce cooperation and compliance. The late medieval urban communes progressed from legal customs to legal codes, and from elected voluntary judges to professional ones (e.g. Clark, 1987). Self-governing cities adopted and enforced formal codes of law that applied to commercial transactions (Gelderblom, 2013). Moreover, urban law developed to lay out rules and procedures for governing autonomous cities. While at the end of the day both civilizations developed sophisticated legal systems, in Europe civil law was codified and formal, embodied in institutions such as judges, juries, and bailiffs. The extended family played little or no role in resolving civil disputes. The

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opposite was true in China, where legal institutions and magistrates were much less involved in enforcing contractual arrangements.

Differences in enforcement methods between clans and corporations (particularly cities) are also evident from their sources of revenues. European cities depended on taxes and fees levied on the local population, whereas Chinese clans provided similar public goods often by relying on voluntary contributions and donations by members. Of particular importance were so-called lineage trusts, which owned assets (primarily land) that were earmarked for an endowment that could pay for the rites of the clan. The status of these trusts was enforced mostly by custom and self-regulation (Zelin, 2007, pp. 9-10; see also McDermott, 2013, pp. 148-149). In Northern China lineage organizations had less property and their operation was financed by on-going contributions. In multi-clan villages the local temple collected contributions and assisted members of the local clans (Huang, 1985). In Europe too, fraternities and parishes relied on voluntary donations by their members, but often fraternities were financed through a system of compulsory tithes (Reynolds 1997, p. 92). The financing of guilds was also based on compulsory fees, and municipal authorities established sophisticated systems of tax collection.

Governance

Both clans and corporations were hierarchical and often complex organizations. But the hierarchy criteria were very different between these two types of organizations. Seniority (measured by generational proximity to the clan ancestor) and age were the primary ranking criteria in Chinese clans. The concept of filial piety, and a general submission of younger kin to more senior members, gave clans a natural hierarchy. Consistent with orthodox Confucianism, senior (in age) members of the clan exercised authority over their younger descendants, ruled by the principle of *xiao* (filial piety) that left children at their father's mercy with little recourse to the law (Ruskola 2000, p. 1626). Hierarchical roles based on seniority were also recognized by the law. The *lijia* tax system initiated by the first Ming Emperor (Hongwu, 1368-1398) gave village elders legal authority on various matters. In 1397, the Ming legal code granted lineage heads (*zuzhang*) legal status and identified their role as presiding over the ancestral rites (Rowe 1998, p. 389).

A good illustration on how the hierarchy worked in a clan system is provided by Zhang (2017), who has examined lineage registries produced during the Ming and Qing dynasties in the Zhejiang Province near Shanghai. These lineages had two organizational features. First, none of the registries examined relied on wealth or landholding as a relevant criterion for higher status and authority. In fact, in some lineage registries, this was explicitly forbidden. Second, when a selection criterion for

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leadership was explicitly mentioned, it was only generational seniority and patrilineal proximity to the founding ancestor, while using material wealth as a criterion was regarded as immoral. Even those who felt that wealth should matter felt that age and seniority were to remain central to the determination of status and rank (Zhang 2017, pp. 148, 187).

Seniority criteria also extended to the domain of local politics and were reflected in actual power relations, and not just in culture and tradition. Zhang (2017), chapter 4, analyzed the composition of local élites (village chiefs, deputies and other local authorities) in seven villages in Northern China during the late 19th and early 20th century. Almost half of these local leaders owned land below the village average holding size, but owed their influential position to their advanced age or belonging to a larger clan. In contrast, the richest households in the village often did not have formal political authority. In more prosperous areas of the South East, where business oriented contractual clans were more similar to European corporations, internal authority within the clan was more often directly linked to wealth and economic power. Nevertheless, even there "generational hierarchies were at least the 'default state' from which wealth-based forms of lineage organization might mutate given sufficiently compelling socioeconomic circumstances" (Zhang, 2017, p. 151).

In contrast, European corporations had a large variety of governance rules and criteria, but generational seniority and age rarely played an important role, and lineage was rarely a main criterion for authority except for its correlation with wealth. Being voluntary associations, corporations often had inclusive and complex governance rules, which assigned control rights to all major stakeholders and held leaders accountable to corporate members. As discussed below, several key principles of modern democratic governance, including the majority principle, the principle that quod omnes tangit, ab omnibus approbari debeat ("what touches all should be approved by all"), and other important principles of delegation of powers, first emerged in corporate organizations and then were transformed into to political and constitutional principles and adapted to more encompassing political organizations. This does not mean that corporations were egalitarian; on the contrary, decision-making authority was often closely related to economic power and wealth. Belonging to a powerful and wealthy family within a corporation was associated with influence and social status. But this power was derived from contractual arrangements that included specific provisions for how to allocate control rights and executive authority in light of the specific goals of the organization and the composition of its members.

The richness of governance provisions in corporations is most evident in the charters of self-governing cities. Initially cities appointed their own courts, which then acquired administrative responsibilities. Cities also had legislative prerogatives. At first the general meeting of all citizens

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was the chief legislative body, but soon such mass assembly became too large and administration was delegated to committees of "good men" (Nicholas, 1997, p. 159). Rural villages too had forms of collective decision making as open field agriculture required a high level of coordination. Within small groups, it seems that decisions were taken by unanimity, while in other cases decisions would be delegated to jurors or "good men" (Reynolds 1997). Within Communes, executive authority was sometimes exercised by "consuls", who represented different groups or economic interests in the city. Not everyone in the city enjoyed political rights; only citizens did, and typically to be classified as citizen one had to contribute to the corporate estate of the city.

In the following sections we discuss how these features of prevailing social organizations influenced the evolution of political institutions in China and Europe. But before doing that, in the next section we review another major historical difference between China and Europe, that played a key role in their institutional development, namely the fact that China achieved unification early on while Europe remained politically fragmented for much longer.

II POLITICAL FRAGMENTATION AND INSTITUTIONAL DEVELOPMENT

As recognized by many scholars, a key feature of European economic and political development is its polycentrism and political fragmentation. According to Mokyr (2016), the argument goes back to David Hume and Immanuel Kant, and has been at the center of modern thought by economists and political scientists (Jones, 1981; Bernholz, Streit and Vaubel, 1998; Karayalçin, 2008). Using the *Centennial Historical Atlas* by Reed (2016) as a source, Schonholzer and Weese (2019) estimate that the number of European states that had de facto power over at least one city in the Bairoch et al. (1988) data set of cities varied from about 20 in the 12th century to almost 50 in the 14th century.[3]

Scheidel (2019) traces the origins of this fragmentation to how the Western Roman Empire collapsed. The invasions and settlements of different tribes of barbarians in different areas destroyed the Roman state infrastructures, without replacing them with viable alternative state institutions. For several centuries, power remained highly splintered across localities and within society, and it proved impossible to reestablish a sustainable central authority. When European rulers eventually started to rebuild state capacity, they faced two main challenges: how to come to terms with other powerful groups in society, and how to overcome the threats coming from neighboring states. The combination of internal and external political fragmentation forced rulers to accept political compromise and share power with other powerful internal actors, paving the way for forms of representative government.

[3] Bairoch et al. (1988) include in their data set European cities that ever reached 5000 inhabitants by the year 1850.

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By contrast, China achieved unification early on, and this allowed a large concentration of state powers before countervailing forces could emerge. The key features of Chinese political institutions took shape during the brief Qin Empire (221-207 BC) and then more extensively during the Han Dynasty (206 BC to 220 AD). Before the Qin dynasty, China did not have a stable and unitary system of government. Under the Zhou dynasty (which ruled nominally from the 11th century BC till 221 BC, but which effective lost power in the 8th century), China was mostly a feudal state, although feudalism began to disintegrate in the 8th century BC. What emerged was first the "Spring and Autumn period" (traditionally dated between 771 BC and 476 BC), during which China was highly fragmented and many small-scale city states emerged. This was followed by the "period of Warring States" (475-221 BC), in which fierce competition between seven regional states led to unprecedented warfare. Competition between the Warring States led to fiscal innovations (such as a taxation of agriculture and mass conscription of farmers), and cast iron emerged as a dominant material. This was also a period in which pluralism and competition stimulated intellectual and artistic creativity, in a way that may appear familiar to historians of medieval Europe: urban population expanded, commercial activity increased and the use of money spread within walled cities (Lewis, 2007, pp. 75-86). Traditional Chinese history sees the era as one in which "a hundred schools of thought" (*zhuzi baijia*) flourished, among them Confucianism, Mohism, Legalism and others. As one scholar describes it, "This was an age of bold intellectual departures and remarkable ideological pluralism, unhindered by either political or religious orthodoxies. Thinkers competed freely for the rulers' patronage, moving from one court to another in search of better employment" (Pines, 2012, p. 16 Gernet, 1982). Had it persisted, Chinese intellectual, cultural, and political history would have been quite different.

However, it was not to be. The early Zhou Empire, which effectively lost power around 771 BC had already laid the foundation of a centralized bureaucracy. As Stasavage (2020, p. 149) notes, its officials served at the pleasure of the king and were subject to a system of promotion. These bureaucracies were maintained on a local scale by the city-states that prevailed during the Spring and Autumn centuries and developed further in the Warring States era. The kingdom of Qin that unified China developed its centralized bureaucracy further and upon its triumph applied it to the entire nation. As Pines (2012, pp. 21-22) observes, the "Qin sought to establish stability and uniform orderly rule through a variety of practical and symbolic means" imposing a unified systems of measures, weights, coinage, orthography, laws and calendar, creating a standard repertoire of unification measures for subsequent dynasties. The Qin dynasty itself was short-lived (221-206 BC), but its administration came to depend on people appointed by the court, a non-hereditary meritocracy. The Han dynasty (206 BC -220 AD) that succeeded the Qin continued in that tradition.

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The essential characteristics of Chinese political institutions established under the Qin and Han dynasties remained remarkably stable in subsequent centuries, despite internal wars, external invasions and dynastic changes. Centralization increased over time, for the sake of stability. The Confucian philosopher Mencius, who lived during the Warring States era, had enunciated the basic idea that stability required unity, and the ideology of the Chinese Empire was heavily biased toward stability after the violent and chaotic centuries of the Warring States. Such stability was not permanently achieved until the Mongol conquest that established the Yuan dynasty in 1271, but even before, Mencius's view had become a dominant ideology. The ability to maintain stability through unity became a source of legitimacy for the dynasties, even if not all of them were able to meet that condition (especially the Song). Political fragmentation, when it occurred, was unstable and therefore inevitably had to be followed by more centralization (Pines, 2012, pp. 30-32). Stability and peace were inextricably connected with unity.[4]

Geographic and Historical Causes of Unity vs Fragmentation

Unity vs fragmentation are endogenous outcomes, however. What factors account for these opposite developments in China and Europe? Some scholars point to geography, and in particular to the "fractured land" hypothesis popularized by Diamond (1997) and quantitatively investigated by Fernández-Villaverde et al. (2023). Europe terrain is rugged and broken by mountains and other natural barriers. China too has high mountain ranges, but its vast and productive plain between two navigable rivers arguably facilitated unification under a large empire. Thanks to its navigable rivers, China is also more interconnected than Europe, and this is reflected in China's lower genetic variation and smaller linguistic heterogeneity (Scheidel 2019). Ko et al. (2018) and Scheidel (2019) also point out that, throughout much of its history, China's external threats were mostly unidirectional: they came from the nomads in the North. This feature, too, made it possible to avoid fragmentation because troops could be held close to the Northern frontier. Europe instead was exposed to external conflicts from several directions, and this facilitated the formation of strong military blocks in different geographic areas. By the same logic, Dincecco and Wang (2018) argue that unidirectional external threats reinforced China's autocratic tendencies, because they weakened countervailing local powers and created incentives to reinforce the center. Again, the opposite mechanism was at work in Europe, where multidirectional external threats favored political fragmentation. Finally, proximity to the

[4] An eighteenth century Qing emperor, Yongzheng, proclaimed that "Unity of the Central Lands [China proper] began with Qin; unity beyond the border passes began with [the Mongol] Yuan [1271–1368], and peaked under our dynasty. Never before were Chinese and foreigners one family and the country so expansive as under our dynasty!" (cited by Pines, 2012, p. 36).

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steppe and its large supply of horses may also have played at role, because it allowed central powers to build military strength through a large cavalry (Scheidel 2019).

The importance of geography should not be over-stated, however, as witnessed by the fact that Europe too was unified for several centuries under the Roman Empire, and China also had long periods of internal and external wars. Specific historical circumstances were perhaps a more critical determinant of European polycentrism and of China's early centralization of power. According to Scheidel (2019), the fall of the Western Roman Empire was a protracted process of destruction and onslaught from all directions, which lasted several centuries and was accompanied by dramatic economic, demographic and institutional decline. The process started with a gradual erosion of state powers by the periphery. Collection of revenue and military mobilization in distant areas became more difficult, and this gradually challenged the integrity of the Empire. Non-state actors (such as Germanic tribes) that had formed at the frontier were attracted by the rich resources of the center and became increasingly aggressive, resulting in a progressive loss of territory by Rome. By the end of the 5th century, the former Western Empire was splintered in five successor states controlled by Germanic élites, plus a large number of smaller polities (Scheidel 2019, p. 95).

During the 6th century, when important elements of Roman institutions and organizations were still in place, no German tribe was strong enough to impose its leadership and to resist ongoing invasions from all directions. The Eastern Roman Empire attempted to regain control over the Western part, and obtained some early victories. But in the end it failed, because it was too weak and had to fight its own enemies. The destruction of wars and invasions during this period, was compounded by waves of pandemic bubonic plague that also contributed to the dramatic demographic and economic decline of the former Empire.

By the 7th century, when the dust began to settle on the disintegration of the Roman West, the task of rebuilding an Empire with a unified state capacity had become much harder, because most elements of the Roman organizations had disappeared. In particular, central fiscal capacity and a centrally managed military force had been eroded by the protracted invasions and by the Germanic tradition of independent war lords. In the Germanic regimes, the ruler had to rely on the cooperation of his followers, and lacked the financial resources to raise his own army. Warrior-lords were compensated through land assignments, and they were directly responsible for raising troops. As a result, kings had only indirect control over their territory, and lacked the tools for internal coercion. The sharp decline in commerce and output reduced the surplus above the minimum of subsistence to a fraction of what it had been during the apex of the Roman Empire, and so the taxable amount of income was very low. To compound things, the cost per warrior of the military increased, as changes in military technology

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shifted warfare to cavalry and heavily armored knights. Given these changes and the lack of fiscal capacity, European armies were small and unable to control large territories. Visigothic Spain and Anglo-Saxon England could not field armies in excess of 5000, and in the 9th century "entire kingdoms could change hands in engagements of barely more than 10 000 men" (Scheidel 2019, p. 159). Most raids involved hundreds, not thousands, of warriors. By contrast, about 1000 years earlier, Rome had fielded about 40 000 troops in order to subdue Gaul and Britain. Moreover, unlike at the beginning of the Roman expansion, when Rome was well ahead of its neighbors, no single political entity enjoyed a head start in Medieval Europe. Hence, when the process of state consolidation eventually started in the 15th century, no state was able to emerge as a dominant and stable political entity, and external political fragmentation did not go away.

In China, by contrast, the central state was able to retain its taxing power and a centralized army and cavalry, even during periods of internal wars. As emphasized by Scheidel (2019), after the end of the Han dynasty in 220 AD, Chinese fiscal structures were preserved and taxation of agriculture never disappeared, despite substantial drops in tax revenue compared to the peak of the Han empire. This enabled the state to raise and control a centrally managed and highly effective cavalry, and to mobilize civilian labor through corvée type of taxes. Intermittent collapses of state powers did not substantially alter this situation. When political fragmentation took place, as during the 4th and early 5th centuries during the so-called six dynasties, rulers were able to retain a substantial bureaucracy and hence sufficient coercive and tax capacity to check local power blocks, and force other élites into cooperation and subordination.

In other words, until the collapse of the Roman Empire, China and Europe moved more or less on parallel trajectories of centralization and a high-capacity state. But with the decline of Rome their trajectories diverged, as the end of the Han dynasty in China in the early 3rd century was not followed by a process of state dismantling and collapse comparable to what took place in Europe.

Because of these different historical circumstances, by the end of the first millennium Europe and China were in starkly different situations. In China the young Song dynasty had just started to rule over a large and powerful empire, that counted about 20 million households, a capital city of 750 000 inhabitants, an army estimated to exceed a million soldiers, and with a tax revenue approaching a tenth of total output and four or five times the revenue collected by the Roman empire at its peak (Scheidel 2019, p. 167-68). Continental Europe, instead, was dominated by military aristocracies, while centralized state structures had almost disappeared. In the often-cited words of Strayer (1973), p. 15: "By the year 1000 it would have been difficult to find anything like a state on the continent in Europe".

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III SOCIAL ORGANIZATIONS AND COUNTERVAILING POWERS

Although there is no doubt that early centralization of power vs protracted fragmentation had a profound influence on the evolution of political institutions in China vs Europe, the internal organization of society in these two parts of the world amplified the effects of these initial historical differences. In particular, the nature of the different social organizations that prevailed in Europe vs China affected their respective political powers. In Europe, many of the countervailing groups and social organizations that could potentially challenge sovereign rulers were territorially based and controlled the territory under their jurisdiction. This was true early on, when the main rivals of European sovereigns were landed élites. And it continued to be true when feudalism abated, and sovereigns had to bargain with powerful corporate groups such as self-governing towns and ecclesiastic structures. In China, instead, society was organized around dynastic structures, which did not have exclusive control of their territory and were not represented in the state administration, and thus were politically weaker than the most powerful European social organizations. We now discuss in greater detail how the different organization of society in China and Europe affected their institutional development.

Feudalism

Under the European feudal regime, sovereignty was formally divided between lords (suzerains) and vassals in a vertical hierarchy of delegations. Rulers could not claim direct control over large parts of the territory. The vassal received from his lord a land grant, so that with the resources obtained from the land he could provide military services to his lord. But control over the territory was completely delegated to the vassal, who was responsible for taxes, justice and security in his territory (Finer 1977, p. 864). Powerful vassals who controlled large areas could create their own vassals through subinfeudation. This led to a hierarchy of delegations and of personal loyalties. The vassal had a personal obligation of loyalty to the lord, but the lord could only give orders to the vassal, not to his subordinates. The resulting fragmentation of authority created a balance of power between the ruler and the landed aristocracy.

Importantly, this hierarchy of delegations was territorially based. As emphasized by Mitterauer (2010), the territorial basis of social organizations is a key distinction between the European manorial system and Chinese dynastic organizations. In European peasant societies, the primary social orientation was to one's "house", not to one's relatives. The house was a community largely free of kinship ties, defined by co-residence and hence by soil, and ultimately delimited by the farming system associated with the lord's manor (Mitterauer 2010, p. 57 and p. 67). When feudalism abated

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in Europe, several of the new corporate groups that replaced landed élites (such as self-governing towns) were also territorial based, as further discussed below.

The ties of mutual dependence between lord and vassal did not only descend from asymmetric relationship of status, power and information. They had a contractual nature with binding reciprocity. The fief (from the Latin word beneficium, meaning benefit) was a reciprocal, two-way, obligation. The vassal had a duty to provide military services to his lord (that is, raise an army at his own expense and place it at the command of the lord), and also to advise him ("to give counsel and aid"). But at the same time, the lord was also obliged to protect the vassal and leave him undisturbed ("immune") in the possession and governance of the fief ("to protect and preserve") (Poggi, 1978, p. 22; Mitterauer, 2010, p. 101). What made those commitments credible were a set of holy oaths of "fealty" (derived from the Latin fidelitas), which meant that they had an implicit guarantee by divine powers to punish disloyalty. Over time, however, many of the military services were commuted into cash payments, which the kings used to hire mercenaries.

As emphasized by Hintze, this reciprocity reflected the nature of historical social relations. European feudal structures emerged from the Germanic tradition of voluntary subordination of a free man to a military chief. "The Latin-Teutonic contract was based on the principle of equality of rights and the reciprocity of both parties" – Hintze (1975), p. 332. As a result, the power of the leader was exercised "in the name of and with the consent of the people, whether expressly given or tacitly assumed" (Hintze, 1975, p. 311, 332).

If the lord failed to fulfill his obligations, he lost his privileges, and his vassals had the right to abandon him and to revolt. This is how the Saxon Mirror (*Sachsenspiegel*), the most important record of customary law of the Holy Roman Empire written in the early 13th century, summarized the right of resistance (Bloch 1962, p. 172): "A man may resist his king and judge when he acts contrary to law and may even help to make war on him…Thereby, he does not violate the duty of fealty". This principle first appeared in the 9th century. The oath of Strasbourg (843), formulated by Charles the Bald and Louis the German to fight their brother Emperor Lothar I, stipulated that, if one of the kings violated the mutual oath, his soldiers were bound not to assist their king. A similar principle also appeared in the pact between Charles the Bald and his vassals (856).

A few centuries later, in the 13th and 14th centuries, the right of resistance became enshrined in the charters of right with which several European kings granted privileges to the nobility. For instance, the English Magna Carta (1215) specified actions by the Crown that would trigger sanctions by the

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Barons. The Aragonese Privilege of the Union (1287) and the statute of Dauphiné (1341) contain similar principles – Bloch (1962), Moller and Skaaning (2013).[5]

The principle of contractual reciprocity and the right of resistance are distinctive features of European feudalism, not seen in other parts of the world. Feudal arrangements persisted for a long time in Japan. The social origin of Japanese feudal structures was very different from that of Europe, however. Japanese feudalism was based on power and status relations between two unequal parties: a patron and a client. This was in line with the dynastic tradition, that saw the lord as having paternal authority over his vassals. The Japanese vassal relation originated as a "client relation within the larger unit of the clan, which often took in strangers as younger sons or brothers in the earlies stages even through the symbolic act of blood-brotherhood" (Hintze 1975, p. 333). This resulted in a much tighter dependence of the vassal on his lord, compared to the European tradition.

Unlike in Japan, feudalism disappeared in China very early on. Landed élites were important powerholders in the early part of the Zhou dynasty around the first millennium BC. But after its first political unification under the Qin in 220 BC, stable feudalistic structures did not re-emerge in China, despite prolonged periods of internal wars. After the 6th century, the Chinese aristocracy was not identified as a formal juridical category, its members did not hold an hereditary title of nobility, and they typically were not military leaders (Johnson 1977, Tackett 2014). In Tang China, a small number of important clans was highly influential at court, but these great families usually did not retain a dominant position in their place of origin.

Cultural and social factors also explain why strong landed élites in the feudal mold did not emerge in Tang China. Chinese dynastic organizations, unlike European lords, did not have full control over their territory. The clan was a hierarchical organization defined by dynastic ties, not by residence. Lineage was spatially diffused, and local power was often shared with other kin groups (Fukuyama 2011, p. 125). The great clans rarely held large landed properties over multiple generations. Lack of primogeniture entailed more or less equal division of property amongst male heirs, and the practice of concubinage further diluted hereditary transitions. Moreover, in principle the land belonged to the emperor who, during the first half of the Tang dynasty, actively sought to redistribute it in order to maximize tax revenue. As a result, land was not seen as a particularly safe form of preserving wealth over the long run (Tackett 2014, chp. 1, Fairbank and Goldman 2006, p.83). Finally, as noted above,

[5] The Hungarian Golden Bull (1222) ends with these words: "We also ordain that if We or any of Our Successors shall at any time contravene the terms of this statute, the bishops and the higher and lower nobles of Our realm, one and all, both present and future, shall by virtue thereof have the uncontrolled right in perpetuity of resistance both by word and deed without thereby incurring any charge of treason." (cited by Berman 1983, p. 293).

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power relations within the clan and in the local community were mostly based on seniority, rather than wealth or land holdings.

These historical and contractual differences in feudal relations between the West and the East imply different sources of legitimacy of the ruler. In the Germanic tradition, the legitimacy of the military chief originated in his personal qualities as a leader, and his subordinates were bound to him by loyalty more than by the fear of repression. In the Eastern tradition, instead, the Emperor was linked to a heavenly entity. If he failed to behave wisely, his subjects could and occasionally did rebel. But the Chinese Emperor had no reciprocal obligation towards his subordinates and, unlike with the European right of resistance, rebellion was not conceived as originating from the violation of an explicit or implicit agreement between the Emperor and his citizens.

The peculiar organization of government created by the Han and reinforced by subsequent dynasties also played an important role in preventing the rise of countervailing powers in China. During the Han, top bureaucrats retained strong links to their clans, but the reforms enacted by the Tang dynasty reduced the influence of the Great Families over top officials. By the 8th century, the relationship between administrative appointments and kinship was reversed. Family status was linked to having a clan member who held an important position in the central bureaucracy, and high status would be lost if no family member retained such roles. In Tang China, the great families were still able to influence top appointments. But in the violent transition between the Tang and the Song dynasties, the great Chinese medieval families were entirely wiped out. As a result, the nature of the Chinese ruling class was transformed, and in Song China government was in the hands of a professional bureaucracy, selected and promoted based on objective performance criteria and its scholarly capacities (Johnson 1977, Tackett 2014, Fairbank and Goldman 2006). Administrators came from several different kin groups, they did not have a military background, nor did they owe their appointment to links with commerce and finance (Ch'ien 1982, p. 17). The criterion was capability as measured by their passing the keju, the Imperial Civil Service Examination. Equally strikingly was the famous "rule of avoidance" already commenced during the Sui dynasty (581-618), in which county magistrates were prohibited from serving in their county of birth to deny them a local power base though nepotism. This rule was reinforced later by a further prohibition on magistrates serving more than three years in a single county. Hence, civil servants did not represent specific power groups in society, defined by location or economic interests. "Government and administration were […] a self contained universe: no forces and few controls existed outside it, or at least no constitutional ones, only revolts or mass rebellions" (Finer 1997, Vol II p. 760).

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The central bureaucracy was a countervailing power in and of itself, of course, and conflicts between the bureaucracy and the Emperor are an important part of Chinese political history. But this branch of central authority did not represent other vested interests and it did not have a geographic base, and hence it was a force against political fragmentation. In a recent paper, Chen et al (2023) have argued that the Imperial Examination in effect erased the checks and balances that were imposed by the aristocracy on the Emperor, because bureaucrats had no independent power base and they all had similar backgrounds and were therefore substitutable. This shifted power to the Emperor, who could easily purge (and even execute) disobedient or uncooperative officials. The absence of any kind of checks and balances short of a violent rebellion characterizes Chinese government throughout the Imperial period and the authors claim that this "provides an institutional explanation of the great divergence."

Corporate Immunities and the Rise of Parliaments in Europe

The landed aristocracy in Europe was not the only group to be exempted from some aspects of the ruler's authority and to be delegated administrative functions. The Church was also granted "immunities" (privileges that relieved one from a burden otherwise due) over its extensive holdings of land, and eventually important forms of self-government were granted to free towns (Communes). Below we describe in more detail the emergence of Communes and the role played by the Church in the evolution of European political institutions. Here we note that the extension of immunities to corporate bodies, and not just to powerful and special individuals, constitutes a significant departure from the Germanic tradition. Under that tradition, privileges were granted to special individuals in recognition for their personal loyalty or services. As corporate organizations gained economic importance, however, immunities were also granted to corporations. Immunities often involved mortgaging future revenues. The king, often strapped for resources needed for current military engagements, sold immunities and privileges to raise revenue.

The system of immunities was a precursor of modern civil and political rights. Individuals could claim well defined rights exclusively by virtue of their membership in specific groups (the most famous example was that members of an urban community could be released from their serfdom status). Moreover, these groups were defined by common economic and political interests, not by dynastic or ethnic ties. In China, the absence of corporate forms of social organizations implied that privileges could not be assigned to such groups. The most powerful Chinese clans probably enjoyed preferential treatment in the recruitment of the state bureaucracy and exerted greater influence. But nothing like the formal recognition of legal rights and immunities to representatives of powerful clans ever emerged in Imperial China.

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During the 13th and 14th centuries in several European kingdoms, the system of immunities evolved in the practice of convening assemblies of representatives of corporate interests. These assemblies or diets became over time one of the most ubiquitous bodies in European polities, and their emergence was one of the telling divergences between Europe and the rest of the world, including China. One thinks of Parliaments in the British Isles, états généraux in France, country diets (Landtage) in the Germanic lands, the Staten Generaal in the Low Countries, the Sejm in Poland, and Cortès in the Iberian Peninsula. By the end of the 15th century, at least twenty-five national and provisional assemblies operated in the main principalities of Europe (e.g., Meyers 1975; Herb 2003; Stasavage, 2020).

This practice grew out of two earlier traditions. The first is the example of old Church Councils or Synods. The second is the older Germanic tradition of local community gathering. These two traditions were merged during the Frankish kingdoms in the 8th century, when King Pippin started to regularly convene Church synods at the same time and place as the conferences held with his military élites. Royal advisory councils discussing both religious and secular matters also started to be convened at about the same time in England and in Spain under the Visigoth kingdom (Mitterauer 2010, p. 130, Maddicott 2004). These councils also reflected the duty (and right) of vassals to give advice to their lord, discussed above. They were a way to provide some unity in a highly decentralized and fragmented structure. According to Mitterauer (2010), p. 143, "the imperial diets and territorial diets provided a sort of organizing bond for the various scattered bearers of lordship autonomous in their own little sphere."

Eventually the meetings of representative bodies were institutionalized into royal councils, where the Church and the nobility met to give advice to the king and discuss the most important issues. The role and composition of these councils varied greatly across Europe, although they only or mainly existed in Western Europe. According to Hintze (1975), this reflects the influence of the tradition of the Western Church. An important prerogative of several of these councils was to elect the new king. Typically, the councils confirmed the heir to the throne. Yet there were cases in which a real election took place, such as in Poland, where the medieval wiec (assembly of nobles) at times exercised real discretion. The *veche* in east Slavic kingdoms such as Novgorod was a council of nobles.

Early on, the individuals attending these councils participated only on a personal basis, by virtue of their individual status, rights and duties to advise the prince. But during the 12th and 13th centuries this began to change, and participants started to formally represent territorial interests or corporate bodies. An early example is the Imperial diet at Roncaglia in 1158, where Lombard cities sent their delegates. Other examples are the council convened in Leon by the new King Alfonso IX of Castile

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in 1188, and similar assemblies in Aragon and Catalonia in the 13th century, where even village communities appeared together with royal towns and where city representatives had been elected by their local communities. The extent to which this happened varied across Europe. In Flanders the large towns were the only exponents of the Estates system in the 12th and 13th centuries, while in Hungary and Poland only a few royal cities were represented in royal diets. The frequency with which these assemblies met also varied across nations. England was unusual in the regularity of its meetings, which in the 14th century were convened more than once every two years (Mitterauer 2010, p. 138-139, van Zanden et al. 2012; Maddicott 2004). Acemoglu and Robinson (2019, pp. 182-185) refer to this development in Europe as a "profusion of parliaments" and note "a vibrant community life administering its own affairs, engaged in sustained attempts to influence and shape the more centralized political institutions" (p. 183)

Van Zanden et al. (2012) note that the initiative to convene assemblies that included representatives of towns and other corporate bodies was usually taken by the king. In this sense, the establishment of Parliaments as a new political institution was a "revolution from above". This is at first blush puzzling. Why would rulers give up power and allow associations that could coordinate actions against them? Throughout history, powerful rulers largely outside Europe carefully avoided this step. In Japan, the Tokugawa Shogunate forbade civil associations after the 17th century (Ikegami 2005), while in the 19th century the king of the African Kingdom of Dahomey (Benin) outlawed any association because he feared that they "might be injurious to the king's unlimited power" (Law, 1986, p. 249). In Czarist Russia the Duma was established only in the very last years of the Romanoff Empire (under serious pressure), and had little power. The answer to this question is that the initiative of convening such assemblies was generally taken by the sovereign when he was weak, or in moments of transition, like after a controversial succession or in times of war. In such situations, the king needed to consolidate loyalty or to raise additional revenue, and this led to forms of power sharing with representatives of corporate groups. Once the rulers got stronger, they would attempt to reverse the power sharing, leading to inevitable conflicts between the representative bodies and the monarchs. Interestingly, if the king was too weak or absent, as in the case of Northern Italy and the Netherlands, no national assemblies would be convened and Parliaments emerged later in time.

The growing political importance of corporate delegates in the system of Estates is a fundamental step in the direction of modern parliamentary systems. This evolution accelerated in the 13th and 14th centuries, in part as a result of changes in the military technology, as well as the growth of commerce and of urban centers. As armored cavalry was supplemented or replaced by mercenary troops, the

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cost of war rose, and had to be spread over increasing sectors of societies. By that time, urban and commercial centers had expanded, and it became natural to include representatives of these sectors in these gatherings, to obtain their consent to raise additional revenue for military expenses (Hintze 1975, p. 318-19, Hadenius 2001, p. 169, Finer 1997, p. 1029). Often consent to be taxed was given by these delegates in exchange for further strengthening of their immunities, so that the outcome of this bargaining led to the clarification and consolidation of the corporate rights represented in the Estates system. In the words of Hintze 1975, p. 346: "The rulers found themselves thoroughly dependent on the good will of those strata of the population capable of military and financial contributions. The goodwill naturally had to be rewarded (…) also by giving concessions and liberties of a political nature like those enshrined in the privileges of the Estates. (…) The active elements of the population who helped to build the state also gained a share in its government." It is no coincidence that English cities that had gained authority to collect taxes were also more likely to be represented in Parliament later on (Angelucci et al. 2022).

By the late Middle Ages, Western European societies had become a myriad of corporate bodies, each with its own special privileges, rights and responsibilities. The Church could be juxtaposed with the secular world. Inside the Church, there was a division between the regular and the secular clergy, and amongst the former the multiplying orders of monks and mendicants. Within the chartered town there were numerous merchant and craft guilds, universities, friendly societies and other corporate bodies. This growing corporate fragmentation implied the end of the personalized relationship of dependency that had been the characteristic of feudalism. It did not, however, replace it with a symmetrical relation between equals. "Instead, it created dualism: a two-way relationship between corporation and the Crown, between the 'Community of the realm' on the one side and the 'government' on the other" (Finer 1997, p. 1028). As the political clout of the Church began to diminish due to schisms and corruption in the fourteenth century, temporal authorities were confronted with a new countervailing power, namely the corporations they themselves had supported and encouraged. The rise of Parliaments was a way to integrate the new corporate bodies into the highly fragmented power structure of the feudal state. This can also contribute to explain why similar assemblies were unique to Western Europe, and did not emerge in China, nor in the Middle East. Such empires did not have corporate social organizations with which they had to negotiate. They did not seek the cooperation of their subjects but only their mandatory contributions (van Zanden et al. 2012).

As emphasized by Hadenius (2001), the attachment of political rights to corporate rather than dynastic groups had the effect of facilitating political cooperation and inclusiveness. Because corporations

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were defined by common socio-economic interests, they found it easier to cooperate with other corporations with similar goals, compared to dynastic groups. Moreover, being open (rather than ascriptive) groups, corporations had porous and vague boundaries, and this too reinforced cooperation and interactions between unrelated individuals. Thus, inter-group cooperation was easier than between groups based exclusively on kinship. In other words, an important difference between European corporations and Chinese clans is how they partitioned society. Individuals in Europe typically belonged to several overlapping social networks that changed over time. A clan structure, instead, partitioned society between several mutually exclusive and pre-defined dynastic groups. As a result, interpersonal conflict between individuals belonging to different clans was more likely to escalate in blood feuds between clans, through norms of loyalty and allegiance to other group members. In a world of corporations, such long-lasting Montagues vs. Capulets feuds were less likely to erupt, and their cohesion and relationship with others did not depend much on concepts such as honor and a reputation for toughness.

Moreover, the fact that corporations acquired political rights facilitated the emergence of a new and more cooperative social order. As emphasized by Hadenius (2001), the emergence of autonomous and diverse social groups created political diversity and a balance of power. These groups were held together primarily by class, location, and occupational identity, which made communication and coordination between different popular segments easier. Different groups within civil society had obtained guarantees of autonomy from the state, in the form of formal declarations and letters of their rights and privileges. These groups acquired enough standing to participate in political decision-making, and their interaction with the state was done under conditions that encouraged the peaceful negotiated resolution of conflict in most cases. In this way, at the national level, the coordination capacity of society was strengthened. Social groups acquired the ability to act as a counter-weight to the central power, and at times to enter into partnership with it (Hadenius, 2001, p. 173). Thus the *tiers etat* (third estate) in the French Estates General of 1789 was composed of merchants, farmers, artisans and professionals.

Overall, therefore, this evolution of representative institutions and their involvement of corporate delegates facilitated peaceful conflict resolution and power sharing, as well as national integration. Finally, the assignment of immunities to corporate groups strengthened group identity and awareness, further reinforcing the relevance and social pervasiveness of corporate organizations. Yet unlike clans, corporate groups were rarely involved in long-term blood feuds with other groups.

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IV LEGAL INSTITUTIONS

A weak ruler facing strong countervailing powers was not unique to Europe. But Europe was unique in that corporate organizations were recognized and protected by the legal system. Initially, voluntary associations like fraternities, guilds and parishes were not formally recognized as corporate structures. This changed during the 12th and 13th century, with the evolution of legal systems. Corporate structures played an important role in shaping and spurring this legal evolution, on both the demand and the supply side. As European legal institutions co-evolved with state institutions, this also left an imprint on political institutions, particular giving prominence to the principle of the Rule of Law.

As discussed in Section I, European corporations relied on external enforcement and formal procedures to sustain their contractual arrangements. This created a social demand for well-functioning legal institutions. The evolution of the "law merchant" or lex mercatoria, that accompanied the commercial revolution and the associated proliferation of private corporate structures, is a manifestation of this phenomenon. The law merchant evolved as a system of principles and procedures, developed by the community of merchants throughout Western Europe. Somewhat like the English common law, it evolved bottom up as a system of best practices, enforced through a system of merchant courts. The law merchant was said to reconcile widely different local customs, and minimize conflict and frictions between merchants transacting at arm's length – although this standardization has recently been questioned by Donahue (2004) and Kadens (2015). Often the principles embodied in the law merchant, such as the principles of reciprocity of rights and of good faith, had appeared first in private agreements, and were then defined more precisely in the law merchant, acquiring a more universal nature. Adjudication was decided by courts of merchants, local officials and jurists. Since judges in these courts had few enforcement powers, the main sanction for refusal to comply with the court decision was reputational damage and expulsion from the community of traders (Milgrom, North and Weingast, 1990).

Thanks to its customary origin and close links to actual commercial practice, the law merchant introduced several legal innovations that gave additional impetus to the growth of corporations, bringing about a more precise definition of property rights and corporate organizations. The codification of bankruptcy procedures and the development of various financial instruments are some of the prime examples of such innovations. Merchant law also gave a precise form to new corporate structures, such as the commenda, a kind of joint venture between a traveling merchant and a sedentary financier. The commenda was used to execute long distance trade; each investor was liable only for the amount invested, and profits were shared between the investor and the travelling trader (Berman 1983; Harris, 2020). Because of its bottom up origin, the evolution of Europe's societies

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reflected, far more than in China, the daily needs of the economy and the dependence of the economy on orderly cooperation and following agreed-upon rules, rather than the desire of the state and its rulers for order and obedience.

The evolution of corporations from informal voluntary associations to corporate organizations with specific legal features was important for several reasons. First, this evolution clarified that the corporation was a separate legal entity, distinct from its members. By implication, corporations acquired a permanent status, unlike the transient status of individual members. Guilds, universities and other associations were meant to last generations. This can be inferred from membership rules, that spelled out how to arrange successions within the organization and sometimes even allowed for inheritance clauses. It can also be inferred from the high observed survival rates of corporations for several centuries and well into the eighteenth century (De Moor 2008, p. 196). Second, thanks to the legal revolution, corporations became the holders of specific rights and responsibilities. This enabled them to enter into long term contracts, to sue and be sued, to issue debt that was an exclusive liability of the corporation and not of its administrators nor of its members, and to engage in a variety of contractual arrangements that enabled corporate organizations to fulfill new and important economic roles. Corporations were not responsible for the liabilities of its members or vice versa. The fact that corporations could act as a single body and be represented by their delegates also facilitated their acquisition of important political roles, as discussed below.

On the supply side, corporations facilitated the evolution of legal systems by training and requiring the services of generations of jurists and legal scholars. The administration of legal activities in Europe was normally carried out by specialists with their own distinct training that was separate from other types of professional education (e.g., religious training). Medieval Europe was not the only region in the world to develop some form of civil law. But it was different from non-European legal systems in that it was run by professionals, with both judges and advocates expected to have legal training. These specialists developed their own scholarly literature, rules, codes of conduct, and so on. The close interaction between academic judicial learning and legal practice became a defining characteristic of civil law and legal procedure in the West. The study of law did not just consist of memorizing the actual laws on the books, but also included what legal scholars said about them and how they analyzed and interpreted them. It was regarded as a logical and coherent living body, a corpus iuris, and jurists worked hard to settle internal contradictions and generalized principles from cases and rules.

The fact that legal institutions emerged so early in Europe, and before the consolidation of other state institutions, exerted a key influence on the evolution of political institutions, and gave a particular

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prominence to the principle of the rule of law. This principle says that legislative and executive sovereignty are limited by a pre-existing body of law. The notion of the rule of law is built on the logical distinction between new legislation and a pre-existing body of law. As stressed by Hayek (1973, p. 72), law is older than legislation. Existing legal rules also constrain how new legislation is written, and the sovereign cannot ignore them. Thus, the rule of law imposes binding constraints on the absolutist powers of the state. The concept of the Rule of Law was already recognized in antiquity (among others by Aristotle and Cicero). However, the novelty that emerged in medieval Europe was that it became the foundation of the relationship between ruler and subjects. It was in that capacity that the principle became increasingly influential in Medieval Europe.

The act of creating new formal legislation came after the reformulation of legal concepts from antiquity within a pre-existing and commonly accepted legal order. Medieval legal institutions and jurists codified and clarified existing legal practices and traditions. They did not create law, they "discovered" it (Kern 1939, p. 151). The pre-existence of judicial institutions that enforced a commonly accepted legal framework made it easier to recognize the importance of the distinction between the existing law and new acts of government. It also facilitated the imposition of constraints on the absolutist powers of the ruler, and in particular it made it possible to subordinate his legislative power to the judicial powers of the state. In the words of Strayer (1970), p.23-24, in Europe "the state was based on law and existed to enforce the law. The ruler was bound morally (and often politically) by the law."

The prominence of the rule of law in European state formation thus reflects the historical sequence of functions that early European states performed, as well as the sequence with which different state institutions emerged. Overturning the decision of a lower (baronial) court had the effect of undermining the authority of the baron and enhancing the king's authority with the subordinates of the baron. The administration of justice was thus an important way in which kings and greater lords tried to overcome the political fragmentation of their polities. It was also a conspicuous source of revenue. Building specialized institutions for dealing with domestic affairs was thus an important priority for European sovereigns. Permanent legal institutions were created as early as permanent financial institutions, and well before sophisticated institutions dealing with defense or foreign policy (Strayer, 1970, p. 32). During the late 11th century and subsequently in the 12th and 13th centuries, "law became disembedded. Politically, there emerged for the first time strong central authorities, both ecclesiastical and secular, whose control reached down, through delegated officials, from the center to the localities" (Berman, 1983, p. 85). By the end of the 13th century, central courts in England and

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France were staffed with highly trained legal experts who worked for the ruler's administration (Strayer, 1970, p. 32-33).

The emergence of legal institutions at a very early stage of state formation is important, because it left an imprint on the subsequent evolution of the state. In the words of Strayer (1970), p. 61: "Medieval states (…) were law-states. They had acquired their power largely by developing their judicial institutions and by protecting the property of the possessing classes. The most typical expression of internal sovereignty was the right of final judgement in a high court". Charles Tilly's quip that War made the State and the States made War has been cited so often that it has turned into a cliché. But that does not make it either accurate or complete. It would be equally or more correct to state that Law made the State and the State made Laws. Large military capacity was built only once states had already developed their judicial institutions. Early on, internal political fragmentation was still too high, and the cost of raising a large standing army was unaffordable. Between 1215 and 1290 there was no major war involving large European states, and emerging states concentrated on developing formal institutions for internal affairs (Strayer 1970, p. 81). Once resources had to be found to pay for the wars, during the fourteenth century, legal principles had already permeated society and state institutions. This mattered for how wars affected the evolution of political institutions.

By contrast, no notion corresponding to the rule of law emerged in China. Chinese Emperors generally had absolute powers and the very idea of legal checks to their power was unfamiliar to them. During the Tang dynasty (618-907), the central bureaucracy could impose checks and balances on imperial authority, but in the later periods the Emperor had found ways to bypass them and its powers were only constrained by the limited state capacity and by the informal codes known as li. While it has been argued that such constraints might be seen as some form of the rule of law (Mei, 1932), it was a very different idea from the one in Europe, where the principle of the rule of law had a prominent role in early state formation.

The absence of a principle akin to the rule of law in China also reflects the features and evolution of its legal system. According to traditional historiography, the Chinese legal system was built primarily for vertical, not horizontal contacts. Bodde and Morris (1970) stress that Chinese law had little interest in defending the rights — including property rights — of individuals against others or against the state, and instead was above all interested in criminal acts. The emphasis on criminal acts was motivated not by their being a violation of someone's rights, but because they disrupted social order— a subtle but important difference. The absence of a formal and codified civil code in China can be explained at least in part because China did not need one: individual economic and civil rights were

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protected by other (non-legal) means. As discussed in Section I, most disputes were resolved through mediation in extra-legal bodies, such as the clan and the council of village elders. If a dispute made it to the court, the court itself preferred arbitration and negotiation over making a ruling itself. Disputes within the extended family would be settled by other kinsmen; failing that, the court would appoint subcounty overseers (zongli), village heads, or even yamen runners as arbiters (Allee, 1994, p. 139). As a result "on the whole, China was well governed" and the social structure squarely founded on families and clans "did an excellent job in keeping social tranquility" (Teng, 1977, p. 143). This also reflected the strong preference in Chinese tradition for settlement of disputes by the customs of society rather than by formal litigation. After all, Confucius himself said that "it would be better if there were no lawsuits at all" (Analects, 12.13).

Unlike in Europe, the Chinese legal system did not evolve from the bottom up, but changed only slowly over time, reflecting legal codes formulated in the distant past, more than the current needs of civil society. The legal statutes pertaining to the civil economy in the Qing period were in large parts lifted from Ming codes, which in turn came from the 653 AD Tang codes — so that the legal principles "can be said to have existed for twelve centuries" subject to minor annotations and clarifications (Jing, 1994, p. 82). The Tang codes are often regarded as the most important legal work in all of East Asian history, and one that has influenced China's legal system till the present day, as well as those in Japan, Vietnam, and Korea (Johnson, 1995, p. 217). The Tang legal system was a standardized code that applied everywhere. It fused Confucian ideas of filial piety and obedience to family heads with the strict and rigorous enforcement of formal laws in the legalist tradition. The legalist tradition stood in direct opposition to Confucian thought. Legalism or *Fajia*, emerged in China in the fourth and third centuries BC. It postulated a Hobbesian world-view in which a strong ruler enforced laws to prevent people from misbehaving. Their aim was to create an all-powerful state authority, which could forcibly put an end to the prevailing disorder. In the legalist view, China was to have a rule by law rather than a rule of law (Bodde, 1954, p. 168).

Even the harsh penal codes introduced by the legalists reflected the commitment to family as the fundamental unit of organization in society and the commitment to hierarchical structures within the extended family. Punishment for identical crimes varied depending on the identity of perpetrator and victim, and not just the nature and circumstances of the crime. The code recognized eight "privileged groups," among them members of the imperial family, descendants of former imperial houses, and above all high officials (mandarins) and their immediate family members - although those who were so privileged were also expected to abide by a more demanding moral code.

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Over time, the various legal codes incorporated more and more "civil" content, as Huang (2016) has noted, and recent research has objected to the idea that China had nothing like European civil law. It would be more accurate to argue that in China the boundaries between criminal and civil law were less clear-cut (Lau, 2017), even though civil law was not entirely absent and can be shown to have existed in the Qing codes (Perdue, 2004, p. 53). As pointed out by Huang, "codified law retained its earlier penal frame-work, and packaged most provisions about civil matters with punishments", though in practice the courts rarely employed legal penalties in minor civil matters (Huang, 2019, p. 38). Altogether, he notes, civil provisions in traditional Chinese legal codes appear rather thin compared to European legal tradition.

Because corporate structures were by and large absent, China also did not develop the concept of legal personality. This implied that there was no distinction between the state and the Emperor. Moreover, the absence of a concept of the state as a legal entity made it more difficult to defend individual rights against the state, and to sue public officials. The notion that state authority could be subject to legal limits and formal procedures, that individuals had specific rights, and that the relation between the state and the individual was regulated by the law, was alien to Chinese society. Imperial arbitrariness was limited by Confucian moral strictures, traditional conceptions of fairness and, during some periods, also by constraints imposed by the state bureaucracy. But the principle of the rule of codified formal law and the procedures for power sharing and political representation did not emerge in imperial China.

Summarizing, in many ways the differences between Chinese and European civil law were stark. Much like in every society, there was a significant difference in both worlds between the formal legal statutes and the practice of law on the ground. As the grip of the Mandarin central bureaucracy on the country weakened during the Ming and Qing dynasties, that gap probably grew. But the state's interests were above all the maintenance of stability and public security, protecting its tax base, and the resolution of conflict (Jing, 1994, p. 82). Given these goals, and how the legal system evolved, it is not surprising that the principle of the rule of law did not shape the evolution of Chinese political institutions.

V DIRECT INFLUENCE OF SOCIAL ORGANIZATIONS ON POLITICAL INSTITUTIONS

Corporate organizations also exerted a direct influence on the evolution of European political institutions. During the Medieval period several principles of corporate governance were transplanted and adapted from corporations to political bodies. Even when no transplantation took place, principles of fairness that emerged in the design and governance of corporate structures permeated notions of

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political legitimacy, and in this way they influenced the evolution of political institutions. Something similar happened in China, although in a different direction, as moral principles imbedded in linage organizations contributed to give stability to the Imperial regime.

The corporate origins of European constitutional principles

The specific institutional features of medieval states were not the outcome of a deliberate plan or design. They emerged from a process of trial and error that reflected the underlying organization of society. Contractual arrangements were of paramount importance, and legal principles and procedures had a particular sanctity. Both the ecclesiastic and secular parts of society consisted of a multitude of corporate groups, such as monastic orders, confraternities, universities, guilds, communes. All these group had to solve similar problems of collective action: defining a hierarchy, establishing a procedure for making decision, solving principal-agents problems, overcoming free-riding and other opportunistic behaviors, holding representatives accountable, undertaking mutual obligations, resolving conflicts of interest through negotiation or arbitrage. Medieval jurists and thinkers who thought about these issues and tried to solve these problems on a larger political scale had first-hand experience of the functioning of various corporations --- guilds, universities, religious orders --- and how they were organized. "The everyday reality exercised a pervasive influence on their ways of thinking about the structures of human societies in general, including political societies." – (Tierney, 1982, p. 11.)

Contemporaries were conscious of the conceptual similarities between corporate arrangements and political institutions. The new political entities that emerged between the 12th and 14th centuries, the reorganized Church, the Communes, the Parliaments and other secular polities, were unequivocally seen as corporate bodies, conceptually not dissimilar from the corporate organizations that already existed, such as guilds or monastic orders. The underlying notion was that a polity was not just a collection of individuals, but it was a single entity with its own fictitious personality and legal persona, like a corporation, and that as a consequence an assembly representing this single entity was also a corporate body.

The conceptualization of political entities as corporate bodies had obvious implications for how political institutions evolved. Rules of private law were transformed into specific provisions of constitutional law. Corporate charters were taken and adapted from one existing organization to a new one. For instance, this is what happened when the French city of Agde became a Commune, and its constitution was modelled on the chapters of the cathedral of the city that had just become a corporate body (Tierney 1982, p11). Similarly, the monastic order of Cluny (founded in the early 10th century) is commonly regarded as having served as a model for the Catholic Church (Berman

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1983, p. 88). The order of Cluny is probably the first truly translocal corporation besides the Church itself, since it controlled over a thousand of monasteries dispersed throughout Europe to the Abbey of Cluny in Southern France. The Cluniac movement staunchly supported the translocal corporation of the papacy and produced four popes itself.

The adaptation of concepts from corporate organizations to constitutional provisions is reflected in several distinctive features of European political institutions. Although the initiative to convene representative assemblies was usually taken by the king, the principle of representation was adapted from existing corporate practice, primarily the Church. This principle, known as plena potestas, states that a delegate can speak in the name of a community or of a corporate body, and also that his word could bind the whole community. The novel idea is that, once the legal representative of the corporation has received "full powers" (plena potestas), it can bind the whole group with his acts even if each single member has not consented to this act in advance (Stasavage, 2020).

The principle of plena potestas emerged in private law, it was given a precise formulation in the canonistic doctrine, and then it was used in a constitutional context to define the powers of elected members in representative assemblies. Its Roman civil-law origins derive from the time of Alexander Severus (Post, 1943, p. 356). Before that, even in private arrangements, under Roman law the agent could not bind his principal to a third party. By the 12th century, it was widely accepted in legal circles in Europe and soon extended to diplomats (Post, 1943, p. 366), and in the early 13th century it was applied to political assemblies. This implied that a representative to an assembly did not have to constantly refer back and consult with their constituencies when agreeing to a royal request (Stasavage, 2020, p. 120). This idea follows from the logic that a corporate body is a distinct legal entity, separate from that of the individuals that compose it. As such, the approval of the corporation does not need to coincide with the approval of all the members of the corporation. As emphasized by Finer (1997), p. 1025, the political application of this principle was entirely new. It was absent from the Greek and Roman republics, based on direct citizenship. The idea that a representative could bind the corporate group in whose name he was speaking emerged later on, under canon law, and then it found an application to secular political institutions (see Post, 1943, Tiernay 1982, p. 24).[6] Nothing similar to the principle of representation ever emerged in Imperial China.

The "right of consent" is yet another fundamental principle that was adapted from corporate to political practice. The canon law of corporations contained the concept that, in specific situations,

[6] The first time that this happened in a political context was when Pope Innocent III convened representatives with full powers of cities in the Papal States in the early 13th century. Other early examples of representatives with full powers are found in the general Chapter of the Dominican Order, and in assemblies of city representatives convened in Tuscany by Frederick II in the 13th century (Tierney, 1982, p. 24).

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executive authority cannot act without the consent of a consultative body, on the principle that those who are directly affected by a decision have the right to participate in it. As stressed by Stasavage (2020), this was an application of the principle in Roman civil law, Quod Omnes Tangit, essentially meaning that matters that concern all should be approved by all. The canonists stressed that what was required was the approval by the corporation as a whole, however, not by each individual member. The first formulation in a medieval text is in the *decretum* by Gratian (1140), a Bolognese monk and jurist, who compiled the first systematic code of canon law. This principle was then applied to political councils, both in theory and in practice, first in ecclesiastic councils by Pope Innocent III and then by emperors and kings. By the 13th century it is widely referred to as a central principle of government. In 1244, it was cited directly by the Holy Roman Emperor Frederick II in his letter summoning an imperial council to meet in Verona, and it was cited by Edward I of England in his convocation of Parliament in 1295 (Post 1964, p. 212).

A third concept, also borrowed from canon law, was that of the maior et sanior pars, or "greater and sounder part," which in canonistic doctrine could express the will of a corporate group. Self-governing corporate bodies in medieval Europe needed election rules, and in the view of medieval canonical law this rule assured that the right decision would be made. If the majority decision was judged to be unsound, an appeal to higher authority could be made. Within the Church, where these rules originated, that was fairly easy. But elsewhere, the rule was vague and unstable. As early as St Benedict, rule-makers discovered that every defeated minority claimed to be 'sanior' than the majority (McLean et al. 2007, p. 43). That said, the continuing struggle to find a voting mechanism that reflects the opinions of most people in which voting is part of governance became a topic of interest in a world of political thought., It occupied some of the best minds of late medieval Europe such as Ramon Llull and Nicholas of Cusa (Cusanus), as well as those of Enlightenment Europe such as Condorcet and Borda.

Majority voting, of course, was increasingly relied upon in many medieval contexts. The "majority principle", namely the idea that it is legitimate for a political group to decide by simple majority rather than unanimity, became an essential part of corporate practice. The tradition of Germanic assemblies was to decide by unanimity or by acclamation (a way to establish very broad consensus amongst all participating individuals). According to Ruffini (1976), in medieval Europe the majority principle was first formally introduced in small assemblies of guilds and other civil associations, then it

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emerged in decision taken by Communes, and finally in larger political assemblies. Italian Communes are amongst the first political bodies in medieval Europe to formally decide by simple majority.[7]

All these instances exemplify a common sequence in the evolution of institutions during the 12th and 13th centuries. First a norm of private law was absorbed by church law; subsequently it became a principle of constitutional law within the Church's administrative structure; and finally, it returned into the secular domain as a constitutional norm or practice – Tierney (1982), p. 85; Berman (1983). This sequence also highlights that, in the emergence of all important components of modern political structures, the existence of the Catholic Church and its growing reliance on legal foundations was decisive. If we are to understand the roots of the institutional Great Divergence, any account that leaves out the effects of the medieval Latin Church would be deficient. Tierney (1982) who stresses this point adds immediately that it is not Christianity as such that explains the unusual turn that politics took in the West, but the corporate forms that religious institutions took.

Modern democracies are built on much more sophisticated principles and solid foundations than those that emerged in the 12th and 13th centuries. In particular, since the late 17th century it is commonly understood that representative democracy is not sufficient to prevent political abuse by a majority, and that checks and balances and separation of powers are also needed. Although some of these ideas became popular and influential later on, during the Age of Enlightenment, their roots can be traced back to 13th century notions of mixed government and corporate politics, which in turn were derived from a specific kind of corporate organizations.

Legitimacy and Values

The contractual and legal arrangements that permeated civil society in Europe were relevant not only because they influenced the ideas of jurists and scholars. They also had a deep impact on what citizens felt entitled to, and more broadly on the sources of political legitimacy. As noted above, in the early steps of state formation, besides the military, judicial and legal institutions were the most important manifestations of state powers. These institutions protected private property and enforced private agreements. The legitimacy of the state was tied to the expectation that these acts of government

[7] In the early 12th century Communal councils and consuls typically decided under majority rule, and important decisions were often taken through multiple and sometimes complex voting procedures designed to prevent undue influence by powerful individuals. In Venice, for instance, after the late 13th century the Doge was elected through a sequence of nine electoral councils. An early example of the application of the majority principle in large political assemblies is the election of Emperor of Henri VII in 1308. His brother, the archbishop Baldwin, successfully argued that the group of ecclesiastic and lay princes that elected the emperor was a corporate body, and that the right of electing the emperor belonged to such body, and not to the individual princes. As such, the electoral college could decide by majority and no single elector retained a veto right.

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would be carried out fairly and without arbitrary abuse, according to established customary rules and procedures. The political right of consent was a natural extension of this expectation.

More generally, government by consent was a natural extension of the practical arrangements that permeated medieval societies. Tierney (1982, p. 40) points out that the realities of medieval life were saturated with "consensual practices." Corporate groups chose their leaders by consent, and Church government was a structure of elective offices. Feudal contracts had a strong element of consent as well. From these origins, the Enlightenment ideas of Locke and Rousseau that connected legitimacy with consent seem almost a natural extension. To be sure, medieval societies were highly hierarchical, yet individuals were accustomed to have specific rights, and in particular property rights, formally defined and protected by the law. These rights and legal procedures, and in particular protection of private property, also entailed limitations on what sovereigns could do. Existing practices could not be changed by the sovereign without due process, just like property could not be transferred without due process – cf. Strayer (1973), p. 61. Moreover, viewing the state as a corporate body entailed that it had a legal personality, distinct from that of the king or its public officials. This in turn allowed a distinction between the private domain of the king, and his acts as a sovereign. It also implied that the exercise of sovereign authority could be regulated, and that the agents of the Crown or of the state could even be sued by a private individual or corporation (Finer, 1997, p. 1299).

In other words, individuals were not just passive subjects. They were for all practical purposes "citizens" avant la lettre, entitled to specific and highly regulated economic rights. A legal framework had developed to sustain and enforce existing social organizations. The notion of political rights and the right of consent were natural extensions of this framework. The extension of consensual practices and power sharing also to secular politics, and the principle that the ruler was also bound by the law, were natural steps (although highly significant) in the evolution of social arrangements.

China was very different in these respects. The specific content of Confucian tradition and culture encouraged unquestioning loyalty to the ruler and the stability of an autocratic regime. Unlike in ancient Greece and in Rome, Chinese culture emphasized the primacy of the collective, and in particular of the family, over the individual. Ancestor worship and respect for paternal authority was paramount. Paternalism and patriarchy have specific implications for political relations, since they accustom individuals to hierarchy, inequality of status and unquestioned authority. The family is seen as a network of duties, not rights, and the State as an enlarged family. Finer (1997, vol I, p. 455) describes the tenets of ancient Chinese culture as: "Collective and mutual responsibility, not individualism; authoritarianism, paternalism, and absolutism, not self-determination; inequality and hierarchy, not equality before the law; subjects, not citizens, duties not rights".

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The key principles of Confucianism also encouraged the emergence of a highly educated professional bureaucracy. Confucianism posits that all things, including human beings, are unequal, and that men differ greatly in intelligence, ability and moral character. A hierarchical social order thus fits perfectly with Confucian social ideology (Ho 1964). Moreover, besides the primacy of the family, one of the key tenets of this doctrine is that education, rather than coercion, is instrumental to bring out humanity and benevolence in individuals. Good government is government by good men, not of laws (Finer 1997, Vol I, p. 459). And good men are scholars who know the classics and have invested in their education, and who gained responsibility in government "because of their ability as intellectuals and men of letters and their effectiveness in handling people. […] Consequently one can say that traditional Chinese government was uniquely devoted to 'rule by the cultivated' ". (Ch'ien 1982, p. 17).

The Chinese principles of the "rule of the good men" and "rule of the cultivated" were quite different from the European ideas of the rule of law and from the concept of government by representatives of different interest groups in society. The basic notion of the supremacy of learning in government was a product of many centuries of evolving beliefs. It was a classic case of culture and institutions reinforcing and strengthening one another: the belief in the supremacy of a government by the educated, supported by the Imperial examination system, in turn produced a literate civil service of scholar-officials that ran the country at level of counties, prefectures, ministers, councilors, and so on. It was a system that was as self-enforcing as it was stable.

There is no doubt that these long-established cultural traits increased the legitimacy of the Emperor, and were congenial to the Chinese system of government. They also predated the emergence of the first Emperor of unified China under the Qin dynasty (221-206 BC). This value system centered on the family and the cult of ancestors was systematized by Confucius (551-479 BC) and by other sages, in particular Mencius (371-289 BC). Culture is not immutable, however, and Confucianism petered out after the fall of the Han dynasty, making a comeback during the Song.[8] As argued by Acemoglu and Robinson (2021), it is conceivable that this system of values could have evolved in other directions, if political institutions and power relations in society had been different. The Emperor was endowed with a "mandate from heaven" (*tian ming*), but what exactly that meant was open to some interpretation and changed over time. Wood (1995) argues that the philosophers wanted a world in which the Emperor deserved obedience as long as he himself was obedient to a set of natural laws.

[8] During the 400 years of disunity after the fall of the Han dynasty and before the Tang, Confucianism was replaced by Buddhism and Taoism. During the Tang dynasty, Daoism flourished (especially because it was supported by the Imperial family), and Buddhism emerged as a truly Chinese faith, a fundamental part of the economy, regulated and sponsored by the state (Lewis 2009, pp. 214-15). Buddhism suffered a major set-back during the anti-Buddhist persecution initiated by Emperor Wuzong (r. 840-46), a fanatic Daoist.

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During the Han dynasty the theory of cosmic resonance implied that bad government would mean that the state was no longer in sync with nature. Hence natural disasters could be used by high officials to demand policy changes, and in extreme cases undermine the legitimacy of the dynasty itself (Bol, 2008, p. 123). During the Song, the philosophical foundations of autocracy were weakened. The political reforms introduced by the "New Policies" of the great statesman Wang Anshi in the 1070s were part of his more skeptical view of autocracy. Bol (2008) argues that the true characteristic of the Song regime was not Imperial autocracy, but the rule of a government of scholar-officials.

Yet this approach was contested, and in the longer run, neo-Confucianism turned out to support more autocratic regimes. The Mongol conquest of 1279 and the Ming overthrow of the Yuan dynasty brought to power Emperors who exhibited more and more autocratic tendencies, none more than the Hongwu Emperor, the founder of the Ming dynasty. As Elman (2000, p. 70) has argued, the early Ming Emperors harnessed neo-Confucianism to support more autocratic power for the Emperors. The fourth son and successor of Hongwu, the Yongle Emperor (who ruled in 1402-1424) was wholly committed to the intellectual heritage of the great founder of Neo-Confucian ideology, Zhu Xi. The political coherence of Imperial rule under the Ming relied on "intimate ties and selective reproduction" of Neo-confucian learning. In the end, the Hongwu Emperor established once and for all the supremacy of the Emperor over the bureaucracy, and made it abundantly clear that he would have final say over how neo-Confucian ideas and arguments would be implemented.

VI THE CHURCH AND FREE TOWNS

Two specific European organizations exerted a special influence on the evolution of European institutions during the Middle ages: the Church and self-governing towns. As already discussed, both of them were instances of corporate organizations. They were also unique European organizations, that did not have equivalent counterparts in China. We now turn to the contribution of these two organizations to the evolution of European state institutions.

The Western Church

The Western Church influence on European political institutions occurred in more than one way. First, through the specific contents of its moral and religious principles. Second, the Church created a dual structure of powers and of authority: ecclesiastic and secular. This contributed to internal and external political fragmentation. Third, the Church directed generations of scholars from all over Europe to the formal study of law, facilitating the emergence of a transnational class of legal experts and professionals. And fourth, through canon law the Church set an example for secular authorities of how to organize and govern a community. We now briefly discuss each of these points.

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Christianity promoted the unity of an enlarged community that transcended the kin and the tribe. All human beings were equal before God, no matter where they came from, where they were born, and how rich and powerful they were. Moreover, it was a fundamental belief that rulers did not descend from God and had no mandate from heaven, but were human beings like everyone else. These values had two important political implications. First, there was a universal community of faithful. This community could be represented by the Church as an organization with a distinctive collective and legal identity. Second, even the most powerful individuals were subject to a superior body of law, the divine law, with its own absolute criteria of ethics and justice.

These two implications acquired particular relevance in medieval Europe thanks to the duality in the distribution of power between Church and secular rulers. As noted by Fukuyama (2011), religious principles can be effective in constraining political rulers only if religious authority is independent of political authority and it is sufficiently strong. In the early history of the Carolingian Empire, the Papacy tried to fulfill these conditions and assure that the Church was the source of legitimacy of temporal rulers. When Pepin the Short, Charlemagne's father, took over power in the Frankish kingdom from the Merovingians, he needed legitimation from the Papacy. His son, Charlemagne, was crowned in Rome by Pope Leo III in 800, to underline the Church as superior to the secular rulers (though reputedly this was done to the great annoyance of Charlemagne). These conditions were reversed in the following century, called the century of the "bad popes", during which the Church was weakened by scandals and internal feuding and the strong Holy Roman emperors of the Ottonian and Salian dynasty appointed 12 out of 25 popes (Moller and Stavnskaer Doucette 2022). But imperial supremacy did not last long, and in 1075 Pope Gregory VII declared the legal supremacy of the Pope over the entire Western Church and the independence of the Church from the emperor. After a protracted conflict with the emperor, a compromise was found in which neither side could claim full supremacy. The Concordat of Worms in 1122 confirmed a dual structure, with the separation of ecclesiastic and secular authorities in competition with each other, and each one limiting the authority of the other.

This outcome had several practical consequences of great importance. First, it prevented the emergence of a monolithic theocracy, consolidating the separation of Church and State. In this, the path of Western Europe is unique and distinct from societies where the supreme political leader claims a direct link to god and is also the head of the religious apparatus.

Second, by weakening imperial authority, the coexistence of ecclesiastical and temporal authorities reinforced the tendencies for internal and external political fragmentation under the umbrella of the Church. The existence of the Church as a powerful and transnational institution created a fundamental

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countervailing force to the violent thugs and bandit leaders that carried titles like “king” and “duke.” The rise of Communes in Europe owes much also to the new environment created by the Gregorian revolution and to the political support of the Church. Often the Church was on the side of Communes who sought to gain autonomy from bishops appointed by the Emperor. The city of Cambrai in Northern France is an early example. Shortly after Pope Gregory VII declaration of independence of the Church, the merchants of Cambrai together with a papalist priest led a revolt against the imperial bishop that had ruled the city, and claimed autonomy as a Commune. The revolt was put down, but it succeeded a second time two years later, again under the leadership of a Gregorian priest, when a new bishop was appointed by the emperor. Cambrai remained a Commune until 1106, when the emperor intervened and reestablished his authority. But after the Concordat of Worms in 1122, Cambrai was finally granted a charter of liberties. The example of Cambrai was followed by other episcopal cities in Norther France. In these episodes, and in several others in the Netherlands and Northern Italy, cities rose against imperial bishops with the support of the Church (Berman 1983, p 365). Moreover, the Church was always very careful in supporting a balance of power between European sovereigns, making sure that no hegemonic force would prevail (Moller and Stavnskaer Doucette 2022).

Third, each body (secular and ecclesiastic) had to develop and maintain its own legal system and organization. This clear demarcation of authority, as well as the competition with the Church, also spurred the secular powers to clarify their role and to consolidate their organizational and legal structures. In the words of Strayer (1973, p. 22: “The Gregorian concept of the Church almost demanded the invention of the concept of the State,” and reinforced the tendency to consider the state as responsible for the administration of justice (dispute resolution and internal protection). When the Holy Roman Emperor was in close cooperation with the Church, he could exploit European religious unity to invoke supremacy over other secular rulers. The Investiture conflict weakened the Emperor, since it implied that religious unity could be maintained even under a plurality of secular political organizations. This loss of authority was compounded by a clearer demarcation of secular and religious domains. The fact that the Emperor was no longer responsible for the joint guidance of the Church and for the appointment of bishops implied that secular rulers had lost some of their authority. To regain this authority, the administration of justice and protection of internal security were obvious targets of power. But for this to be possible, legal and judicial capacity had to be created.

Fourth, a plurality of jurisdictions was created. Each jurisdiction would have to respect the rights of the other jurisdiction, as limits on its own sovereignty. This also implied that “the respective heads of each body would be bound by the law which they themselves had enacted; (…) they must rule

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under the law" (Berman, 1983, p. 291). The rule of law, then, was a precondition for the peaceful coexistence of the secular and ecclesiastic authorities.

Thus, the institution of the Western Church played a critical role in the establishment of the rule of law. In its modern incarnation, the rule of law entails the separation of legislative, administrative and judicial powers. As pointed out by Berman (1983, p. 293), the medieval concept of the rule of law shared two features with its later and modern counterpart: First, power was divided providing a natural system of "checks and balances." Second, law was derived from, and rooted in, a reality that transcended the existing structure of political power, first divine and natural justice and later human rights, democratic values, and other related beliefs.

The Church played a subtle but important role in the growth of the State in Europe and thus illustrates how the rise of corporations in Europe led to modern political institutions. The Pope and the synods issued new laws, and there was an administrative hierarchy to execute them and a judicial hierarchy to interpret them. The Church had a strong collective identity, it raised revenues and retained important secular powers, and occasionally it even raised armies. In building its organizational structure, the Church borrowed secular legal ideas and exploited arrangements that were evolving in civil society. These arrangements in turn influenced the evolution of medieval state institutions in a two-way interaction between the ecclesiastic and secular spheres of government. The same individuals moved from one sphere to the other: scholars trained in canon law staffed the bureaucracy of the Church but also became advisors of kings, professors of law and administrators. Thus, similar institutional features emerged both in ecclesiastic and secular structures (Tierney 1982, pp. 10-11, Moller and Stavnskaer Doucette 2022).

Free towns and the evolution of political institutions

The rise of Communes in the 11th-13th centuries also deserves a special emphasis, in light of its fundamental role in the evolution of European political institutions. The charters of free towns contained on a small scale several of the foundational constitutional principles on which modern democracies are based: protection of civil rights and political freedoms of individuals, elections and representative government, separation of judicial, legislative and executive powers, and term limits for office. These principles exemplified how political institutions could be designed, and shaped perceptions of legitimacy and fairness. A rich and detailed literature going back all the way to the work of François Guizot in the 1830s has looked at urban communes and city states as the pioneers of representative government in Europe, ruled by merchants and later on joined by craftsmen. From the earliest days of the revival of Roman Law, legal scholars struggled with the questions of sovereign rights vs abuse of power. The solutions first applied to religious organizations found their most

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advanced application in the autonomous communities. Urban republicanism never amounted to a full-fledged political theory as much as a series of demands for being consulted and represented in local decision making, but it helped create the kind of political culture that influenced the evolution of sovereign constitutions. Whether they were "democratic" in the modern sense of the word remains in dispute, but what is clear is that nothing like the civic institutions that emerged in the towns of Germany, the Low Countries, and Italy can be seen either in China or for that matter elsewhere in Asia and the Middle East (Bosker et al., 2013).

During the 11th century it became increasingly normal for ordinary citizens to take part in their cities' governance and the same became true for local government in general. In small villages this assembly included all citizens, but in larger towns a process of delegation began to take place. Committees with "upright men" were formed to take care of specific affairs. By the 12th century, this became the norm, and most Italian cities were governed by "consuls", who overlooked the city budget and resolved disputes between citizens and ecclesiastic authorities (the bishop or cathedral chapters). These consuls generally acted on behalf of the different sections in the city. In Florence these were the parishes and the neighborhood associations. In Pisa they represented territorial subdivisions. The most important of these were the merchant consuls.

Unlike the merchant guilds of Northern Europe, in most Italian cities the interests of merchants were represented in the government through dedicated consular delegations, although merchant guilds existed in the medieval Italian towns. In Genoa and Venice, guilds came late, in Genoa only in the fourteenth century and in Venice it was said the guilds were not needed because they all lived in one guild (cited by Ogilvie, 2011, p 52). In Pisa, Florence and elsewhere they were established much earlier. In France, communes also had councils to represent different groups of citizens. In some cases these were based on crafts, with each occupational group having a counsellor sitting on the board and participating in joint decisions. In other cases, they were based on territorial subdivisions, as in much of Italy. In Northern Europe, the statutes of several municipalities reserved seats in city councils to representatives of the craft guilds, and in some instances guilds had a majority of the seats. Whether they were guilds or neighborhood organizations, these factions were eventually incorporated in the city's administration. Wahl (2018, 2016) collected detailed data on the governing institutions of about 300 cities in Northern Europe (Austria, Belgium, Germany, Netherlands, Poland, Switzerland and a few cities in France). Guilds started being represented in city councils in the thirteenth century, and by 1400 about one third of the cities in this sample had guild representatives seating in their councils.

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Over time, the Communal open institutions started to weaken. Many towns saw a concentration of power in the hands of powerful families, and turned increasingly oligarchic, none more than Venice, which underwent a "serrata" (closing) in which more and more of its citizens were excluded from power between 1297 and 1327. The closure spared Venice the political instability and civil strife of many other Italian autonomous cities. The naïve notion of cities as autonomous, free and democratic (or "modern") entities advocated by historians such as Henri Pirenne clearly is an oversimplification. Originally the members of a commune were sworn to uphold the peace (*pax villae*) and this created a local solidarity. But in many areas --- though not all --- such solidarity weakened over time, either because a powerful centralized state encroached upon the autonomy of the commune or because those cities that retained their autonomy were dominated by a small group of powerful families or a single one (signoria). All the same, these features of urban corporations were of decisive importance when sovereign nations began to develop their political institutions. As Boone (2012, p. 348) states, European towns "succeeded in launching a set of social and legal constructs which in the long run did have a fundamental influence in the search for an equilibrium between private interest and the commonwealth, the bonum commune."

A second reason why self-governing cities exerted a strong influence on the evolution of European political institutions was due to their political prerogatives within nation states. As discussed above, the attachment of political rights to corporate organizations, and not just to powerful individuals, was a key step in the evolution of European representative institutions. Once cities gained autonomy, not only they were more likely to be represented in national assemblies and Parliaments, as discussed in the previous subsection. Independent cities were also more likely to support the prerogatives of Parliament, to limit the authority of the sovereign and to resist his attempt to circumvent Parliament (Angelucci et al. 2022). Not all European cities were equally successful in checking the absolutist tendencies of their sovereign, however. According to Angelucci et al. (2022) this different influence of independent cities in shaping the evolution of national institutions across Europe is one of the reasons why absolutist tendencies prevailed during the sixteenth and seventeenth centuries in France and Spain, but not in England.

Cultural factors and legal traditions played a fundamental role in how city institutions were designed. As argued above, European urban elites were familiar with a multitude of corporate social organizations and the legal theories they rested on, and it was natural for them to extend the principles of those contractual and legal arrangements also to urban law. This point of view is expressed by Berman (1983), who argues that the rise of independent cities and their organizational features was due to a set of cultural traits and legal traditions that were unique to Western Europe. What made this

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phenomenon possible during the late 11th and 12th centuries in Western Europe and not elsewhere was a multitude of new legal concepts, institutions and practices that permeated society through several corporate structures. Of these, the Commune was just one, although most important, example. Each individual belonged to a plurality of overlapping communities, each one bound by specific legal and contractual arrangements and by formalized systems of governance. "Without urban legal consciousness and a system of urban law, it is hard to imagine European cities and towns coming into existence at all." (Berman 1983, p. 362).

Self-governing cities were an almost exclusive European phenomenon. There was a sharp divergence between European cities and Islamic towns. Urban centers in the Islamic world never attained any autonomy and remained entirely controlled by the rulers (Bosker et al. 2013). Japanese cities were administered by an appointed governor (only the port of Osaka was self-governing on the eve of the Tokugawa Shogunate). Chinese cities too never enjoyed formal autonomy, except during the very early period of "Spring and Autumn" (eighth to fifth centuries BC). Lewis (2000) wonders why the early Chinese city states of the "Spring and Autumn period" left such a meager mark in the history of China. His answer is first, that in part they were still coexisting with the Zhou bureaucracy that retained a "ritual reality" and persisted as a political ideology. Second, the successful cities started to expand fairly quickly into mini-states that ruled the countryside around them, but they were too small in size, and were "squeezed between the lingering prestige of the old monarchy and the rising power of the emerging macro-states" (Lewis, 2000, p. 372). We would add to these arguments that China never developed the social and legal foundations of a corporation as a self-ruling cooperative body of unrelated people co-residing in a compact region.

Throughout most of their history, Chinese cities remained governed by the centrally controlled administrations of the counties where they were situated. As noted by Weber (1958), to avoid the risk of political fragmentation the imperial administration refrained from giving Chinese cities the status of exclusive territorial units (urban wards were the major administrative unit below the county), and cities did not have their own military. By the time of the Song dynasty, most local public goods in urban areas, such as fire stations, orphanages, hospices, hospitals and other public services were controlled and financed by the central administration, and the city administration was in the hands of state officials who were responsible for administering the region (Eberhard, 1956). As state capacity declined in Ming and Qing years, nongovernmental associations informally took over many of these public services, and by the late nineteenth century many or most urban services were provided informally by guilds and native-place associations and financed from dues or from the property of these associations (Skinner 1977, pp. 548-51).

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Informally, the main towns in China eventually gained a great deal of de facto administrative autonomy. The leadership structures that coordinated urban services typically grew out either from merchant associations, or from gentry institutions (Skinner 1977, p. 549). In the former case, confederations of guilds and of native-place associations extended to everybody services that were initially reserved for their members. In the market town of Hankow, the main guilds informally gained powers to enact and enforce commercial legislation, maintained infrastructures, they even controlled firefighting and police services (Rowe 1984). Similar arrangements emerged in several other cities described in Skinner (1977), p. 549-50. Shanghai county instead provides an example of gentry involvement in the provision of local public goods: local élites cooperated closely with the magistrate and other state administrators to maintain waterways and other public infrastructures, and local consultative institutions with forms of representation emerged to guide major decisions and to allocate tasks, in a balance of powers between state officials and local leaders (Elvin 1977).

The emergence of a self-governing capacity in Chinese cities has two distinctive features that set it apart from Europe, however. First, it happened much later than in Europe (Rowe's description of the city of Hankow refers to the nineteenth century and many of the examples discussed by Skinner also refer to this period). Second, it reflected a large gap between de facto and de jure political authority. In the words of Crissman (1967, p. 200), urban Chinese had to "govern themselves without having (…) governmental institutions". This gap between de facto and de jure political authority was critical because it prevented the emergence of a tradition of well-defined participatory polities and a system of formal urban law that, as discussed above, played instead an important role in the evolution of European political institutions.

VII CONCLUDING REMARKS

The divergence in the political institutions of China and Western Europe was due to a plurality of complementary factors. Historical circumstances led to early centralization of state powers in China, vs prolonged fragmentation in Europe. But these initial differences between China and Europe were amplified by the internal structure of their societies.

Social organizations shaped state institutions through multiple channels. First, European organizations were territorially based and some of them had exclusive control of their territory. This was true of landed élites during feudalism, but also of self-governing cities and of ecclesiastic structures when feudalism abated. These organizations created strong countervailing powers with which European rulers had to bargain in the early stages of state formation. Chinese society instead was organized around lineages, and several features of these dynastic organizations made them

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weaker than their European counterparts. For this reason too, power relations between rulers and other social groups were more asymmetric in China compared to Europe.

Second, the way in which cooperation was sustained in Europe created a demand for external legal enforcement, which in turn influenced the evolution of legal institutions. European state structures co-evolved with their legal institutions, giving prominence to the principle of the rule of law. In China, by contrast, lineage organizations were effective substitutes of the State in dispute resolution, and this was reflected in how the Chinese legal system evolved.

Third, the governance principles used within social organizations shaped the evolution of political bodies. In Europe, procedures that had first emerged to regulate collective decisions within corporations were adapted and transplanted first to ecclesiastic organizations, and then to the emerging state institutions. These governance principles also shaped notions of fairness and legitimacy, which could not be ignored by European rulers. Chinese society was instead used to a very different set of governance principles in its internal social arrangements, which were more congenial to the consolidation of an autocratic regime.

Finally, European state institutions were also shaped by their interaction with two specific organizations, the Western Church and self-governing towns, that were distinctive of Western Europe and did not have equivalent counterparts in the rest of the world.

These differences in the internal organization of society between China and Western Europe did not only matter for the bifurcation in their political institutions. As discussed at length by GMT (2023), they also had profound implications for how education was structured, for what type of knowledge was accumulated, for how innovation took place, and hence ultimately for why the industrial revolution occurred in Western Europe and not in China.

At a more abstract level, the differences in social arrangements between China and Western Europe illustrate an important mechanisms through which culture interacts with institutions and with economic development. Europe and China relied on different social arrangements to sustain cooperation because they had different value systems - another crucial legacy of the Church. In other words, the influence of culture on institutions and on economic development is not only or primarily a direct influence, through beliefs and ideas. It is largely indirect, through the social arrangements that spread through society because of their complementarity with specific cultural traits. This also points to the importance of social organizations in the study of economic and political development.

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