



*Routledge Studies in the Modern History of Asia*

# **PLANTING PARLIAMENTS IN EURASIA, 1850–1950**

## **CONCEPTS, PRACTICES, AND MYTHOLOGIES**

Edited by  
Ivan Sablin and Egas Moniz Bandeira



# Planting Parliaments in Eurasia, 1850–1950

Parliaments are often seen as Western European and North American institutions and their establishment in other parts of the world as a derivative and mostly defective process. This book challenges such Eurocentric visions by retracing the evolution of modern institutions of collective decision-making in Eurasia. Breaching the divide between different area studies, the book provides nine case studies covering the area between the eastern edge of Asia and Eastern Europe, including the former Russian, Ottoman, Qing, and Japanese Empires as well as their successor states. In particular, it explores the appeals to concepts of parliamentarism, deliberative decision-making, and constitutionalism; historical practices related to parliamentarism; and political mythologies across Eurasia. It focuses on the historical and “reestablished” institutions of decision-making, which consciously hark back to indigenous traditions and adapt them to the changing circumstances in imperial and postimperial contexts. Thereby, the book explains how representative institutions were needed for the establishment of modernized empires or postimperial states but at the same time offered a connection to the past.

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**Edited by Ivan Sablin and  
Egas Moniz Bandeira**



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# Introduction

*Ivan Sablin and Egas Moniz Bandeira*

Parliaments are often seen as institutions peculiar to the Euro-American world. In contrast, their establishment elsewhere is frequently thought of as a derivative and mostly defective process. Such simplistic tales of unilateral and imperfect transfers of knowledge have led to a suboptimal understanding of non-Western experiences, as well as of their contribution to the shaping of the global political landscape of the modern world. The present volume challenges Eurocentric visions by retracing the evolution of modern institutions of collective decision-making in Eurasia, more specifically in the Russian/Soviet, Qing/Chinese, Japanese, and Ottoman/Turkish cases. It argues that, over the nineteenth and twentieth centuries, intellectuals and political actors across Eurasia used indigenous as well as foreign elements to shape their versions of parliamentary institutions for their own political purposes. It was through the creative agency of these often understudied actors that representative institutions have acquired a wide range of meanings throughout Eurasia and become a near-ubiquitous element of modern statehood.

This volume approaches two main questions: what made concepts like parliamentarism, deliberative decision-making, and constitutionalism so appealing throughout the world, and how were these ideas reflected in historical practices related to parliamentarism? Even in Europe, constitutions – and the representative organs instituted by these – served a multitude of sometimes seemingly contradictory purposes, including those of liberalism, nationalism, militarism, and imperialism.<sup>1</sup> But it is the broader Eurasian context which demonstrates that parliamentarization was not the result of a clear-cut teleological development from autocracy to participative democracy but rather of a variety of alternative approaches to political modernization which unfolded between and within individual polities.

As Eurasian parliaments often wielded rather limited powers, approaches departing from a normative Euro-American ideal have understood them as façade institutions. Such an assessment was already common at the time of the imperial transformations of Russia and the Qing, for example, when Max Weber termed the 1906 Russian Duma an exercise in “sham constitutionalism” (*Scheinkonstitutionalismus*),<sup>2</sup> and Chinese revolutionaries lambasted the Qing court for attempting the same as Russia had done.<sup>3</sup> Later, the notions of “sham constitutionalism” and “nominal constitutionalism”<sup>4</sup> became even more

prominent in the case of the socialist “rubber-stamp” parliaments, even though this label had been challenged already during the Cold War.<sup>5</sup>

Although legislatures and parliamentary democracy attract much scholarly attention, the refusal to look beyond the sham aspect and the accompanying persistent focus on the Western European and North American experiences in detriment of the Eurasian context have made it difficult to theoretically grasp these parliamentary formations. As institutions such as the State Duma (*Gosudarstvennaia дума*) and the Political Consultative Council (*Zizhengyuan*) were abolished when the Russian and Qing Empires perished, and as other parliamentary institutions have not developed into liberal democratic parliaments, they tend to be dismissed as constitutional experiments doomed to fail.<sup>6</sup> For example, the standard interpretation in Chinese scholarship for the demise of the Qing Empire is that the reforms of the 1900s went against the “spirit of constitutionalism” and the “tide of the times,” for their purpose was to maintain the imperial rule rather than to protect the rights of the citizens.<sup>7</sup>

In studies concerned with the transnational history of parliamentarism, Eurasian contexts are still frequently overlooked or treated as secondary, in particular as to their historical dimension. Even recent comparative studies in the conceptual and intellectual history of parliamentarism tend to remain focused on the European experience, treating it as a merely “European concept.”<sup>8</sup> Nonetheless, there has been a discernible shift in various disciplines toward more nuanced analyses of the roles of parliaments in the Eurasian context. Legal scholarship has expanded our knowledge about global constitutionalism, demonstrating that contemporary constitutions fulfill important roles in authoritarian regimes and that the respective governments spend significant time and effort in crafting them.<sup>9</sup> Political science has begun to move its focus from parties to the role of parliaments within the various contemporary political systems of Asia.<sup>10</sup> Finally, in the historical scholarship, studies on individual imperial constitutions and parliaments have begun to offer more nuanced analyses of the institutions on their own terms.<sup>11</sup> Some studies have also probed into the transnational entanglements underlying the emergence of the tools of government shared by most contemporary states.<sup>12</sup>

It is on this historiography on Eurasian contexts that this volume builds, adding a transnational and transcultural outlook that encompasses the most significant (post)imperial polities of Eurasia. There, more than being mere instruments of “sham” and “nominal constitutionalism,” parliamentary institutions acquired and fulfilled functions and meanings which were not necessarily predominant in Western parliaments. In a time of emerging nationalisms across the world, they provided for at least a degree of popular representation and functioned as avenues of political mobilization in the nationalizing or newly emerging nation-states. They were designed not only to bring up political talents from across the people but also to manage imperial and postimperial diversities. Due to the multiplicity and versatility of their functions, parliamentary institutions were useful during imperial transformations just as they continued to be useful in the socialist contexts of the Soviet Union and the People’s Republic of China.

Contrary to the idea of parliamentarism being a belated transplant from European sources, one of the elements which made modern parliamentary institutions attractive was that they offered strong connections to the own past to those who adopted them. Although political modernization and the establishment of modern deliberative assemblies in Eurasia took place in contact with Western Europe and the United States, it also made frequent references to indigenous political mythologies, consciously adapting the vernacular traditions to the changing circumstances in imperial and postimperial contexts. Even if new institutions were not necessarily traditional in themselves, they were conceived of as having been reestablished from old times or were at least justified with local intellectual traditions. Where it has been acknowledged at all, this phenomenon has been belittled as a negligible device “used by elites to construct a democratic legacy where in fact there was none.”<sup>13</sup> However, it should be taken seriously, as it reveals the substantial non-European contributions to the formation of the modern world. While one can trace the origins of the modern concepts of democracy, constitution, and parliament to Atlantic intellectuals, these only became universal in a process of a global “circulation of forms,”<sup>14</sup> in which their application was synthesized with vernacular political ideas. The search for representative institutions was informed by the respective local contexts, and the heterogeneous imperial practices contributed to the development of vernacular political mythologies and vocabularies. These have become constitutive for the current global toolkit of political instruments.

The empires<sup>15</sup> analyzed in this volume shared some characteristics which engendered different developments than those experienced in Western Europe. In the second half of the nineteenth century, Japan as well as the Ottoman and the Qing Empires had to cope with encroachment by the Western imperialist powers but managed to maintain their independence and escape full-scale colonization. After undergoing a thorough program of nation-building, Japan was the first of them to revert this situation and be accepted as a first-rate international power, thus playing a pivotal role as a global example of a non-Western path to modernity. In a similar manner, the perpetual exclusion of the Russian Empire from the West<sup>16</sup> and its military defeat in the Crimean War (1853–1856) raised the issue of modernization. Unlike Japan, the Qing, Ottoman, and Russian Empires shared similar imperial legacies. Despite introducing some political novelties, such as a constitution and a parliament in the Ottoman case or modern self-government and judiciary in the Russian case, they had resisted pressures to undertake more thorough political reforms throughout the nineteenth century, and ended up facing their own deep structural crises.

The existential problems faced by these empires meant that their newly formed parliamentary institutions were predominantly aimed at strengthening the state or reorganizing it from the perspective of the political elites. The justifications of constitutional and parliamentary reforms often were explicitly etatist, with the state presented as the greater good. The modernization of legislative procedures was one of, and perhaps the most important of, a series of reforms pertaining to the transformation of empires by the instruments of power which were adopted from the model

of the nation-state but applied creatively to produce vernacular projects of imperial modernization. Among many others, these included the restructuring of the military and police forces, the introduction of mass education, the establishment of financial and banking systems, the building of crucial infrastructure, and the introduction of modern statistics. If the parliaments established in the wake of such reforms were often not democratic, this was due to the concrete political needs they were designed to satisfy rather than to an innate inclination toward Oriental despotism.

At the same time, the observation of a tendency toward bureaucratic parliamentarism is not absolute. A closer look at the various parliamentary experiences of Eurasia also reveals how parliamentary institutions reflected shifting power relations behind the reforms. Several examples discussed in this volume evince the diversity and variability of Eurasian approaches to parliamentarism, such as the development of Japan's contemporary parliament out of oligarchic concerns in the second half of the nineteenth century, the shifting status of the Ottoman and Turkish parliaments, and the unplanned, though not unexpected, role of the Qing Political Consultative Council as a catalyst for the republican revolution of 1911–1912. Generally, the parliamentary reforms in the Ottoman, Russian, and Qing contexts involved the issue of representing and managing diverse interest groups, defined in ethnic, religious, regional, and other terms. Whereas empires traditionally bound together these groups by patrimonial arrangements, parliamentary representation offered the chance to foster national cohesion in the era of constitutional inclusionary nation-states or modernized empire-states.<sup>17</sup> In this sense, these Eurasian parliamentary formations could at times offer even more representation than the parliaments of the European colonial empires, as they granted political representation to dependent territories.

To address these issues, the volume sets out to trace the relevant transnational interactions among imperial and postimperial intellectuals, their engagement in global discussions, and the parliamentary practices through which parliaments have come into being outside the Atlantic context. It offers nine case studies covering the extreme East of Eurasia and the Eastern part of the European subcontinent, including the former Russian, Qing, Ottoman, and Japanese Empires, as well as their successor states. **Chapter 1**, co-written by Ivan Sablin, Egas Moniz Bandeira, Jargal Badagarov, Martin Dorn, and Irina Sodnomova, traces how vernacular concepts and mythologies of parliamentarism were created as local refractions of a global process. This chapter compares the formation of new parliamentary institutions in the two largest land empires of Eurasia – Russia and the Qing – and their postimperial transformations until the 1920s. The authors chart the genealogies of the Russian State Duma and the Qing Political Consultative Council, positioning them in the vernacular conceptual contexts and the wider discussions about imperial and postimperial modernizations. Although the main point of reference during the attempted imperial modernizations was the Western parliament as a generalized idea, the State Duma and the *Zizhengyuan* were often explicitly distinguished from it. Thereby, the chapter shows that both organs were conceived of as etatist rather than popular institutions reacting to internal pressures and external crises.

Both the Russian and Qing governments' decision to institute the respective deliberative organs were accelerated by the emergence of Japan as a new and vigorous international player, which managed to militarily defeat the Qing in 1894–1895 and Russia in 1904–1905. Japan had undergone a stunning political transformation in the second half of the nineteenth century, which was coronated by the establishment of a constitutional government and the convening of the Imperial Diet in 1890. In **Chapter 2**, Yuri Kono challenges the view that at the roots of Japanese parliamentarism lay transplants from Western Europe made in the wake of the so-called Meiji Restoration. Instead, his study takes us back to the last years of the Tokugawa government (*bakumatsu*), showing that the *bakumatsu* intellectuals grasped parliamentarism in terms of existing debates on the Confucian notions of *hōken* (commonly translated as “feudal” government) and *gunken* (government by division into districts and provinces). At the same time, contemporary intellectuals who were studying “Western learning” comprehended the new idea in the context of Montesquieu’s theory of the division of powers and its practice in the American continent. Thereby, Kono reconstructs the 1860s as a pivotal moment which remained influential after the abolition of the domain system and the establishment of prefectures by the Meiji government in 1871 and contributed to the formation of the peculiar features of Japan’s present-day representative democracy.

Bruce Grover’s **Chapter 3** continues Yuri Kono’s contribution into the 1880s and 1890s by offering a case study of the parliamentary ideas of Torio Koyata, a conservative Meiji-time military commander and politician. Grover explains that Torio aggressively promoted a constitutional parliamentarism suited for Japanese culture to oppose both the rise of liberalism and the despotism of the ruling oligarchy. Just as *bakumatsu* intellectuals had stressed the importance of “public opinion” in governance, Torio attributed it to the ancient philosopher Mencius and approached liberal terms such as “liberty,” “equality,” and “natural law” from similar Confucian and Buddhist angles. This parliamentarian construct was designed to offset the rise of individualism, value-pluralism, and economic liberalism and protect a system of ethical cultivation under a benevolent Emperor. Furthermore, it had certain egalitarian consequences for perceptions of the people’s role in politics. This discourse not only facilitated Torio’s participation in the public sphere but also impacted a later generation of nationalists. The example of Torio’s philosophy, which drew from modern reinterpretations of strains of thought that had been long discussed on the Japanese archipelago, again shows how global and local elements were adapted to construct a specifically Japanese understanding of parliamentarism.

In other cases, parliamentary institutions not only were derived from and justified with familiar political philosophy but also expressly sought to revive ancient institutions of collective decision-making in the guise of modern parliamentarism. In **Chapter 4**, Ivan Sablin and Kuzma Kukushkin explore the historiographies of the early modern Russian assemblies, which were later termed *zemskii sobor* (“assembly of the land”), as well as the autocratic and democratic mythologies connected to the concept. Whereas the current growing historiographic consensus



does not see the *zemskii sobor* as a coherent institution, nineteenth–early twentieth century history writing integrated a mythologized *zemskii sobor* into the argumentations of both the opponents and the proponents of parliamentarism in Russia. Sablin’s and Kukushkin’s contribution reveals how constitutions and parliaments were often the result of governmental appropriation of such concepts for conservative goals. Although the autocratic approach to the *zemskii sobor* was idealistic, it became more practical at the summit of its popularity during the Revolution of 1905–1906/1907, when it was discussed by the government as a way to avoid bigger concessions. At the same time, regionalist approaches to Russia’s past and future became formative for the democratic mythology of the *zemskii sobor*, which persisted well into the Russian Civil War of 1918–1922.

If the foregoing examples referred to parliaments as elected representations, **Chapter 5**, by Egas Moniz Bandeira, unearths the significance of another type of collective decision-making institution: privy councils or councils of state as advisory bodies to the head of state. Whereas the *Sūmitsuin* – the Japanese refraction of the phenomenon – has been thought of as a historical anomaly next to the extinct or ceremonial privy councils of Central Europe, Moniz Bandeira shows that it was not. Using the cases of Japan, the Qing Empire, and the Republic of China, his chapter reconstructs how the idea of the head of state as a fourth – “neutral” or “moderating” – power within the state merged with the notion of the privy council as the formalized organ of said power, akin to the ministers of state as instruments of the executive branch and the parliament as the instrument of the legislative branch of government. Hence, far from being a moribund relic of the pre-constitutional past, such councils were a productive global element of constitutional architecture, which was variously adapted according to local needs and conditions. According to the circumstances, they provided a connection to the past, but also intervened substantially in the correlation of powers at the highest levels of state architecture. Eventually, they did not fall into disuse because of being useless, but because they became too closely associated with authoritarian politics and presidential strongmanship.

Oleksandr Polianichev’s **Chapter 6** moves to an examination of how mythological underpinnings informed the implementation of parliamentary concepts in practice. In the aftermath of the Revolution of 1905, Cossack conservatives in the northwest of the Caucasus Viceroyalty of the Russian Empire, namely, the land of the Kuban Cossack Host, devised a *rada* (“council” or “assembly”) as a platform to assert their loyalty to the throne in Saint Petersburg. However, soon after its establishment, the institution turned into a representative assembly with parliamentary ambitions. Celebrating local cultural distinctiveness, the *rada* fashioned itself as a “restored” ancient political practice of the Zaporozhian Cossack Host. Hence, the chapter is an example that parliamentary institutions often developed a life of their own not necessarily intended by their founders.

In **Chapter 7**, Ellinor Morack continues the analysis of imperial and post-imperial parliamentary practices on the example of the lower chamber of parliament (*Meclis-i Mebusan*) in the Ottoman Empire and Turkey. In her study comprising the two Ottoman constitutional periods (1876–1878 and 1908–1920)

and the first three years of the Grand National Assembly of Turkey (1920–1923) up to the proclamation of the Republic of Turkey, Morack identifies two diverging yet parallel trends which persisted throughout this time: a drive toward the strengthening of parliament vis-à-vis other constitutional institutions was offset by the prevailing of an authoritarian spirit in the guise of parliamentarism. Morack shows that an increase in parliamentary powers was usually followed by serious conflicts with the executive, which would then drastically curb the chamber's de facto competences. While initially violations of the parliamentary rules of procedure were mostly committed by other institutions, such as the Sultan and the Sultanate government, the deputies' faithfulness with the internal regulations decreased massively during the period of the postimperial transformation in the late 1910s and early 1920s. Hence, it was not only the executive which obstructed the parliament but sometimes the members of parliament themselves.

Whenever the competences of a parliament were curtailed, the accusation of sham parliamentarism lay near. After a period of an explicitly anti-parliamentary regime in the Soviet Union, which nevertheless included representative bodies, the Constitution of 1936 reintroduced a universally elected assembly vested with supreme authority, the Supreme Soviet. The elections were however never contested, and the Communist-led bloc always won them. All decisions were made in the Communist Party and then unanimously ratified by the Soviet "parliament."<sup>18</sup> The Supreme Soviet was not a unique institution and can be compared to the assemblies in the one-party regimes of Turkey and China.<sup>19</sup> As a consensus forum, it was also quite similar to the assemblies in the one-party regimes of Italy and Germany. Furthermore, in many one-party regimes, the ruling parties had their own quasi-parliamentary assemblies, substituting thereby state institutions.<sup>20</sup>

But what then was the function of such assemblies? One would be tempted to see them as little more than theatrical façades, but Olga Velikanova's analysis of the 1936 Soviet Constitution in **Chapter 8** finds a much denser set of functions fulfilled by the Supreme Soviet than is usually assumed. Based on extensive archival research, she shows that the crafters of the 1936 Constitution did not see it as a mere sham but that they were genuinely attached to Vladimir Il'ich Lenin's vision of a future socialist state and a subsequent full-fledged democracy, including his critique of bourgeois parliamentarism and his dreams about future forms of representative institutions. Placing the 1936 Constitution in a larger historical context, Velikanova demonstrates that the Soviet government introduced the new Constitution to achieve international, ideological, and political goals. What made the Supreme Soviet functionally a sham was the result of Iosif Vissarionovich Stalin's self-deception about the successful socialist transformation of the economy and society by the mid-1930s and of the clash of such a utopian thinking with the Soviet reality of recurrent crises.

The last contribution (**Chapter 9**) by Henrike Rudolph illuminates an institution which continues to exist until the present day: the Chinese People's Political Consultative Conference (CPPCC). The first session of the body, convened in September 1949, shortly before the formal proclamation of the People's Republic of China, became a central element in its foundation myth. Basing herself on

previously neglected Chinese primary sources, Rudolph examines the meticulous staging of the conference preparation and demonstrates that the Communist Party used the conference to vie for public support from China's minor political groups. It was a crucial means of uniting left-leaning intellectuals under Mao Zedong's slogan of "New Democracy" while isolating potential opposition forces. At the same time, as the conference served as an element of continuity with the popular notions of the Republican past, it was – and is – subordinated to Marxist notions of the leadership of the proletariat, projecting an image of a government empowered by consensual decision-making and popular support.

Although the existence of a representative element at the center of the political structure is almost universally accepted, the cases, studied in this volume, show that there were alternative approaches to parliamentary modernity. The parliamentary institutions in one-party regimes, especially in the Soviet Union and the Chinese People's Republic, emulated some elements of an imperial parliament, such as symbolic interest group representation (for instance, ethnic, professional, and gender), and integrated the diverse nationalities and social strata within one state, building thereby inclusionary national communities. Such institutions also performed as the linkage between the party authorities and the populace, fostered political and ideological education and socialization, and contributed to elite recruitment, all of which resembled the statist agenda of the imperial policymakers.<sup>21</sup> One-party regimes have survived and continue to evolve, at times featuring direct connections to the concepts, mythologies, and practices studied in this volume.<sup>22</sup> The experience of imperial and postimperial Eurasia is also crucial for understanding the now global phenomenon of authoritarian constitutionalism as not a mere deviant of its liberal counterpart, but as a phenomenon which developed in parallel to and in interaction with it, in which assemblies have a number of different functions beyond that of a façade, and which again postponed the end of history.<sup>23</sup>

## Notes

- 1 Kelly L. Grotke and Markus J. Prutsch, eds., *Constitutionalism, Legitimacy, and Power: Nineteenth-Century Experiences* (Oxford: Oxford University Press, 2014).
- 2 Max Weber, "Rußlands Übergang zum Scheinkonstitutionalismus," *Archiv für Sozialwissenschaft und Sozialpolitik* 23 (1906): 165–401.
- 3 See Egas Moniz Bandeira, "China and the Political Upheavals in Russia, the Ottoman Empire, and Persia: Non-Western Influences on Constitutional Thinking in Late Imperial China, 1893–1911," *The Journal of Transcultural Studies* 8, no. 2 (2017): 64–66.
- 4 Andrei Medushevsky, *Russian Constitutionalism: Historical and Contemporary Development* (London: Routledge, 2006), 16–17.
- 5 John Gorgone, "Soviet Jurists in the Legislative Arena: The Reform of Criminal Procedure, 1956–1958," *The Soviet and Post-Soviet Review* 3, no. 1 (1976): 1; Daniel Nelson, "Communist Legislatures and Communist Politics," in *Communist Legislatures in Comparative Perspective*, eds. Daniel Nelson and Stephen White (London: Macmillan Press, 1982), 2.
- 6 Geoffrey A. Hosking, *The Russian Constitutional Experiment: Government and Duma, 1907–1914* (Cambridge: Cambridge University Press, 1973), vii; Cui Xuesen 崔學森,

- “Qingting zhixian yu Mingzhi Riben” 清廷制憲與明治日本 (The Qing Court’s Constitution-Making and Meiji Japan) (Ph.D. diss., Peking University, 2015), 1; Zhao Hui, “Rethinking Constitutionalism in Late 19th and Early 20th Century China” (Ph.D. diss., Harvard University, 2012), 7.
- 7 Cui, “Qingting zhixian yu Mingzhi Riben,” I.
- 8 Pasi Ihalainen, Cornelia Ilie, and Kari Palonen, eds., *Parliaments and Parliamentarism: A Comparative History of a European Concept* (New York: Berghahn Books, 2016); Remieg Aerts et al., eds., *The Ideal of Parliament in Europe since 1800* (Cham: Palgrave Macmillan, 2019).
- 9 Tom Ginsburg and Alberto Simpser, eds. *Constitutions in Authoritarian Regimes* (New York: Cambridge University Press, 2014).
- 10 Philip Norton, Lord Norton of Louth, and Nizam Ahmed, *Parliaments in Asia* (Abingdon: Routledge, 2013); Zheng Yongnian, Lye Liang Fook, and Wilhelm Hofmeister, *Parliaments in Asia: Institution Building and Political Development* (London: Routledge, 2017).
- 11 Hasan Kayali, “Elections and the Electoral Process in the Ottoman Empire, 1876–1919,” *International Journal of Middle East Studies* 27, no. 3 (1995): 265–286; Alexander Semyonov, “‘The Real and Live Ethnographic Map of Russia’: The Russian Empire in the Mirror of the State Duma,” in *Empire Speaks Out: Languages of Rationalization and Self-Description in the Russian Empire*, eds. Ilya Gerasimov, Jan Kusber, and Alexander Semyonov (Leiden: Brill, 2009), 191–228; David Brophy, “Five Races, One Parliament? Xinhai in Xinjiang and the Problem of Minority Representation in the Chinese Republic,” *Inner Asia* 14, no. 2 (2012): 343–364; Egas Moniz Bandeira, “Late Qing Parliamentarism and the Borderlands of the Qing Empire – Mongolia, Tibet, and Xinjiang (1906–1911),” *Journal of Eurasian Studies* 11, no. 1 (2020): 15–29; Alexander M. Semyonov, “Imperial Parliament for a Hybrid Empire: Representative Experiments in the Early 20th-Century Russian Empire,” *Journal of Eurasian Studies* 11, no. 1 (2020): 30–39.
- 12 Charles Kurzman, *Democracy Denied, 1905–1915: Intellectuals and the Fate of Democracy* (Cambridge, MA: Harvard University Press, 2008); Egas Moniz Bandeira, “China and the Political Upheavals in Russia, the Ottoman Empire, and Persia: Non-Western Influences on Constitutional Thinking in Late Imperial China, 1893–1911,” *The Journal of Transcultural Studies* 8, no. 2 (2017): 40–78; Adrian Brisku, *Political Reform in the Ottoman and Russian Empires: A Comparative Approach* (London: Bloomsbury Academic, 2017).
- 13 Jürgen Rüländ, Clemens Jürgenmeyer, Michael H. Nelson, and Patrick Ziegenhein, *Parliaments and Political Change in Asia* (Singapore: Institute of Southeast Asian Studies, 2005), 27.
- 14 Arjun Appadurai, “How Histories Make Geographies,” *The Journal of Transcultural Studies* 1, no. 1 (2010): 4–13.
- 15 The authors of this volume understand empires not as vestiges of the past, but as composite social and political spaces produced by multilayered difference and polities governed through it. See Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton, NJ: Princeton University Press, 2010); Ilya Gerasimov et al., “New Imperial History and the Challenges of Empire,” in *Empire Speaks Out: Languages of Rationalization and Self-Description in the Russian Empire*, eds. Ilya Gerasimov, Jan Kusber, and Alexander Semyonov (Leiden: Brill, 2009), 3–32.
- 16 Larry Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment* (Stanford, CA: Stanford University Press, 1994).
- 17 David Brophy, “Five Races, One Parliament? Xinhai in Xinjiang and the Problem of Minority Representation in the Chinese Republic,” *Inner Asia* 14, no. 2 (2012): 343–364; Egas Moniz Bandeira, “Late Qing Parliamentarism and the Borderlands of the Qing Empire – Mongolia, Tibet, and Xinjiang (1906–1911),” *Journal of Eurasian Studies* 11, no. 1 (2020): 15–29.

- 18 Peter Henry Juviler, "Functions of a Deputy to the Supreme Soviet of the USSR, 1938–1959" (Ph.D. diss. Political Science, Columbia University, 1960), 3.
- 19 Both in Turkey and the Republic of China, however, there were many more opportunities for expressing dissenting views. See, for instance, Ahmet Demirel, "Representation of the Eastern and Southeastern Provinces in the Turkish Parliament during the National Struggle and Single-Party Era (1920–1946)," *New Perspectives on Turkey* 44 (2011): 73–102; Louise Edwards, "Feminist Campaigns for Quotas for Women in Politics, 1936–1947," *Twentieth-Century China* 24, no. 2 (1999): 69–105.
- 20 Enzo Fimiani, "Elections, Plebiscitary Elections, and Plebiscites in Fascist Italy and Nazi-Germany: Comparative Perspectives," in *Voting for Hitler and Stalin: Elections under 20th Century Dictatorships*, eds. Ralph Jessen and Hedwig Richter (Frankfurt am Main: Campus Verlag, 2011), 237; Antonio Costa Pinto, "Corporatism and 'Organic Representation' in European Dictatorships," in *Corporatism and Fascism: The Corporatist Wave in Europe*, ed. Antonio Costa Pinto (London: Routledge, 2019), 11–12; Markus Urban, "The Self-Staging of a Plebiscitary Dictatorship: The NS-Regime between 'Uniformed Reichstag,' Referendum and Reichsparteitag," in *Voting for Hitler and Stalin: Elections under 20th Century Dictatorships*, eds. Ralph Jessen and Hedwig Richter (Frankfurt am Main: Campus Verlag, 2011), 44–45.
- 21 Nelson, "Communist Legislatures and Communist Politics," 11; Peter Vanneman, *The Supreme Soviet: Politics and the Legislative Process in the Soviet Political System* (Durham, NC: Duke University Press, 1977), 62.
- 22 Ngoc Son Bui, *Constitutional Change in the Contemporary Socialist World* (Oxford: Oxford University Press, 2020), 117–118, 243.
- 23 Helena Alviar García and Günter Frankenberg, *Authoritarian Constitutionalism: Comparative Analysis and Critique* (Cheltenham: Edward Elgar, 2019), x; Francis Fukuyama, "The End of History?" *The National Interest*, no. 16 (1989): 3–18.

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# 1 *Duma, yuan, and beyond*

## Conceptualizing parliaments and parliamentarism in and after the Russian and Qing Empires

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Badagarov, Martin Dorn, and Irina Sodnomova*

### Introduction

In the early twentieth century, the Russian and Qing Empires, together with other Eurasian polities, became part of the global constitutional transformations,<sup>1</sup> which included the introduction of new institutions – the State Duma (*Gosudarstvennaia дума*, 1905/1906) in the former and the Political Consultative Council (*Zizhengyuan* 資政院, 1907/1910) in the latter. Some hundred years later, the State Duma in Russia and the Legislative Yuan (*Lifayuan* 立法院) in Taiwan were generally accepted as vernacular variations of the globalized institution of an elected legislature,<sup>2</sup> that is, a parliament. At the time when the two imperial parliamentary bodies were introduced, their names pointed to the etatist rather than popular connotations of the new institutions. Furthermore, the State Duma and the *Zizhengyuan* were often explicitly distinguished from the Western parliament, even though the latter as a generalized notion was undoubtedly the main point of reference during the attempted imperial modernizations. Seeking to expand the current debate on the conceptual history of parliamentarism by including non-European histories,<sup>3</sup> this chapter charts the genealogies of the two terms – *duma* and *yuan* – and positions them in the discussions of parliamentarism during the modernizations of the Russian and Qing Empires and during the postimperial settlements.

The parliamentary concepts and institutions in the Eurasian empires had a different history from that of their Western counterparts. The attention given to foreign experiences with parliamentarism during the imperial modernizations and the explicit aim of strengthening the imperial states, which were perceived as lagging behind their Western or previously modernized counterparts, may be seen as key aspects. In the case of the Russian and Qing Empires, the successful experience of inter alia political modernization of Japan was especially important. In both cases, the elite understandings of parliamentarism were state-centered. Even though they did not necessarily prevail, like in the case of the State Duma, the imperial elites sought to create not an institution of dissensus, that is, a parliament in the Western sense of the word,<sup>4</sup> but a new institution for receiving local



information and managing the populace, along a bureaucratic rationalizing logic. In the Russian Empire, the Tsarist administration feared a constituent State Duma, rushing with the adoption of the Fundamental Laws before the assembly's convocation. In the Qing Empire, the *Zizhengyuan*, itself a provisional precursor of a parliament, was also supposed to operate on the basis of the previously adopted legislation.

Another key difference between most Eurasian empires (for instance, Russian, Qing, and Ottoman) and Western states, which often had empires of their own, was the representation of dependent groups or territories in the parliamentary bodies of the former. In the practical implementation of parliamentary ideas in the Russian and Qing Empires in the early twentieth century, the non-Russian and non-Chinese constituencies were included in the State Duma and the *Zizhengyuan*. The very creation of these institutions, which were interpreted as imperial (pre)parliaments, undermines the idea of a unidirectional transition from empires to nation-states. Furthermore, some sub-imperial parliamentary institutions, such as the Kuban Cossack Rada (see Oleksandr Polianichev's Chapter 6 in this volume) or the planned Siberian Regional Duma, were explicitly connected to the projects of imperial modernization and reconfiguration, rather than its disintegration. Not just the imperial elites but also many oppositional intellectuals, coming from diverse backgrounds, often foregrounded the benefits of parliamentarism for the state rather than the people, which may be seen as a manifestation of their state-centered imperial nationalism. Indeed, the two concepts, *duma* and *yuan*, also had ethno-nationalist meanings. Russian conservatives, for instance, attempted to reinterpret the *duma* as a Russian national parliament, while Sun Yat-sen conceptualized the Legislative Yuan as a specifically Chinese political institution.

The two concepts must be understood in their respective dynamics. The two major schools in the history of concepts – the German *Begriffsgeschichte* (conceptual history) and the Cambridge School of intellectual history – have helped to distinguish between temporal and relational aspects of these dynamics. Whereas Reinhart Koselleck, representing the former, focused on the temporal implications and changes in meanings, Quentin Skinner of the latter stressed that contextualized texts should be understood as political actions in the authors' pursuit of specific objectives rather than mere reflections.<sup>5</sup> The idea of the imperial situation, which can be defined as the “unstable balance in a composite society” with “conditional, fluid, and situational” social boundaries and, hence, social categories, have helped grasp the Russian and Qing contexts as themselves being dynamic.<sup>6</sup>

The chapter studies *duma* and *yuan* in the context of the concrete imperial situations and the respective conceptual histories and political mythologies, that is, myths and their interpretations connected to these terms. The main sources for the study are the writings of Russian and Chinese politicians and intellectuals. Although the trajectories of the two terms were different, the conceptual language initially developed through the reception of Western institutions in both cases. In both cases, however, this reception was critical, and the ultimate use of vernacular (rather than directly borrowed) terms demonstrates that the adoption

of a seemingly global form of organizing authority<sup>7</sup> entailed its significant transformations along the logic of the Russian and Qing bureaucratic approaches to governance.

### Concepts in the Russian imperial context

The terminology that was later used for parliamentary institutions developed on the territory of the future Russian Empire through reflection on both domestic and foreign institutions. The experience of the Grand Duchy of Muscovy proved especially important, but that of the Grand Duchy of Lithuania established an early reference point of a Western parliamentary history for the Muscovite and Russian elites and intellectuals.

The term *duma* (“council”), together with *veche* (“gathering” or “council”) and *sobor* (“gathering” or “assembly”), was used in early East Slavic texts dating to the twelfth century. *Duma* initially denoted the process of the princes of Rus’ taking advice from the senior members of their retinues.<sup>8</sup> In the first half of the sixteenth century, the Boyar Duma (*boiarskaia дума*, “the council of lords”) developed into a key institution in Muscovy. During the infancy of Ivan IV, the Boyar Duma was in fact the main governing body.<sup>9</sup> *Veche*s, community assemblies, had survived until the early modern period only in Novgorod and Pskov, but there too they disappeared with (or soon after) the annexation of the two polities to Muscovy in the late fifteenth and early sixteenth century, respectively.<sup>10</sup> The term *sobor* was mainly used for ecclesiastical assemblies. Although in the sixteenth and seventeenth centuries there were several nonexclusively ecclesiastical *sobors*, it was only *duma* which functioned as a coherent institution at the time. Furthermore, later authors (inaccurately) used the term *duma* when speaking about the larger assemblies, which were called *sobor* or *sovet* (“council”) in the historical sources (see Chapter 4 by Ivan Sablin and Kuzma Kukushkin in this volume).

During the Oprichnina, the period of political violence in the second half of the sixteenth century, there were Boyar Dumas in both *zemshchina* (“the land”) and *oprichnina* (“the external part”) – the two parts into which Ivan IV nominally divided the Tsardom of Russia. Furthermore, the Tsar himself formally remained in charge only of *oprichnina*, which made the *Zemskaiia дума* (“the Council of the Land”) the nominal head of *zemshchina*. Although its members also suffered from persecutions of the Oprichnina, the *Zemskaiia дума* participated in foreign-policy decision-making as a consultative body. In *oprichnina* the *duma* became more socially diverse with the rise of the *duma* gentry (*dumnye dvoriane*), a bureaucratic social group, which developed in the chancellery (*prikaz*) system and counterbalanced the boyars.<sup>11</sup> All this made the *duma* strongly associated with the bureaucratic centralization of Muscovy.

The Grand Duchy of Muscovy, however, was not the only major state formation in the European part of the future Russian Empire. The Grand Duchy of Lithuania, which, according to some sources, included Rus’ and Samogitia into its official name, also left a prominent conceptual legacy.<sup>12</sup> In the Grand Duchy of

Lithuania (by the sixteenth century) and in the Polish–Lithuanian Commonwealth (1569–1795), the supreme authority belonged to the *sejm* (“gathering” or “assembly”). In the Polish–Lithuanian Commonwealth, the General Sejm (*Sejm walny*) included the Senate (*Senat*) of nobility and the Ambassadorial Chamber (*Izba poselska*) of regional representatives as its two chambers, as well as the King. This made it a vernacular version of the “King in Parliament.” By 1573 the nobility had institutionalized the notion of an elected monarch, with the decision being made at an electoral *sejm*.<sup>13</sup> Muscovy borrowed the concepts of *sejm* and *rada* (“council”), the council of lords which since the late fifteenth century limited the ruler’s authority, from the Grand Duchy of Lithuania.<sup>14</sup> Andrei Mikhailovich Kurbskii, a former courtier of Ivan IV and at the time his fierce opponent, used the term *rada* to describe the advisory council during the early years of Ivan IV’s rule in his book *A Story of the Grand Duke of Muscovy*, which he wrote in the Grand Duchy of Lithuania.<sup>15</sup>

The Tatar polities on much of the territory of the future Russian Empire in the early modern period and the legacies of the Mongol Empire did not seem to influence the concepts pertaining to assemblies.<sup>16</sup> Tatar institutions in Muscovite texts were described with Russian terms. The diplomatic documents of the 1550s, related to the relations with the Nogai Horde, for instance, mentioned a *duma* under the latter’s ruler. Similarly, according to a 1568 intelligence document, the Crimean Khan had a *duma* of his own.<sup>17</sup>

The Russian elites were aware of the contemporary early modern assemblies in Europe. The manuscripts, which were read to the Tsars and the boyars in the seventeenth century and were collectively known as the “News Columns” (*Vesti-Kuranty*), frequently mentioned them. In 1620, *Vesti-Kuranty* described the Portuguese Cortes, the assembly of the estates, as a *sejm* (rendered in Russian as *soim* and *seim*). The word *sejm* was also used for an assembly in Hungary in 1622 and for the assemblies in Lubeck and Mecklenburg in 1627. The same 1620 *Vesti-Kuranty*, however, discussed another assembly in Hungary as *zemskoe sobranie* (“assembly of the land”), which meant that terminology was not standardized. Other manuscripts used vernacular and loan terms in different combinations. A 1626 letter rendered the Dutch States General as *staty* but called the English Parliament *zemskaiia soim* (“the *sejm* of the land”). During the detailed discussion of the conflict between the English King Charles I and the Parliament, the 1627–1628 *Vesti-Kuranty* called the Parliament *sejm*; when translating the speech of George Villiers, the First Duke of Buckingham, it used both *sobor* and *sejm* and called the members of Parliament *dumnye* (“those of the *duma*”).<sup>18</sup> The use of multiple terms when speaking about the Parliament may imply its understanding as a foreign institution (*sejm*), which had no equivalent in Russia, but at the same time it may point to its interpretation as a “bureaucratic” body comparable to that of the *duma*.

The world parliament (*parlament*) was first used in *Vesti-Kuranty* (in the translated correspondence of English merchants discussing the English Civil War) in 1646 to describe the English Parliament.<sup>19</sup> Historically, the use of the word parliament in Russian coincided with the direct relations between the Tsar’s envoy and

the Parliament in 1645–1646.<sup>20</sup> The term parliament became continuously used for the English Parliament but was also mentioned in relation to an institution in France in 1649, probably the Estates General rather than a court (for which the word *parlement* had been used in France).<sup>21</sup>

The early modern centralization of the Russian administration did not eliminate the particularistic approaches to governance in the Tsardom's peripheries. The Mongolic term *khural* ("assembly"), which was used in the Mongol Empire, for instance, returned into the Russian political language with the Buryat and Kalmyk Buddhists who used it for their religious ceremonies. The expansion to the Black Sea region contributed to the continued use of the word *rada*. The Zaporozhian Cossacks, who originally organized according to egalitarian principles, used the word *rada*, together with *kolo* ("circle"), for the assemblies which elected their leader (*hetman*) and made other decisions.<sup>22</sup> The Sich Council (*Sichova Rada*) became the supreme governing body in the Zaporozhian Sich between the Russian, Polish–Lithuanian, and Ottoman imperial polities.<sup>23</sup> In 1654, the Pereyaslav Rada, which convened on the initiative of Hetman Bohdan Khmel'nyts'kyi, pledged the Cossacks' allegiance to the Russian Tsar, but the Zaporozhian Sich remained an autonomous polity until the second half of the eighteenth century.<sup>24</sup>

In the empire's center, Peter I replaced the *duma* with a new advisory body, the Senate (*Senat*), in 1711. *Duma*, however, returned to Russian political discourse later the same century as part of Catherine II's efforts to further centralize the state. In the process of bureaucratic standardization, Catherine II abolished some of the autonomous polities, such as the Kalmyk Khanate and the Zaporozhian Sich, in the 1770s, establishing a unified system of provinces. The 1785 Charter to the Towns introduced standardized urban self-government bodies, the municipal *dumas*, which were elected by the triennial assemblies of prosperous urban dwellers.<sup>25</sup>

The debates on political modernization became especially prominent in the Russian Empire after the American Revolutionary War (1775–1783) and the French Revolution (1789–1799). Alexander I approved the first modern constitution on the territory of the Russian Empire, in the newly annexed Kingdom of Poland, in 1815. The Polish Constitution established an elected legislature, the bicameral State Sejm, although the Russian Tsar (as the Polish King) remained the supreme authority.<sup>26</sup>

The proposals to establish a parliament in the empire as a whole used the terms *duma* and *sejm*. The bureaucrat Mikhail Mikhailovich Speranskii suggested establishing the legislative State Duma and further *dumas* at different levels of self-government in 1809.<sup>27</sup> The intentions of Speranskii's project had long been debated. Some viewed it as an attempt to limit autocracy, while others considered his State Duma a bureaucratic institution, tasked with rationalizing the autocratic government.<sup>28</sup> In 1820, Nikolai Nikolaevich Novosil'tsev, the Russian official in charge of the Kingdom of Poland at the time, used *sejm* and *duma* interchangeably for the parliament which he proposed.<sup>29</sup>

Although Speranskii's and Novosil'tsev's projects were rejected, the Sejm of the Kingdom of Poland (abolished in 1832) and the Diet of the Grand Duchy of

Finland (Finland was annexed in 1809) can be seen as proto-parliamentary institutions of the Russian Empire. Furthermore, Speranskii used the term *duma* in his reform of indigenous self-government in Siberia in 1822, establishing the Steppe Duma as a council of clan elites for the Buryat-Mongols and other groups.<sup>30</sup> A system of local self-government, which was reminiscent of that proposed by Speranskii, was introduced by Alexander II in 1864, but the new assemblies were called *zemskoe* (*zemstvo*, “local” or “rural”) *sobranie* (“assembly”) instead of *duma*. Soon after that, in 1870, however, municipal *dumas* were turned from executive councils into larger assemblies, which appealed to Speranskii’s project conceptually.<sup>31</sup>

Premodern and early modern terms informed the debates among intellectuals in the nineteenth century. In his *The History of the Russian State* (1818–1829), Nikolai Mikhailovich Karamzin, who was the main authority on Russian history in the first half of the nineteenth century, stressed that the Boyar Duma was an advisory body under the Tsar and became important in the centralization, and hence improvement, of the Russian state.<sup>32</sup> The much more liberal historian Vasilii Osipovich Kliuchevskii, active in the late Russian Empire, supported such an interpretation of the Boyar Duma. He stressed that in the seventeenth century giving advice to the Tsar was not the political right of its members but their loyal duty.<sup>33</sup>

Karamzin used the term *zemskaia дума* not for the Boyar Duma in *zemshchina* but for the multiple larger early modern assemblies, which were called *sobor* and *sovet* in the historical sources. Thanks to Karamzin’s use of the term, *duma* was the name for a parliament, which a number of oppositional intellectuals proposed or demanded over the nineteenth century. Very few, however, claimed that parliamentary institutions existed in Russia prior to 1905. Most of those who did saw *veche* and *sobor* (or *zemskii sobor*) but not *duma* as comparable to European parliaments, although some continued to use the term *zemskaia дума* when speaking about *sobors*. Whereas liberals and socialists viewed the nonequivalence of Russian institutions to Western parliaments as a sign of Russia lagging behind Europe, Slavophiles and conservative intellectuals argued that *duma* and *sobor* were not and should not be equivalents of Western parliaments, foregrounding the supposed consensus between the Tsar and his subjects at such assemblies in the past and, possibly, in the future. Those who favored the establishment of a popular assembly, even when dismissing its equivalence to a parliament, foregrounded the need to improve the state machinery and, in the case of Slavophiles and conservatives, to establish direct communication between the Tsar and the people. More radical intellectuals insisted on the need for a constituent assembly (*uchreditel’noe sobranie*), sometimes calling such an institution *zemskii sobor* (see Chapter 4 by Sablin and Kukushkin in this volume).

Discussing parliamentarism in the nineteenth and early twentieth centuries, Russian intellectuals often used the term *narodnoe predstavitel’stvo* (“popular representation”) when talking about the parliament in an abstract sense. Boris Nikolaevich Chicherin, who arguably authored the first theoretical work on parliamentarism in Russian, summarized the liberal understanding of parliamentarism

as a consequence of the demand for freedom, which swept the peoples of Western Europe after the French Revolution, implying a natural yet repeatedly challenged progress.<sup>34</sup> In the early twentieth century, the term *parlament* was also used extensively in the debates both on representative government in general and on its concrete forms in the Russian Empire.<sup>35</sup>

### Concepts in the Qing imperial context

Although in East Asia the use of parliamentary terminology was even more driven by contact and observation of foreign practices, the concepts which pertained to parliamentarism were also vernacularized and positioned within the historical and mythologized context of the empire. Increased contacts with European countries as well as the United States in the nineteenth century necessitated the creation of a vocabulary to describe concepts and institutions specific to those places.<sup>36</sup> Chinese-language books describing the countries of the world, including their respective political institutions, began to mushroom from the 1830s. The most well-known of these works, Wei Yuan's 魏源 *Illustrated Treatise on the Countries of the Seas* (*Haiguo tuzhi* 海國圖志), first published in 1843 in the wake of the First Opium War (1839–1842) between the Qing and British Empires, compiled excerpts from a large number of other works and was seminal for the formation of the mental world map of Chinese intellectuals in the middle of the nineteenth century.

The encyclopedia showed two possible strategies of coping with the challenge of explaining parliamentary institutions to a Chinese readership. On the one hand, it quoted extensively from the US American missionary Elijah Coleman Bridgman's 1838 *Sketch of the United States of America* (*Meilige Heshengguo zhilüe* 美理哥合省國志略), which translated the US American House of Representatives as "Elected Department for Deliberation" (*xuanyichu* 選議處),<sup>37</sup> and the Senate as "Chamber for Deliberation of Matters" (*yishige* 議事閣). On the other hand, the *Haiguo tuzhi* is also well-known for its treatment of the English Parliament under the phonetic transcription *Baliman* 巴厘滿.<sup>38</sup> As a matter of fact, the encyclopedia employed a whole set of transcriptions for the parliamentary institutions of the United Kingdom, United States, and France: *Ganwen Haosi* 甘文好司 ("House of Commons"); *Lü Haosi* 律好司 ("House of Lords"); *Gun'elishi* 袞額裏士 ("Congress"); *Libolixian Haosi* 裏勃裏先好司 ("House of Representatives"); *Xiye* 西業 ("Senate"); *Zhanma'afu* 占馬阿富 ("Chambre" [des députés]).<sup>39</sup>

Whether mid-nineteenth-century East Asian intellectuals used newly coined words or phonetically transcribed the English- and French-language terms, their renditions mostly appealed to preexisting East Asian notions of governance, as these institutions got rendered as bureaucratic institutions. In the case of transcriptions, the *Haiguo tuzhi* and others specified the meaning of the unheard-of term by adding the general Chinese word for an administrative office. The "Parliament," thus was actually a "Parliamentary office" (*Baliman yamen* 巴厘滿衙門),<sup>40</sup> and the Congress was the "Congress office" (*Gun'elishi yamen* 袞額裏士衙門).<sup>41</sup> The

*Haiguo tuzhi* also offered the clearest example of this understanding of parliaments as bureaucratic organs in its description of the French parliament: “For administrative matters, [France] established one *Chambre* office with 430 officials staffed by every district, just like in the example of the English House of Commons.”<sup>42</sup>

In the more frequent case of new coinages such as “chamber for deliberation of matters,” Chinese – as well as Japanese<sup>43</sup> – writers mostly attached suffixes which referred to types of buildings and, by extension, to bureaucratic offices in the Chinese and Japanese government systems. The by far prevailing suffix, *yuan* 院, originally denoted a courtyard, and later became “a common final element in agency names, impossible to render consistently in English: Office, Bureau, Court, Academy, Institute, etc.”<sup>44</sup> From the late nineteenth century, it not only came to be employed as the general term to denote parliaments (*yi yuan*/Jap. *giin* 議院 – “court of deliberation”) and as a suffix in the name of various parliamentary institutions such as the late Qing “Political Consultative Council” (*Zizhengyuan* 資政院) and the legislative branch (“Legislative Yuan”) of the Republic of China (*Lifayuan* 立法院). Actually, it came to be the suffix for *all* branches of government of the Republic of China. Although using certain signifiers in a translation does not necessarily pre-define how the understanding of a term evolves later, Kuei Hung-chen 桂宏誠 rightly points out that the understanding of parliamentarism as seen in the first texts about foreign parliaments set the basis for a bureaucratic understanding of parliaments which prevailed throughout the Qing Empire.<sup>45</sup>

Yet, there is also another, less bureaucratic and more national-stately<sup>46</sup> notion which gained general currency: that of an assembly (*hui* 會). Throughout Imperial China, a deliberative assembly (*huiyi* 會議) of court officials used to be convened in order to deliberate about policies and make recommendations to the Emperor, and the term *hui* 會 was also used as equivalent for the Mongol *khural*.<sup>47</sup> In its modern parliamentary sense, it reappeared in 1837 and 1838 in Karl Friedrich August Gützlaff’s *Eastern Western Monthly Magazine* (*Dong-xi-yang kao meiyue tongji zhuan* 東西洋考每月統紀傳), which referred to the English Parliament as the “public assembly for the administration of the state” (*guozheng gonghui* 國政公會), the “public assembly of the state” (*guojia gonghui* 國家公會 and *guogonghui* 國公會), or simply the “state assembly” (*guohui* 國會).<sup>48</sup> This last form stuck. In the literature it was used, for instance, in the seminal 1864 Chinese translation of Henry Wheaton’s *Elements of International Law*.<sup>49</sup> Later, it became the name of the Japanese Imperial Diet (jap. pronunciation *kokkai*), the National Assembly of the Republic of China, and eventually the National Assembly of the Republic of Korea (kor. *kukhoe*).

Whereas works such as the *Haiguo tuzhi* or Karl Gützlaff’s magazine merely described foreign parliaments and other foreign political concepts, sooner or later East Asian intellectuals were bound to discuss them in light of their own political realities. In Japan, intellectuals were vigorously debating possible reforms to the Tokugawa-led *bakumatsu* government even before the “Meiji Restoration” of 1868 (see Yuri Kono’s Chapter 2 in this volume). In China, it took less than a decade until, in the mid-1870s, the first intellectuals began to discuss not only the

adoption of European technology, but also the adaptation of Western statecraft as a means to counter the country's political and economic decline and to strengthen it against external threats.

Indeed, parliamentarism was the first such concept to be seriously discussed for the Qing Empire, nearly two decades earlier than the closely related "constitutionalism."<sup>50</sup> From the beginning, this happened with reference to Japan. For example, an editorial of the Shanghai newspaper *Shenbao* 申報 published on June 17, 1874, can be taken as indicative of the public debates on parliamentarism that would be held in the last decades of the Qing. According to the paper, parliaments facilitated the communication between "high" (*shang* 上) and "low" (*xia* 下). Yet, they needed well-informed representatives who could "be above the people" (*ju min shang* 居民上), something which was lacking in the Qing Empire. If the development of parliamentary institutions in Europe and America had been gradual, the paper implied, it needed to be even more so in the Qing Empire.<sup>51</sup>

The newspaper-led debate of the 1870s was gradually taken up by men-of-letters.<sup>52</sup> The tropes set in the *Shenbao* in the 1870s continued to pervade in discourse, but given such events as the Sino-French War of 1884–1885, an increasing number of intellectuals began to downplay the aspect of gradualism and instead maintained that the Qing Empire needed a parliamentary institution not in some distant future after gradual preparation, but here and now. As the proposal for such an institution had to be justified in light of the ruling ideology, they argued that, from ancient times, it had been a Confucian ideal that officials be well-informed about the concerns of the populace. Zhang Zimu 張自牧, for example, argued in 1884 that parliaments were a source of the political strength of a nation and that the "West preserved the idea from [Chinese] antiquity" whereby the concerns of the people were brought to the attention of the officialdom.<sup>53</sup>

One of the contributors to the *Shenbao*, Zheng Guanying, began to publish his book *Easy Words* (*Yiyan* 易言) in 1871, wherein he painted the international scene of the time as a re-edition of the ancient Chinese Warring States period (475–221 BC). In the subsequent editions of the book as well as in the successor book *Words of Warning in Prosperous Times* (*Shengshi weiyán* 盛世危言), first published in 1894, Zheng developed his position that the Qing Empire should adopt modern instruments of statehood in order to survive in a Warring States like cut-throat competition, with parliamentarism being one of the main elements in strengthening the Qing Empire's competitiveness. Zheng devoted a section of his book to the bicameral parliamentary system found in the "Western countries," which, he argued, ensured concord between government and the people, as well as the quality of political measures.<sup>54</sup>

For long-standing political traditions to be radically changed in a short period of time, references to foreign examples alone did not suffice to make arguments in favor of – or against – reforms. Rather, until the fall of the empire, the notion of parliamentarism was also analyzed in view of one's own tradition. This was even more important in a culture which valued its own classics and ancestors as much as China. Scholarship has pointed out that the recourse to the venerable classics was used to legitimize modern phenomena from railroads to political



institutions.<sup>55</sup> But this was not the only use: as was pointed out at the time, the connection between the classics and modern phenomena was also made to protect the classics at a time when their authority stood under heavy attack.<sup>56</sup> Furthermore, it should also not be forgotten that the classics were also used in conservative arguments against new institutions.<sup>57</sup>

Zheng Guanying had no unified approach to possible ancient Chinese equivalents of parliamentarism. In his chapter on parliaments, he raised the question whether parliamentarians would not be the same as the Court Gentlemen of Consultations (*yilang* 議郎), who had existed in the Han state (206 BC–AD 220), or the same as the censors and remonstrators of later periods, but denied the question and argued that the parliament was a different institution which would avoid China’s traditional vices.<sup>58</sup> Yet, in the revised 1895 edition of his book, Zheng added a chapter in which he made a reference to a Han-time practice of “local selection,” of which the actual historical meaning is obscure. Zheng placed strong emphasis on the point that it was imperative to revive this institution, framing his chapter with references to it at the beginning and at the end.<sup>59</sup> At any rate, Zheng’s views about possible Chinese parliamentary precedents did not affect his opinion about why the introduction of a parliament was imperative and which he had laid down in his parliamentary chapter. It is representative of a large portion of late Qing arguments in favor of a parliament:

Hence, if we want to implement public international law, nothing is more important than strengthening the country’s clout; if we want to strengthen the country’s clout, nothing is more important than conquering the people’s hearts; if we want to conquer the people’s hearts, nothing is more important than letting the concerns of the lower [part of society] flow; if we want to let the concerns of the lower [part of society] flow, nothing is more important than establishing a parliament.<sup>60</sup>

## **Imperial modernizations**

Like elsewhere in the nineteenth and twentieth century, parliamentarism and constitutionalism were frequently discussed in Eurasia in the context of political modernization. The Japanese and the Ottoman Empires (see Ellinor Morack’s Chapter 7 in this volume) introduced constitutions and parliaments in the second half of the nineteenth century. Although in the latter constitutionalism was suspended, the success of political modernization of Japan, which supposedly led to its military prowess and turned it into a colonial power, affected the Qing and Russian Empires directly – in the Sino–Japanese (1894–1895) and the Russo–Japanese (1904–1905) Wars – and contributed to the discussions of political reforms in the Qing Empire and a revolution in the Russian Empire.

Until the end of the nineteenth century, the debates on parliamentarism in the Qing Empire stayed within intellectual circles. Although memorials referring to the establishment were presented to the throne, the government did not take up the topic, and it was not even included in the abortive Hundred Days’ Reform

promulgated in the summer of 1898. The negative evaluation is shown by the diary of Li Jiaju 李家駒, an official who was accompanying the Qing minister to Tokyo in order to study the Japanese education system, and who later would become one of the main figures of the constitutional reforms. In 1899, however, the balance of the Meiji reforms contained in his diary still emphasized the convening of a parliament as one of its main drawbacks, as opposed to the modernization of the military and the revitalization of the education system.<sup>61</sup>

In Russia, the so-called zemstvo constitutionalists and other liberal groups of nobility and intellectuals reinvigorated the discussions of introducing a parliament in the 1890s. After the demise of the conservative Alexander III, his son, Nicholas II, was asked to convene a parliament in 1895. Nicholas II, however, rejected the idea, pledging to defend autocracy. As noted by an oppositional politician several years later, that very same year the fatal decision of expanding to East Asia was made as if to counterbalance the dreams of liberalizing the empire.<sup>62</sup>

Ten years later, however, in the wake of the disastrous war with Japan and the Revolution of 1905–1907, Nicholas II conceded. Although Nicholas II was inclined to support an irregular consultative *zemskii sobor*, the governmental commission, which was created on the initiative of Minister of Internal Affairs Aleksandr Grigor'evich Bulygin in 1905, suggested a permanent assembly. Sergei Efimovich Kryzhanovskii of the Ministry of Internal Affairs was the main advocate of introducing the Duma.<sup>63</sup> Its name, the State Duma, was taken up from Speranskii's project, which was referenced directly during the official discussions of the new institution at the closed Peterhof Conference chaired by the Tsar. Some participants of the conference once again deemed the gathering of local information and the communication between the Tsar and his subjects the main objective of the Duma. The historian Kliuchevskii, one of the few liberal voices at the Peterhof Conference, located the Duma in the history of popular representation in Russia, which he traced to the *zemskii sobors*, and stressed the need to base legislation on the will of the majority of the people, hence attempting to define the Duma as a parliament. Although most of the ruling elite did not see the Duma as a parliament and rejected the very idea of limiting autocracy, Nicholas II's attempt to "de-modernize" the proposed institution by calling it a *Gosudareva* ("of the autocrat") rather than *Gosudarstvennaia* ("of the state") *duma* was shut down at the Peterhof Conference.<sup>64</sup>

Although initially it was designed as a consultative body, the establishment of the legislative State Duma (on October 17, 1905, in the so-called October Manifesto) and the adoption of the new Fundamental State Laws of the Russian Empire (on April 23, 1906) seemed to make Russia a constitutional state. In 1907, Vladimir Matveevich Gessen and Boris Emmanuilovich Nol'de, two prominent liberal legal scholars, listed Russia, together with Persia and Montenegro, as a new constitutional state in their comprehensive collection of contemporary constitutions. Articulating a popular progressive view, they claimed that the failures of the Russo–Japanese War unmasked the inefficiency of bureaucratic autocracy, spreading the critical attitudes to the *ancien régime* beyond intellectual circles and transforming them into a broad liberation movement across the whole country.<sup>65</sup>

Indeed, before and especially during the Revolution of 1905–1907, the inefficiency of the Russian state played a key role in the broader debates on democracy, which contrasted the public and the bureaucracy. The liberal program included not only parliamentarization but also decentralization of the empire, with the introduction of *zemstvo* and municipal self-government on the basis of universal suffrage. As argued by Gessen, since bureaucracy lacked information on particular affairs, it could not govern them effectively and needed to be substituted by local and professional self-organization.<sup>66</sup> The same logic applied to the parliament. Articulating a widespread opinion, the Tomsk liberal newspaper *Sibirskaiia zhizn'* celebrated the October Manifesto as the liberation of the people from “the tutelage of bureaucracy.” According to the newspaper, the Russian Empire had become a constitutional state and “joined the family of modern civilized states as an equal,” and in such a state the population had supreme authority. At the same time, *Sibirskaiia zhizn'* voiced a popular liberal argument in favor of gradual political change.<sup>67</sup>

Few contemporary observers, however, viewed the Duma (1906–1917) as a parliament equal to its Western counterparts. It occupied a subordinate position to the State Council, which was reformed from a bureaucratic advisory council into a partly appointed upper chamber (for a similar conservative take on parliamentarism, see Bruce Grover’s Chapter 3 in this volume), and did not control the cabinet, which contributed to the term “sham constitutionalism” being applied to the new Russian regime.<sup>68</sup> The non-universal, indirect, and unequal elections were further limited with the dissolution of the Second Duma on June 3, 1907. Nol'de nevertheless stressed that the Russian Empire could be called a constitutional state and deemed the State Duma the first normally functioning parliament in Russia, implying the country’s connection to Western constitutional modernity.<sup>69</sup>

Liberal intellectuals made gradualist arguments about the situation. Sergei Andreevich Kotliarevskii, a historian, legal scholar, and one of the founding members of the liberal Constitutional Democratic (KD) Party, favored “democratic parliamentarism,” but the notion of political evolution and Russia’s inferiority compared to the West helped him justify the existence of the “Prussian regime” of a non-answerable cabinet as a transitional stage. Despite his skepticism of the Duma’s “parliamentarism,” he urged Russia’s progressives to set parliamentarism (rather than radical republicanism) as their ultimate goal.<sup>70</sup> In practical terms this translated into the KD program of constitutional monarchy featuring a potent universally elected “popular representation.”<sup>71</sup>

Even after the Duma was made legislative, conservative opponents of parliamentarism remained vocal. Vasilii Vasil'evich Rozanov, a conservative philosopher, refused to admit that a “constitution” and a “parliament” were introduced in Russia, maintaining that the Duma was a product of Russian history, produced by the Russian soul, enthusiasm, patience, and work, and not a “foreign novelty.” Although Rozanov acknowledged that the Russian people also moved to liberation like elsewhere, this movement was parallel to those of the others. For Rozanov, however, it did not have the same direction. For him, the Duma did not mimic Western institutions and was not a place for representing difference.

Rozanov called for the unity of Russia's political groups there, which would mitigate the splits in the Russian society.<sup>72</sup>

Although it did not become a potent parliament, the State Duma proved to be a key site of imperial nation-making, both in the sense of imagining the larger inclusive political community of the empire and the smaller communities (based on ethnicity, religion, region, social estate, and class) in the composite space of the empire.<sup>73</sup> As argued by Alexander Semyonov, the State Duma was a microcosm of empire not because it ostensibly represented the national or ethno-confessional distinctions but because the parliament itself was based on uneven or multidimensional heterogeneity. The elections, albeit restrictive and representative of just a fraction of the overall population, were based on several principles, which alternately referenced territorial, social estate, ethno-national, and confessional markers or combinations of them. This owed to the differentiating and individuating approach of the government to imperial space. In the Duma itself it resulted in the articulation of multiple and overlapping categories, with some having been politicized before and with others being operationalized only in the imperial parliament. There were multiple caucuses (with overlapping memberships) based on ethnicity (for instance, Poles), religion (Muslims), social estate (Cossacks), and region (Siberians) in addition to the party factions. There was also a caucus of Autonomists which united nationalist and regionalist advocates of decentralization.<sup>74</sup> A popular print of the First Duma accentuated the diversity of the deputies by placing Muslim and peasant deputies at the foreground of the composition (see Figure 1.1).

Despite their criticism of the Duma, liberal and moderate socialist and nationalist thinkers generally supported parliamentarism. The KDs included parliamentarism, as the answerability of the cabinet to the parliament's majority, into their program in 1905. The other two largest oppositional parties – the Party of Socialists Revolutionaries (SR) and the Russian Social Democratic Labor Party (SD) – supported the slogan of democratic republic. The SRs also included the slogan of revolutionary dictatorship of proletariat, if it became necessary, into their draft program in 1905 but ultimately dropped it in favor of democratic republic ruled by the people through their elected representatives and referendum.<sup>75</sup>

Left and right radicals, by contrast, questioned the very necessity of a parliament. The former rejected parliaments as part of class exploitation and oppressive state machinery and called for direct rule of the toilers to represent an alternative democratic modernity. The prominent anarchist writer Petr Alekseevich Kropotkin rejected the idea of dividing the struggle into two steps – a political coup and economic reforms ostensibly to be implemented by a Russian parliament. For him, the struggle against autocracy and capital was to be simultaneous, and any parliament was a deal between the parties of the past and those of the future and hence would never introduce revolutionary measures. Arguing that Russia was unique and opposing parliamentary gradualism, Kropotkin maintained that the Russian people had a historic chance to take the power into their own hands and surpass the stages which the West went through.<sup>76</sup>



Figure 1.1 Zasedanie pervoi Gosudarstvennoi dumy [The session of the First State Duma]. Moscow: Lit. T-va I. D. Sytina, [1906]. The text at the top reads “State Duma. (Tauride Palace).” The text at the top right corner reads “Chairman of the State Duma S. A. Muromtsev.”

For the far right, the threat to the “greatness” of the state was intertwined with the supposed threats to the ethnic Russians. Rozanov’s aspiration for unity in the State Duma was shattered by the oppositional majorities of the first two Dumas, which triggered their dissolution. Anticipating the convocation of the Third Duma, based on the limited electoral law, Rozanov expected the new Duma to finally become one of the “state” and not one of the “society,” rejecting thereby the liberal notion of societal self-organization. Rozanov expressed hope that the Duma would be a “national Russian” representation and personally attacked the SD deputies from the Caucasus. What progressives and non-Russian nationalists saw as the non-Russians finally gaining a voice through the Duma, for Rozanov was a clear indication that the Russian state and the ethnic Russians (who in practice made up some 44.3 percent of the imperial population in terms of language but legally also included the 17.8 percent speaking Ukrainian and 4.7 percent speaking Belarusian, becoming thereby a majority)<sup>77</sup> could become marginalized, as he claimed that the “grey-haired old Rus’,” embodied by the people of “serious positions and professions,” had to listen to the “nonsense” of the deputies from the Caucasus.<sup>78</sup> Some right radicals even saw the roots of Russian parliamentarism in a Jewish conspiracy.<sup>79</sup>

Whereas the defeat against Japan in 1895 did not seem to boost government interest in parliamentarism in the Qing Empire, subsequent events did. The Boxer War of 1900–1901 and the Russo–Japanese War led the Qing government to agree to political reforms. The aforementioned Li Jiaju thoroughly changed his opinion on this matter, coming to act first as the Qing constitutional commissioner to Japan in 1908, and eventually as one of the Imperially appointed drafters of the final constitution in 1911. However, subscribing to a gradualist policy, the government maintained that a full bicameral parliament (*yiyuan*) could only be convened after a thorough reform of the state, as delegates were not expected to legislate from scratch, but instead to deliberate policy matters on the basis of an already existent body of laws.<sup>80</sup> The gradualist approach was not only the one recommended by a large part of foreign observers, but it was also reinforced by the Qing government’s perception of Russia, where the speedy adoption of a constitution and the convening of the First Duma in 1906 did not do much to mitigate the crisis through which the country was going.<sup>81</sup>

Following this principle, the government promised in 1906 to study the adoption of constitutional government and foresaw the creation of a proto-parliamentary body, the Political Consultative Council (*Zizhengyuan* 資政院), as a place to “broadly collect public speech” (*bocai qunyan* 博采羣言).<sup>82</sup> In the following years, the government followed through, setting up the *Zizhengyuan* as well as deliberative assemblies at lower administrative levels, called “offices for consultation and deliberation” (*zhiyi ju* 諮議局) at provincial level and “deliberative assemblies” (*yishihui* 議事會) at lower levels. As the official documents issued by the government at the time made clear, the lower provincial assemblies should be a basis for the Political Consultative Council, serving as a talent pool for it (*wei Zizhengyuan chucai zhi jie* 爲資政院儲材之階) and as gathering points of public opinion (*caiqu yulun zhi suo* 採取輿論之所).<sup>83</sup> These local assemblies were not to be treated as national parliaments, but were confined to a consultative role.<sup>84</sup> They were, however, parliamentary “forerunners” (*xiansheng* 先聲)<sup>85</sup> which should be transformed into provincial legislative organs after the convening of the National Assembly.<sup>86</sup>

For the government, such parliamentary assemblies were thus mainly meant as consultative bodies that should bring the concerns of the people to the government. Equally, it was hoped that they would foster national cohesion by bringing those governing and those governed closer together. This was true even for vast parts of the empire which were deemed unfit to participate in the new system, that is, the large non-Han regions of Mongolia, Xinjiang, and Tibet. The new parliamentary system presupposed “the existence of a pool of educated Han gentry outside the bureaucracy – a milieu conspicuously lacking” there.<sup>87</sup> Hence, no provincial assemblies were established in Mongolia and Tibet, and the one for Xinjiang never assembled. Yet, by giving elites of these regions, particularly from Mongolia, special group representation by Imperial appointment to the Political Consultative Council, the Qing tried to parliamentarize their traditional method of creating loyalty by conferring aristocratic privileges.<sup>88</sup>

The government’s slow approach to parliamentarism met with increasing impatience on the part of a public which, to a large extent, although by far not

exclusively, had come to see constitutionalism as a panacea for the Qing Empire's ills, and called for a much faster pace of reforms. A large number of people signed petitions calling for the "speedy convening of a parliament" (*su kai guohui* 速開國會), including Li Jiaju himself. But even the mere "right to express proposals" (*jianyan zhi quan* 建言之權)<sup>89</sup> had a tremendous impact on late Qing politics. As the provincial assemblies were allowed to memorialize to the Political Consultative Council, they had a communication channel to the Emperor and were less dependent on the governor.<sup>90</sup> When the provincial assemblies were convened in 1909 and the Political Consultative Council in 1910, the local elites represented in them made extensive use of their "right to speak." Using the assemblies as platforms, they severely pressured the court, which became one of the immediate causes of its demise in 1911/1912.<sup>91</sup>

### Postimperial settlements

The logic and contradictions of imperial parliamentarism persisted during the post-imperial settlements. On the one hand, there were attempts to constitute inclusionary Russian and Chinese postimperial civic nations, which would include not only the titular groups but also other groups of the former empire. Both the projected Russian federative republic and the Chinese Republic of "Five Races under One Union" were to have inclusionary parliaments. At the same time, the discussions of parliamentarism also continued as part of particularistic, exclusionary national projects, and the use of vernacular terminology very much reflected that.

The events at the turn of 1911 to 1912 – that is the Xinhai Revolution and the replacement of the Qing Empire by the Republic of China – meant an at least nominal transition from monarchical to popular sovereignty. *Prima vista*, the founding constitutional texts of the Republic of China seem to reveal this momentous shift of focus. While Article 1 of the Imperial Outline of a Constitution, adapted from the Japanese Constitution of 1889, had declared that the Empire was to be governed by the Emperor in "one dynastic line for ages eternal."<sup>92</sup> Article 2 of the Republic's first Provisional Constitution, promulgated on March 11, 1912, declared that "the sovereignty of the Republic of China is vested in the entirety of the nation."<sup>93</sup>

The establishment of the republic was accompanied by a rough exercise in a more democratic form of government. In theory, the political structure laid down in the Provisional Constitution as well as in the *Law on the Organization of the National Assembly* of August 10, 1912, conferred a paramount importance to the bicameral National Assembly (*Guomin yihui* 國民議會, short *Guohui* 國會): next to its attribution of passing legislation, it was also entrusted with drafting a permanent constitution for the Republic, and furthermore it elected the President of the Republic and the Prime Minister as the head of the Cabinet.<sup>94</sup>

The election to the National Assembly at the turn of 1912–1913 was not only the first one to be ever held in China at a national level, but also drew from a massively enlarged basis of voters of more than 40 million people.<sup>95</sup> Whereas suffrage for the 1909 provincial elections had stood at 0.39 percent of the population,<sup>96</sup>

it had increased to more than 10 percent of China's population of roughly 400 million inhabitants in 1912. Next to letting much broader sections of society participate in the political process, it also continued and deepened the shy attempts of the Qing Empire at parliamentarization of the imperial situation. While the Qing had merely integrated the vast non-Han regions of the Empire into the upcoming parliamentary system via upper-house indication, the Republic insisted on having these regions represented in the lower house as well.

However, at the same time, these elements of democratization and increased participation of the masses in politics, as well as of greater national integration, also had clear limits both in the political realities and in the intellectual debates of the time. As to the integration of the non-Han regions into the new National Assembly, the 1912–1913 elections faced numerous difficulties and delays in Xinjiang<sup>97</sup> and could not be carried out in Tibet and Outer Mongolia, which had separated themselves from the Republic of China. Tibetan and Outer Mongolian seats were filled from loyal Mongol and Tibetan communities in Beijing. Combined with the fact that the sparse population of these regions required overproportional delegate quotas, this led to the perception that the Republic was actually granting ethnic, not territorial, representation to Tibetans and Mongols, and to corresponding frictions with the officially sanctioned ideology of ethnic equality.<sup>98</sup>

The parliamentarization of the Chinese post-empire was celebrated by Russian socialists as a marker of global progress, even though they viewed parliamentarism not as a goal but merely as a means of achieving socialism. Commenting on the Xinhai Revolution and the developments in the Republic of China in 1912, Vladimir Il'ich Lenin, celebrated the awakening of the “four hundred million backward Asians” to political life and stressed the importance of the convocation of the Chinese parliament – “the first parliament in a former despotic country.”<sup>99</sup> Returning to the issue in 1913, Lenin called the Chinese parliament “the first parliament of a great Asian country” and praised Sun Yat-sen's 孫逸仙 Guomintang for bringing the broad masses of Chinese peasants into politics, which he described as “a great factor of progress of Asia and progress of humanity.”<sup>100</sup>

In the chaotic struggles of the early Republic, the elected National Assembly did not last for long. By November 1913, President Yuan Shikai 袁世凱 effectively replaced the National Assembly with two other assemblies – a “Political Assembly” (*Zhengzhi huiyi* 政治會議, see Figure 1.2) and a “Constituent Assembly” (*Yuefa huiyi* 約法會議, see Figure 1.3). In 1914, Yuan officially disbanded the National Assembly and had another provisional constitution approved.<sup>101</sup> This Constitution, which provided for an extraordinarily strong position of the President, foresaw the establishment of a bicameral national assembly – styled “Legislative Yuan” (*Lifayuan* 立法院) – and of a presidential Privy Council (*Canzhengyuan* 參政院; see Egas Moniz Bandeira's Chapter 5 in this volume). Proposed by the Japanese constitutional advisor Ariga Nagao 有賀長雄 as the equivalent to the Japanese Privy Council (*Sūmitsuin* 樞密院), only the latter institution convened at the time. Consisting of 50–70 delegates personally selected by Yuan, it was immediately decried as an instrument of Yuan's monarchic ambitions and megalomania. While these accusations are not false, they do not depict the whole story, for Yuan's





Figure 1.2 Zhengzhi huiyi quanti sheying [Group photo of the Political Assembly].  
*Dongfang zazhi* 東方雜誌 11, no. 2 (Minguo 3 [1914]).

constitutional design conformed to the recommendations given to him by advisors such as Ariga Nagao and Frank Johnson Goodnow. Hence, these institutions also reflected a current of contemporary constitutional scholarship which accorded a powerful position to the head of the executive, regardless of whether he be an emperor or a president.<sup>102</sup>

Yuan's *Canzhengyuan* was disbanded after his death in 1916, while the original National Assembly convened again. A new National Assembly, elected in 1918,<sup>103</sup> functioned comparatively smoothly for two years before it was disbanded again. By that time, the Beijing government had already lost control over much of the country and China was experiencing the beginning of a decade full of civil war and warlordism.<sup>104</sup> The Beijing government's parliament, while strong in theory, was subject to maneuverings by political strongmen. The old National Assembly was convened again, but its widespread corruption contributed to the disillusionment with parliamentarism and constitutional politics as such.<sup>105</sup> When the Guomindang troops conquered Beijing in June 1928, effectively ending the Warlord Era, "China's experiment with parliamentary politics was over."<sup>106</sup>

The parliamentarization of the Russian postimperial space followed a somewhat similar trajectory of initial success and quick demise. It was the Duma which



Figure 1.3 Yuefa huiyi quanti sheying [Group photo of the Constituent Assembly].  
*Dongfang zazhi* 東方雜誌 11, no. 2 (Minguo 3 [1914]).

formed the Provisional Government during the Revolution of 1917, while a universally elected omnipotent parliament – the All-Russian Constituent Assembly – was supposed to resolve the Russian imperial crisis, which inter alia manifested in the disastrous First World War (1914–1918). At the same time, parallel to the institutions of the Provisional Government and the new zemstvo and municipal authorities, which were reformed on the basis of universal suffrage, the soviets (“councils”) reemerged (after their brief appearance in the Revolution of 1905–1907) as the bodies of class self-government. Although this situation was frequently interpreted as “dual power,” some socialists and liberals in fact viewed the soviets as “legislative chambers of deputies” and the Petrograd Soviet as “a surrogate people’s *duma*,” which replaced the State Council in a two-house parliament of new Russia.<sup>107</sup>

The ideas of gradualism and what can be called “parliamentary tutelage,” however, were still articulated by some Russian liberals. In his pre-revolutionary work, which was published and discussed in 1917, Gessen rejected the notion of popular sovereignty. For him, the people were the source of legislative authority in a representative republic but were not seen as capable of exercising it due to the lack of a deliberate unity of wills. Legislative authority was exercised by the parliament on behalf of the people and in its interests, but the election of deputies was not a delegation of legislative competence, since the people did not

have it in the first place. A citizen was a voter and not a lawmaker who adopted legislation through his or her representatives. According to Gessen, the parliament received its competence from the constitution and not from the people, but elections were still needed for the will of the parliament to correspond to popular interests. Gessen concluded that popular representation implied the incapacity of the people. In his view, a parliament was not and could not be a cliché of the popular masses; it organized and created the general will, turning the anarchy of circulating opinions into one.<sup>108</sup>

Moderate socialists did not share such a view on popular representation, with Mark Veniaminovich Vishniak, a legal scholar and a member of the SR Party, insisting that according to the idea of democracy (*narodopravstvo*), as initially formulated by Jean-Jacques Rousseau, only the people were the source of public opinion, that is, of the will directed at the common good. A parliament, according to Vishniak, was only a secondary institution articulating but not creating popular will,<sup>109</sup> which very much corresponded to Georg Jellinek's interpretation of the people as the primary body and the parliament as the secondary body.<sup>110</sup>

Liberals and moderate socialists hence agreed that Russia needed a parliament, which could be uni- or bicameral. A possible second chamber, as discussed by a committee under the Provisional Government, could reflect decentralization and include the representatives of autonomous territories and local self-government bodies, as well as the representatives of the most important "organized social and cultural forces of the country," such as representatives of trade and industry, cooperatives, trade unions, and academic institutions.<sup>111</sup>

The establishment of a Bolshevik–Left SR government, supposedly legitimized by the soviets, on October 25–26, 1917, however, reflected the growing popularity of leftist anti-parliamentarism. The new government allowed the convocation of the Constituent Assembly on January 5, 1918, but since the two radical parties did not have a majority there and did not find the assembly's support, they disbanded it the very next day. With the expulsion of the Left SRs from the Soviet government, the Bolsheviks established a one-party autocracy. Indeed, they introduced a sham federation but opted for a complete and explicit opposition to parliamentarism in favor of an exclusionary class government.<sup>112</sup> The Soviet non-parliamentary system, however, was formally abandoned in 1936 with the adoption of the new Soviet Constitution, which introduced a Soviet "parliament" – the Supreme Soviet (*Verkhovnyi sovet*) of two chambers<sup>113</sup> (see Olga Velikanova's Chapter 8 in this volume).

China experienced a similar departure from Western-style parliamentarism, yet following a different logic. In spite of the optimistic attempts at amplifying suffrage in 1912, the same republicans who had attacked the Qing for installing sham constitutionalism and for not adopting a constitution soon enough came to subscribe to similar positions, that is, that a full constitution could not be adopted at once, but only after a sufficiently long preparatory phase. Sun Yat-sen, who had been the first President of the Republic in 1912 and led the so-called Constitutional Protection Movement against the Beijing-based Beiyang 北洋 government from 1917, came to conceptualize such a gradualist thinking in his 1924 "Outline of

National Construction” (*Jianguo dagang* 建國大綱). Therein, he foresaw development in three stages, from a military government (*junzheng* 軍政) to a government of “tutelage for the people” (*xunzheng* 訓政) to, eventually, “constitutional government” (*xianzheng* 憲政).<sup>114</sup> A popularly elected Legislative Yuan was only foreseen for the last phase, and thus still away from a fractured China that was still considered to be in the first phase of military government. Effectively, thus, the parliament became the coronation rather than the main agent of the nation-building process of the Chinese Republic, not unlike it had been for the Qing Empire.

According to official ideology, the unification of most of China under the Guomindang in 1928 marked the transition from military government to the era of “tutelage,” which was to be exerted by the Guomindang. The subsequent revision of the Organic Law of the National Government of October 4, 1928, adopted Sun’s five-branch system of government and introduced the Legislative Yuan together with four other *yuan*s. The new legislative body was only one element in the legislative process, since the adoption of a law required the joint countersignature of the presidents of all five *yuan*s. The next revision of the Organic Law (November 24, 1930) elevated its status a bit by requiring only the President of the National Government to countersign law bills.<sup>115</sup> However, the members of the Legislative Yuan continued to be unelected, being appointed instead by the National Government. In 1931, the Guomindang convoked a constituent assembly – called People’s Convention (*Guomin huiyi* 國民會議). Most of its delegates represented the territorial subdivisions of the Republic as well as overseas communities, but were elected by a number of legally registered organizations at the local level, giving the Guomindang the power to directly or indirectly control the Convention.<sup>116</sup> The Provisional Constitution of the Political Tutelage Period, adopted by the People’s Convention in May 1931, consolidated the system laid out in the organic laws and the place of the Legislative Yuan in it. Hence, in the era of Guomindang-controlled “tutelage,” the party dominated both the establishment as well as the functioning of these institutions, and the Legislative Yuan remained a bureaucratic body.<sup>117</sup> The result was a one-party regime similar to that in Soviet Russia and the Soviet Union. Furthermore, the 1931 Provisional Constitution can be seen as an early constitutional formalization of a one-party regime.

After the end of the Second World War, the Republic of China officially transitioned from “tutelage” to “constitutional” government, promulgating a new constitution in 1947 and convening the first popularly elected Legislative Yuan in 1948. Yet, China was amid a civil war which eventually forced the Guomindang-led government to flee to Taiwan. While the victorious Communist Party established its own one-party regime, the Chinese People’s Political Consultative Conference – China’s main parliamentary institution from 1949 to 1954 – sought to integrate other political currents and to create some continuity to the Republic (see Henrike Rudolph’s Chapter 9 in this volume).

The postimperial settlements witnessed a number of further vernacular parliamentary developments, which followed the particularistic national projects after the two empires. The newly established sovereign Polish and Lithuanian republics, for instance, called their parliaments *sejm*. Many polities, however, did not

succeed in retaining their autonomous or independent status. Here the examples of Ukrainian and Mongolian parliamentary formations were especially illustrative of the use of the concepts which had been relevant for larger imperial spaces before in political nation-building.

Diverse Ukrainian nationalists were among several postimperial groups which used the concept of *rada*. As a national institution, it emerged in the context of the Habsburg Empire during the Revolution of 1848–1849, when the Supreme Ruthenian Council (*Holovna Rus'ka Rada*) was formed.<sup>118</sup> Mikhaïlo Hrushevs'kyi, a prominent Ukrainian historian and politician, contributed to the integration of the Cossack past, and hence its institutions, into a coherent narrative of democratic Ukraine.<sup>119</sup> During the crisis of the Habsburg and Russian Empires, *radas* were being formed in both. On March 4, 1917, the Ukrainian Central Rada (*Ukrains'ka Tsentral'na Rada*) was formed in Kyiv as the governing body of the anticipated Ukrainian autonomy in postimperial Russia. Although the body consisted of nominees rather than popularly elected deputies, it was occasionally called a parliament – and after its constitutionalization, the Ukrainian polity was supposed to have a universally elected one.<sup>120</sup> The Ukrainian Central Rada, chaired by Hrushevs'kyi, proclaimed the formation of the Ukrainian People's Republic in November 1917, following the Bolshevik–Left SR coup in Petrograd and in anticipation of the All-Russian Constituent Assembly. When the latter was disbanded, the Ukrainian Central Rada declared Ukraine's independence in January 1918. The Ukrainian National Rada (*Ukrains'ka Natsional'na Rada*) became the supreme legislative body of the self-proclaimed independent Western Ukrainian People's Republic on the former Habsburg territory in October 1918.<sup>121</sup> *Radas* as governing bodies were also formed by Kuban Cossack, Belarusian, and regional Ukrainian groups (for instance, in the Russian Far East).<sup>122</sup>

Mongolic-speaking politicians and intellectuals of the Russian and Qing Empires participated in constitutionalizing Outer Mongolia. There, the term *khural* was used for the new institutions. Following the declaration of independence in 1911, which in 1915 was internationally recognized as mere autonomy within the Republic of China, the Bogd Khan ordered the establishment of a bicameral consultative assembly – the State Khural (*Ulus-un khural*). The Bogd Khan's decree on the establishment of the State Khural referred to the experience of the “powerful, rich, and cultured” states of the world, which had general assemblies of representatives, and stressed the need for deliberation and consideration of different opinions when resolving challenging and important issues.<sup>123</sup> The fact that both chambers of the State Khural were appointed, while all decisions were to be approved by the Bogd Khan, led Pavel Dudin to conclude that the regime remained an absolute theocratic monarchy.<sup>124</sup>

The Buryat intellectual Tsyben Zhamtsarano participated in the debates on parliamentarism in Outer Mongolia. In his *Ulus-un erke* (“Power of the State”), Zhamtsarano presented a comparative study of political systems. He paid special attention to parliaments, their structures, and elections, as well as the relations between central and local authorities in most states, dominions (such as Australia and New Zealand), and parts of states (such as Finland or the states of

the German Empire) with constitutions, probably using an available collection in Russian. Zhamsarano used the word *khural* for parliaments. He interpreted their emergence from a progressive standpoint, explaining that the authorities had to adapt to changing times and gather representatives to establish *khurals* “to discuss problems, benefits, interests, income and expenditure, and many other matters” of the respective countries, as well as “to make laws to foster and rule the people.” He continued, “Thus established, state *khurals* proved to be beneficial in many respects, therefore making the state more powerful. [People] definitely understood that and nowadays most of sixty big and small countries have state *khurals*.”<sup>125</sup>

Whereas the Ukrainian *radas* and the first Mongolian State Khural ceased to exist as institutions in the 1910s, the concepts were integrated into the Soviet imperial formation, which extensively used non-Russian nationalisms. Even though the Ukrainian Central Rada was the enemy of the Soviet government in Ukraine, the translation of soviet into Ukrainian as *rada* practically appropriated the term for the Bolsheviks. Indeed, the Ukrainian Socialist Soviet Republic (*Ukrains'ka Sotsiialistychna Radians'ka Respublika*), which was formed in 1919 as a nominally independent state, became one of the USSR's constituent republics in December 1922. In 1921, the Mongolian People's Government, which proclaimed Mongolia's independence with Soviet support, established the Provisional State Khural as a consultative body.<sup>126</sup> Furthermore, the assembly which constituted the Mongolian People's Republic after Bogd Khan's demise in 1924 was called the First Great Khural. It adopted the first Constitution of Mongolia, establishing the Great Khural as a constitutional parliamentary body.<sup>127</sup> Both the *radas* and the *khurals* in the Soviet empire, however, were nominal bodies, fully subordinate to the Ukrainian and Mongolian ruling parties, themselves accountable to the Bolshevik Party.

## Conclusion

*Duma* and *yuan* emerged as signifiers of Russian and Qing/Chinese legislatures in a contested conceptual landscape, with multiple alternative terms being used by the proponents and opponents of parliamentarism. They did not, however, unequivocally point to the establishment of parliaments in the two contexts. Although the Western system was largely perceived as universal, there was a critical reception of Western models rather than their simple “import,” and suggestions that the Eurasian empires were not yet ready for such popular participation as in Western Europe and America were frequent in the discussions among Eurasian intellectuals. Some intellectuals, and especially the imperial elites, foregrounded the state-centeredness of the new institutions which were supposed to rationalize and facilitate governance of the populace rather than shift the source of sovereignty to it, which often had bureaucratic connotations.

In both cases, parliamentarism did not seem to help preserve the Russian and Qing Empires. Furthermore, after their collapse, pluralistic parliaments were established only for brief moments, giving way to nominal representative institutions

under dominant political parties – the Bolsheviks and the Guomindang, respectively. It was the parties which were supposed to be at the core of political and other modernization. Even though the one-party regimes were formalized, the new elites still viewed parliaments, albeit nominal, as important markers of a modern state.

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- 45 Kuei, "Qingmo Minchu renzhi zhong de 'yiyuan' yu 'guohui'."
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- 47 For example, in an eighteenth-century textbook of Mongol, *yeke khural* is translated as *dahui* 大會 ("large assembly"). See Kuribayashi Hitoshi 栗林均 and Sechenbat

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- 48 “Lun” 論, *Dong-xi-yang kao meiyue tongji zhuan* 東西洋考每月統紀傳, no. 5 (Daoguang dingyou 道光丁酉 [1837]): 1a–3a; “Zhiwai feng shu shu” 姪外奉叔書, *Dong-xi-yang kao meiyue tongji zhuan* 東西洋考每月統紀傳, no. 6 (Daoguang dingyou 道光丁酉 [1837]): 1a–2a; “Yingjili guozheng gonghui” 英吉利國政公會, *Dong-xi-yang kao meiyue tongji zhuan* 東西洋考每月統紀傳, no. 4 and no. 5 (Daoguang wuxu 道光戊戌 [1838]): 63a–65a; 81a–83a.
- 49 Henry Wheaton [Huidun 惠頓], *Wanguo gongfa* 萬國公法, trans. William Alexander Parsons Martin [Ding Weiliang 丁韪良] (Beijing: Chongshiguan, Tongzhi 3 [1864]), *passim*.
- 50 The first Chinese intellectual to propose an elected assembly was Feng Guifen 馮桂芬 in 1860/61, although his writings did not gain wider circulation until 1884. See Joshua Hill, *Voting as a Rite: A History of Elections in Modern China* (Cambridge, MA: Harvard University East Asia Center, 2019), 11–39.
- 51 *Shenbao* 申報, “Lun chuangxing yiyuan shi” 論創行議院事, June 17, 1874, 1.
- 52 On the *Shenbao* debates, see Rudolf G. Wagner, “The Free Flow of Communication between High and Low: The Shenbao as Platform for Yangwu Discussions on Political Reform 1872–1895,” *T’oung Pao* 104, no. 1–2 (2018): 116–188. On the continuation of the debates by literati, see Onogawa Hidemi 小野川秀美, *Shinmatsu seiji shisō kenkyū* 清末政治思想研究 (Tokyo: Misuzu shobō, 1984), 52–85; and Lloyd Eastman, “Political Reformism in China before the Sino-Japanese War,” *Journal of Asian Studies* 27, no. 4 (1968): 695–710.
- 53 Zhang Zimu 張自牧, *Lice zhiyan* 蠡測卮言, in *Xiaofanghuzhai yudi congchao* 小方壺齋輿地叢鈔, ed. Wang Xiqi 王錫祺 (Shanghai: Zhuyitang, 1897), 499a–b. See also Wagner, “The Free Flow of Communication between High and Low,” 173, whence the translation of the sentence is adapted.
- 54 The title is variously translated as *Words on Change*, *On Change*, *Easy Words* or *Easy Remarks*. The translation with “easy” or even “careless” is more appropriate, for Zheng himself explains the title by citing various *loci classici* for the saying “talking is easier than doing.” Zheng Guanying 鄭觀應, *Zheng Guanying ji* 鄭觀應集, ed. Xia Dongyuan 夏東元, 2 vols. (Shanghai: Renmin chubanshe, 1988), 1:63–64. On Zheng’s discourse see Xiong Yuezhi 熊月之, *Zhongguo jindai minzhu sixiang shi* 中國近代民主思想史, 2nd ed. (Shanghai: Shanghai Shehui Kexueyuan chubanshe, 2002), 155–165.
- 55 On the tendency in general, see Michael Lackner, “Ex Oriente Scientia? Reconsidering the Ideology of a Chinese Origin of Western Knowledge,” *Asia Major* 21 (2008), 183–200.
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- 57 Egas Moniz Bandeira, “China and the Globalisation of Constitutions: Constitutional Thought in the Qing Empire (1838–1911)” (Ph.D. diss., Heidelberg University/Tohoku University, 2019), 375–383.
- 58 Zheng, *Zheng Guanying ji*, 1:313. Also contained in Xia Xinhua 夏新華 et al., eds. *Jindai Zhongguo xianzheng licheng: shiliao huicui* 近代中國憲政歷程: 史料薈萃 (Beijing: Zhongguo Zhengfa Daxue chubanshe, 2004), 13. Zheng’s discourse is a continuation of Feng Guifen’s. See Hill, *Voting as a Rite*, 11–39.
- 59 Zheng, *Zheng Guanying ji*, 1:328–330.
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- 61 Li Jiaju 李家駒, “Youzhengye Zhai zaji” 有正業齋雜記, in *Li Jiaju riji* 李家駒日記, ed. Li Jiaju 李家駒 (Diaries of Li Jiaju) (N.p., 1898–1903); Shelfmark t4746, National Library of China, Beijing. Entry for Guangxu 25/2/22 (April 2, 1899).

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- 67 *Sibirskaiia zhizn'*, October 27, 1905: 2.
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- 100 V. I. Lenin, “Bor'ba Partii v Kitae” [1913], in *Polnoe Sobranie Sochinenii*, 5th ed., vol. 23 (Moscow: Izdatel'stvo politicheskoi literatury, 1973), 138–140.
- 101 Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 471–476.
- 102 It is a matter of debate whether Yuan Shikai's US American advisor Frank Johnson Goodnow supported Yuan's application of his recommendations, and to what extent his advice was being politically abused by his hosts. On Goodnow, see, e.g., Xu Guoqi, *Chinese and Americans: A Shared History* (Cambridge, MA: Harvard University Press, 2014), 139–203; on the Japanese Ariga Nagao 有賀長男 (1860–1921) and his activities in both Imperial and Republican times, see Matsui Naoyuki 松井直之, “Shinmatsu-Minsho-ki no Chūgoku ni okeru rikkenshugi no keiju: Ariga Nagao no Tennō-kikansetsu ni chakumokushite” 清末民初期の中国における立憲主義の継受: 有賀長雄の天皇機関説に着目して, in *Nitchū ni okeru Seiō rikkenshugi no keiju to henyō* 日中における西歐立憲主義の継受と変容, ed. Takahashi Kazuyuki 高橋和之 (Tokyo: Iwanami shoten, 2014), 93–122.
- 103 On these elections, see Chang, *Zhongguo minzhu zhengzhi de kunjing*, 118–164.
- 104 On the 1918 parliament see e.g., Kaneko Hajime 金子肇, “Min'i ni fukusanu daihyō: Shin kokkai no 'gikai sensei'” 民意に服さぬ代表: 新国会の「議會専制」, in *Chūgoku gikai 100-nen shi: Dare ga dare o daihyōshitekita no ka* 中国議會 100 年史: 誰が誰を代表してきたのか, ed. Fukamachi Hideo 深町英夫 (Tokyo: Tokyo Daigaku shuppankai, 2015), 63–82.
- 105 See Andrew J. Nathan, “A Constitutional Republic: The Peking Government, 1916–28,” in *The Cambridge History of China, vol. 12: Republican China 1912–1949, Part I*, ed. John K. Fairbank (Cambridge: Cambridge University Press, 1983), 279–283.
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## 2 Montesquieu vs. Bagehot

### Two visions of parliamentarism in Japan

*Yuri Kono (translated by Egas Moniz Bandeira)*

#### **Introduction: Heisei democracy and the 1955 System**

The political structure of contemporary Japan is that of a representative democracy. But what kind of representative democracy is it? It is different from the presidential system of the United States. That is to say, a strict separation of powers is not really enshrined in the Constitution of Japan, which determines the superiority of the House of Representatives (*Shūgiin* 衆議院). Although the Constitution provides for the Supreme Court's power of judicial review as a court of last resort, the Court is known to nearly always respect the positions of the government when "highly political questions" are involved.<sup>1</sup> Furthermore, Japan's political system is also different from a "consensus" democracy, although this point is a bit more controversial. Contemporary Japan differs from the type of representative democracy as is often to be seen in European countries, with an electoral system centered around proportional representation and in which important political decisions tend to be taken in consensus between the major political parties.<sup>2</sup>

But what is contemporary Japan's democracy then? Certainly, the central position of the National Diet within the political system reminds of the status of the English parliament, of which, since the eighteenth century, it has been commented that it "can do everything except for turning men into women and women into men."<sup>3</sup> Contemporary Japan comes close to a majoritarian democracy or the model which is called the "Westminster Model." The electoral system is in principle that of single-member districts. The political party which detains the majority in the parliament elects the prime minister, and the prime minister concomitantly serves as the head of the executive organs. In this system, in which legislative organs and executive organs are "merged," the powers of the Japanese prime minister tend to be rather strong.<sup>4</sup>

Certainly, some caveats are necessary. First, there is a divergence between model and reality. The Westminster Model assumes that at every election, the composition of the parliament largely changes, and that government is frequently handed over. However, in contemporary Japan, since 1955, political power has only been handed over twice, and the one-party hegemony of the Liberal Democratic Party (*Jiyū Minshutō* 自由民主党) continues. Lacking the formation of a strong opposition party, the system of two large parties originally expected by



the Westminster Model has not been realized. Is the Westminster Model appropriate as a form for representative democracy? Questions such as why strong opposition parties do not arise in Japan even though the Westminster Model is used are very interesting topics, but are not discussed in this chapter.

As a second caveat, another element is to be considered which has been spared out of the considerations above: the existence of a monarch. In Japan, there is a hereditary monarch who is different from the prime minister. In the case that the monarch has different political preferences from the prime minister, the powers of the prime minister could be seen to be restricted. However, as in the United Kingdom, there is the principle that the monarch “reigns but does not rule.” His (or her) powers are limited to a ceremonial role, and, as a matter of principle, he (or she) does not possess substantial deciding powers. Being a part of governance without practical effects, the monarch fully plays the “dignified part.” This point becomes more important in practice in the Senate (*Sangiin* 参議院) and in local government. Although, as has been described, the Constitution accords a position of superiority to the House of Representatives, there are accordingly high obstacles for draft bills to pass the Senate. In the sense that managing the government becomes rather difficult when the Senate and the House of Representatives are occupied by different factions, the Japanese Senate (the second house) is an important exception when considering the “Westminsterization” of Japan. Furthermore, local government is also an important exception. Japan does not apply a federal system. However, the Constitution promulgated in 1946 professes the ideal of “local autonomy” and confers upon local governments extensive discretionary powers. If the local governments are resolutely determined not to comply with the decisions of the central government, the measures that the central government can take are rather limited.

Third, there have been historical changes. The transformation of the Japanese political system into the Westminster Model was a rather recent phenomenon. Certainly, there is scope for interpreting provisions of the 1946 Constitution such as those determining the superiority of the House of Representatives (First House) as fundamentally foreseeing a parliamentary system. However, before the Liberal Democratic Party was temporarily sent into the opposition in 1993, circumstances were different in Japan even though the text of the Constitution as such did not change at all. In conclusion, it was the epoch-making reform of the electoral system and consolidation of the legal system concerning the Cabinet in 1993 which advanced the Westminsterization of Japanese politics.<sup>5</sup> The parliamentarism after 1993, which conforms to the Westminster Model, has taken on the era name “Heisei Democracy,”<sup>6</sup> whereas parliamentarism before that is sometimes called the “1955 System.”

For this chapter, this third point is important, i.e., the question of the “1955 System” being another type of parliamentarism in Japan alongside the Westminster Model. In 1955, the Liberal Party (*Jiyūtō* 自由党) and the Democratic Party (*Minshutō* 民主党) – two conservative parties – merged, and the Socialist Party accomplished its unification. The Communist Party relinquished armed revolution and adopted the policy to act as a parliamentary party. Later, the situation

that conservative parties continuously secured the majority of the House of Representatives (First House), but on the other hand could never win the two-thirds majority of the seats necessary for constitutional amendments, in fact persisted until 1993. The system whereby constitutional amendments by the conservative wing – for which two-thirds of the seats are necessary – and a takeover of government control by the left wing – requiring a simple majority of the seats – were concomitantly precluded is sometimes called “One-and-a-half major party system” (*ichi to ni-bun-no-ichi daiseitōsei* 一と二分の一大政党制).<sup>7</sup>

While the conservative parties did not hide their nostalgia for the pre-1945 system by publicly professing policies such as amending the Constitution and re-militarization, the left-wing parties did not hide their sympathy for the “Eastern Bloc” by showing enmity toward capitalism. The differences in the ideological standpoints of the two sides were all too clear, and in fact, on the surface, the two camps seemed to be fiercely opposed. However, that could also be said to have been nothing more than a “quarrel.” What took place against the background of such a superficial relationship of hostility was in reality a politics of consensus (*dakyō* 妥協). In this sense, this “1955 System” was not so dissimilar to the consociational democracies of Europe. The electoral system of multimember districts (in one district, several candidates were elected) promoted the diversification of parties. Furthermore, this generated parties within parties, called “factions” (*habatsu* 派閥), within the strongest party, the Liberal Democratic Party. In other words, the Liberal Democratic Party was a coalition government of multiple factions. The prime ministers’ powers were comparatively weak, and their terms of office were not very long. Politics was fundamentally a coordination between such factions, and the parliament, in its turn, was a place for coordination with opposition parties (*yatō* 野党). The structure of the parliament, which had short sessions and needed to digest complicated agendas, made the veto rights held by such opposition parties more important than the actual number of seats. Contrary to the superficial ideological differences, in practice, politics was made with strong consideration for the opposition parties. “The winner takes it all” did not work.

What is also interesting is that such a structure of the separation of powers in the political system was represented and understood as a political system characterized by a US-style “separation of the three powers,” even though in practice it was not. In Japan, there is no president, and the executive branch is not really independent from the legislative branch. Moreover, the judgments of the judicial branch basically do not depart from those of the government. This notwithstanding, in standard Japanese textbooks of compulsory education, explanations as “Japan adopts the separation of three powers” are frequently to be seen.<sup>8</sup> The confusion of terminology here is an interesting example of how the people who live in a certain political system name its division of powers, but, as this chapter will show, this “misuse” itself reflects the reception history of parliamentarism in Japan.

This chapter tentatively names the understanding of parliamentarism with a division of powers as represented by the “1955 System” as the “Montesquieu Model.” Further, it will tentatively name the understanding of integrated and combined “Westminsterian” parliamentarism as represented by the “Heisei

democracy” as the “Bagehot Model,” showing that a tense relationship between the two models was visible in the beginnings of the reception of parliamentarism in modern Japan. Of course, it is ineluctable that the discussion, after undergoing several abstractions, will be rough-hewn, but I think that this is an effective method in order not to consider the need for parliamentarism in modern Japan as merely a story of “success” and “limitations.”

Prior to this, I would like to first give a rough overview of the political system in the Japanese archipelago before it took over a “parliament.” In reality, this is because the political structure created at that time prescribed the pattern of how parliamentarism was taken over in modern Japan.

### **Historical premises**

Contacts with Western countries were an important trigger for the introduction of a political structure centered on a parliament in the Japanese archipelago. Since the formal demand for trade relations made by the President of the United States in 1853, Western people came to visit these islands in unprecedented frequency. Japan had been much praised for its natural abundance, but although the customs different from the West stimulated a fascination for the exotic, it was neither the “Eldorado” nor the “unexplored land” that they had sometimes imagined.<sup>9</sup>

The population was 30–35 million. This was incomparably small in relation to, e.g., the population of the neighboring dynastic states of the Chinese mainland, yet it was not inferior in scale to the so-called Western countries of the time. The population of the United States, which were demanding the “opening up” of Japan, did not even match that of these isles.<sup>10</sup>

### **The awareness of “Japan”**

Furthermore, these more than 30 million inhabitants were devising their unification as a single political community. Of course, certainly, the property over the Ryūkyūs and Yezo, as well as over the small islands of Tsushima and the Ogasawara Archipelago, remained ambiguous. However, if the property over such islands had become a problem, from that time there would have been no dispute about who would become the eventual negotiating party. In other words, a central government existed. What’s more, it was also clear from the handling of the people who were unwittingly drifting across the “national border” that this government aimed at a rather strict control of entry into and exit from the country, compared to other regions at the same time. And it was not only the politicians. There is ample evidence that common people, too, broadly shared a collective awareness of a “Japan” (*Nihon* 日本; *Nihonkoku* 日本国) which went beyond the scope of their own direct observations.<sup>11</sup> On an immediate plan, this was a reaction to the early globalism imported from Spain and Portugal in the sixteenth century (a self-awareness as a country free of Christianity), and on a more long-term plan, it was nurtured in the midst of

the relationships with the very large polities that had been established on the Chinese mainland and in the Indian subcontinent (the fact that the objects of comparison had long been very large polities on the continent engendered an awareness on these islands of being a “small country” [*shōkoku* 小国] with a population size that could not match them). Then, the second encounter with the countries of the West also must have brought about an intensification in the consciousness of “Japan” as a unit.

### ***Gunken and hōken***

Of course, as is well known, we can ascertain that an intermediate group called “household” (*ie* 家) was extremely present, which turned one’s specific work abilities into one’s trade or business and was closer to a company or a legal person than to a group of blood relationships. It is certainly true that most people’s scope of consciousness in their daily lives did not exceed that of such “boxes” which each one belonged to, and rarely extended to a unity called “Japan.”<sup>12</sup> In particular, the corporation to which a hereditary ruling class professing to be “warriors” (*bushi* 武士) belonged (called “domain” [*han* 藩]), had, so to speak, a separate existence as local governments independent from the central government. It also happened that the relationship which should exist between central government and local governments was debated in Confucian terms, which conformed to the standard upbringing of the intellectuals of the time. The so-called dispute between *hōken* 封建 and *gunken* 郡県 was that between a decentralized system in which hereditary lords governed the regions (*hōken*), and a centralized one in which bureaucrats sent by the Emperor governed the regions (*gunken*).<sup>13</sup> As a matter of fact, for the most part of the well-nigh 300 years that the Tokugawa government ruled Japan, there are no traces of the intellectual debates having exerted an influence on actual governance. The central government recognized the autonomy of the local governments, and the local governments tacitly recognized the separate authority of the central government. In this regard, the impotence of the intellectuals might be evidence that the fundamental structure of such a political system was not the object of the debates, but a premise for them. However, contact with Western countries changed this situation. Several powerful local governments became aware of the benefits of autonomy, and, contrary to the intentions of the central government, aimed at dealing with Western countries on their own, sometimes being even prepared to go to war. Intellectual debates about *hōken* and *gunken*, which had theretofore been empty armchair discussions, became extremely real disputes in that time.<sup>14</sup> Under the premise of “Japan” as a unity, it was unclear at that point of time whether it would become a federal or a centralized state.

### ***Kantō and Kinri***

Furthermore, it was a question of whether this central government was really a central government. In the process of building contacts with the Western

countries, the situation arose wherein it was doubtful whether the self-proclaimed central government of the “Great Leader” (*Taikun* 大君) could decide matters without looking up to instructions from the Emperor resident in the “forbidden inner premises” (*Kinri* 禁裏; used metonymously for the Emperor himself) of his palace in Kyoto. In fact, this was a new situation on this archipelago. The government of the *Taikun* with its capital at Edo (present-day Tokyo) had established its power in 1600 after a large-scale military victory. Located in the Eastern Japanese Kantō 関東 region, it initially did not consider the Imperial palace in Kyoto in political decisions at all, its ceremonial authority notwithstanding. Although the Kyoto *Kinri* had once been the actual sovereign of the archipelago, it had long ago – beginning from ca. 1300 – been stripped of most of its authority from the so-called warrior (*bushi* 武士) caste. The descendants of the previous dynasty were accorded a merely nominal continuation of their existence, and they and their entire entourage remained confined to this role for a long time.

A change in this situation was brought about by Confucian scholars from China who discussed political theories. Although they exerted virtually no practical influence in the debates about *hōken* and *gunken*, they left important traces in this question. That is to say, Confucian doctrine, which teaches to “follow the right ruler,” raised the complicated question of “but then, who is the right ruler?” Of course, for most *bushi*, this was the lord of the domain to which they belonged themselves, or the *Taikun* resident in Edo. Yet, the *Kinri* in Kyoto with his supposedly nominal and ceremonial role was, to the extent that he was present as an abstraction, a convenient projection screen for the image of an “ideal monarch.” Here, room for using the *Kinri* as a symbol for gathering the hidden dissatisfactions with the government arose. The ceremonial power held by the *Kinri* was dangerous, and it was alluring. From the eighteenth century to the turn of the nineteenth century, against the background of this rise in authority, the government of the *Taikun* was concerned with the clout of the *Kinri* as well as with the Confucian theory that stood behind his rise in authority. They tried to legitimize their own rule according to the legal reasoning that “this archipelago’s original sovereign has been the *Kinri* all along, but the effective right to govern inherent to this sovereignty is being entrusted to the *bushi*.”<sup>15</sup> However, the attempt of trying to secure the authority of the central government as the effective part of governance by attaching the position as the dignified part of governance to the *Kinri* eventually had the opposite effect. As soon as the authority of the central government became perceptible in the process of establishing contacts with the Western countries, political activists came to appear all over the archipelago who, using their condition as subjects of the *Kinri*, subordinated themselves neither to the various local governments nor to the central government. The machinations of these anti-system activists eventually attained their objective, becoming successful in overthrowing the central government, but the new government established after it continued to struggle with the positioning of the symbolic element within the political system.

## *Gōgi* and *kōgi*

As is already clear, the political system of this polity had been one of extreme authoritarianism. Even in high estimations, the ruling class of the *bushi* amounted to no more than one-tenth of the population. As the local governments of the “domains” (*han* 藩) did not exceed 300, their lords amounted to no more than 0.00001 percent of the population. Moreover, the *Shōgun* 將軍, who held authority and ruled isolatedly over them, was, of course, a single person. This ruling élite was essentially all male, and their positions were hereditary.

They hardly cared about whether their governance was based on “popular will” (*min'i* 民意).<sup>16</sup> On the contrary, one could not even positively say that they pretended to be governing “for the people.” Therefore, there was little need for intellectuals within the system to rhetorically reinforce the legitimation of the government. In this respect, the situation differed from the dynasties in the Asian mainland and in the Korean peninsula, which, while being equally authoritarian systems, employed Confucian political theory in institutions and educations, and which, while linking it to the recruitment system of talents via Imperial examinations, were fully structured around the concept of “benevolent government” (*jinsei* 仁政).<sup>17</sup> In the Japanese archipelago, where such a way for intellectuals to become an élite within the system by passing public ability tests such as the Imperial examinations did not exist, the standing army, without modifications, was the bureaucracy. They were essentially a hereditary military regime, and their rule was, in short, a military government.

On the other hand, these specificities of this political system, characterized by official ideology and the nonexistence of Imperial examinations, were also advantageous for the introduction of a political architecture centered around a parliament. This was because the Japanese archipelago avoided the demise of the hereditary élite and the concentration of powers around the Emperor brought about in China and Korea by the Confucian notion of “benevolent government” and the Imperial examination system. A division of powers as has been described above persisted, which ensured the need for “consultations” (*gōgi* 合議) in the decision-making process. As a matter of fact, the decision-making of the central government took place in a powerful bureaucratic consultative body called the “Council of Elders” (*Rōjū* 老中). Concerning the critical questions of the contacts with the countries of the West, it has been said that the central government’s will to decide them in “consultations” with the various local governments and the *Kinri* was, on the one hand, the first step to the collapse of this system, but that, even more so, it expressed the original character of this system.<sup>18</sup>

Furthermore, Confucianism not being an official ideology, it brought about an active intellectual life. Although they could not combine money and fame, a host of intellectual schools appeared in the various regions and engendered a common intellectual and artistic circle in which they referred to and criticized each other. From the beginning of the nineteenth century, following the institutionalization of Confucianism, the *bushi* began to study Confucianism as part of their standard education, became acquainted with its vocabulary, and also accumulated

experience in debating through language. From these circumstances, in the last stage of this system, the opinion that decision-making should proceed from “public deliberation and opinion” (*kōgi yoron* 公議世論) was supposed to be shared even by actors holding differing interests.

### The Montesquieu moment

It was not the “Meiji” revolutionary government trying to seize the *Kinri*’s powers which first seriously investigated the introduction of a parliamentary system, but rather the Edo “ancien régime.” In a situation in which the new and old forces were competing with each other and a temporary cease-fire in the form of a “restoration of royal government” (*ōsei fukko* 王政復古) was reached, the aim was to control the momentum of the new powers by proposing a new political system. It was Nishi Amane 西周 (1829–1897), who had studied in the Netherlands with Simon Vissering (1818–1888), who shouldered a concrete draft for an institutional system.<sup>19</sup> As has been described, the Edo government, being a hereditary military government, did not necessarily value intellectuals highly. However, on account of the acute political crisis at the end of this government, the Edo government began to slowly recognize the importance of intellectuals and knowledge. Nishi Amane is a good example thereof.

When looking at the details of the new system proposed by Nishi in his *Draft of Discussion Topics* (*Gidai sōan* 議題草案), let us first contemplate the understanding of the current situation which is at the basis of Nishi’s proposal for the introduction of a parliamentary system. First, he can no longer ignore the importance of “public deliberation” (*kōgi* 公議). Some kind of “parliamentary idea” (*kaigi no shui* 會議の趣意) had to be incorporated into the political structure:

What is called “public deliberation” (*kōgi* 公議) is universally praised by the population. Because, indeed, it is unavoidable to deal with public opinion, I wish for the notion of a parliament to be established, summarizing as much as possible the above discussion.<sup>20</sup>

Second, as a *gunken* system was temporarily impossible, he foresaw the continuation of *hōken* (i.e., in this case, a federal system or a confederation) for the time being:

But concerning the meaning of the above-mentioned “restoration of royal government,” in the present *hōken* government, our lords, pertaining to the same lineages of vassals, have been residing in half of the territory and holding the power in the Empire for more than a thousand years, and have been attached to families which can cause “the heavenly revenue to come to a perpetual end.” Even a three-year-old child would know that not once in a million times would it be possible to wish for the sudden revival of the *gunken* system and the reestablishment of the “personal fields” and “salary fields.”<sup>21</sup>

Based on these two premises, Nishi proposed to introduce a parliamentary system based on a “differentiation of three powers” (*sanken no betsu* 三権之別). Concretely, in his scheme, the Tokugawa *Shōgun*’s government, being the “government of the Generalissimo” (*Kubōsama seifu* 公方様政府), should continue to hold the executive branch, while an assembly called “Office for Deliberating Politics” (*Gisei-in* 議政院), composed of representatives of every domain, should be established and be put in charge of the legislative branch. In other words, its main idea was premised on a federal system and foresaw a division of powers between the federal assembly as executive branch and the national government as executive branch. This was, as Nishi Amane expressed it in his *Brief explanation of the administrative systems of the West* (*Taisei kansei ryakusetsu* 泰西官制略説), a reception of the Western “administrative system” (*kansei* 官制) “discovered” (*hatsumei* 發明) by the “great French scholar Montesquieu” (*Bukkoku no daiju Montesukiu* 仏国之大儒モンテスキウ), and more precisely an attempt to copy the federal political system of the United States.<sup>22</sup>

Of course, there were also large differences to the US model. First, the Tokugawa *Shōgun* was clearly different from the President of the United States. At the same time, as the Tokugawa was the “head of state” representing the “government of the generalissimo,” he was also a landlord controlling a vast stretch of land on his own right. Within his territory, he could autonomously exert his rule. Furthermore, it was not clear from the text of the draft whether his territory should become a member of the federal assembly or not. This aspect also resembled the relationship between the monarch and the parliament in a European sense, and was the reason why Nishi Amane did not say “American model,” but carefully used the expression “the West” (*Taisei* 泰西).

Second, the structure of the Lower House was different. The assembly was divided into two chambers, i.e., an Upper and a Lower House, with the Upper House being composed by the lord (*daimyō* 大名) of every domain. In principle, one domain was represented by one person, and the right to speak of every domain was equal, without regard to their size. This basically is the same idea as that of the Upper House (Senate) of the United States. However, the problem was the Lower House. Concerning the structure of the Lower House, in the annex to his *Draft of discussion topics* (*Besshi gidai sōan* 別紙議題草案), Nishi writes the following:

In the Western system, representatives are deployed according to the size of the population. Although this exists as an example, such is impossible in our current *hōken* system. And while such will hardly be possible as long as both the rural and urban common people are still illiterate, at that time it will behove us to abolish the representation of one person per domain!<sup>23</sup>

The structure of the Lower House was the same “one person per domain” (*ichi-han ichi-me* 一藩一名) as the Upper House. This is not to say that Nishi did not see value in the Lower House. To the opposite, considering Tsuda Mamichi’s 津田真道 (1829–1903) argument, which will be dealt with later, it seems that



Nishi hardly looked forward to an Upper House filled up with *daimyōs*. It must have been an honest suggestion when he wrote in his *Draft of Discussion Topics*: “Because the parliament is unable to decide through the Upper House alone, I think that one should treat the Lower House likewise.”<sup>24</sup> Nishi also acknowledges that, in case one would bestow real decision rights to the Lower House, the “number of representatives or the weight of their voice” should actually change according to “the province’s size.” This notwithstanding, because of the “current *hōken* government,” he deemed that this was impossible in practice. Similarly, Tsuda Mamichi, who had also studied in the Netherlands with Vissering, indeed foresaw an Upper and a Lower House in his *General Institutions of Japan* (*Nihokoku sōseido* 日本国総制度), the reform plan which he proposed at about the same time as Nishi. Yet, concerning the Lower House, it contrasted with Nishi’s scheme in that it clearly stipulated a proportional representation of the population: “For every 100,000 citizens, one person should be elected.”<sup>25</sup> Here, along with Tsuda’s fidelity to his standard model, the “Western system” (*yōsei* 洋制), one can discern an element of his tendency toward centralization of power. As will be discussed later, Tsuda’s outlook was eventually correct. However, the one who thought “realistically” at the moment was probably Nishi. Tsuda assumed Japan’s contemporary political system not to be a *hōken* one, but to have “the shape of what the Westerners call ‘federation’” (*yōjin no iwayuru gappō no sugata* 洋人之所謂合邦之姿).<sup>26</sup> Tsuda understood this term, “federation” (*gappō* 合邦), as a *federal state presupposing unification*, while Nishi can be said to have understood *hōken* as a “confederation which does not presuppose unification.”

As a third point, connected to this, there was an absence of debates about the judicial branch. Nishi’s *Draft of Discussion Topics* emphasized the “separation of the three powers,” but the discussion of the judicial branch in it was limited to the sentence “the judicial power can for the time being not be set up as within the authority of the laws in force in all countries” (*shuhō no ken wa imashibaraku no tokoro, kakkoku gyōhō no kennai ni kane sōrō koto* 守法之権は今暫之所、各国行法の権内に兼候事). Yet, its implications were clear: The establishment of a supreme judicature on the model of the United States with jurisdiction for the whole federation was out of consideration, and it was planned to leave it at the jurisdiction of the justice within the various “domains” (*han* 藩) and “provinces” (*kuni* 国). In this aspect, too, it is possible to say that the new political system of Japan envisaged by Nishi was a more strongly decentralized confederation than the federal system of the United States.

Whether one assumed a *hōken* system or a federation (*gappō* 合邦), attempts to subsume the decentralized shape of Japan’s contemporary political system under the extremely peculiar models of Montesquieu and “division of powers” were indeed not restricted to Nishi Amane and Tsuda Mamichi. Rather than the Tokugawa government, with which Nishi and Tsuda cooperated, it was Fukuoka Takachika 福岡孝弟 (1835–1919) who cooperated with the creation of the new institutional structure at the side of the new Meiji government and who wrote about the *Constitutional Document* (*Seitaisho* 政体書), which he had drafted himself: “The administrative system laid out in the *Constitutional Document* takes

as its basis a separation of three powers akin to the United States of America.”<sup>27</sup> The Montesquieuan Model was widely accepted by both the Tokugawa and Meiji sides. The temporal range of this acception was also long. Even after the abolition of the domains and the establishment of the prefectures had been concluded, and the Meiji state had clearly begun to walk on the path of centralization of powers, the influence of the Montesquieu Model was tenacious. When Maurice Block (1816–1901) asked Kido Takayoshi 木戸孝允 (1833–1877), who had gone to Paris as a member of the Iwakura mission (1871–1873): “Why do all the Japanese with whom I have been in touch hold fast to the theory of separation of powers? Methinks this is strange,” he was stunned:

If we had been careless about the three branches of politics being a standpoint of US American democracy, while we thought that it is a common notion in the (whole) West, we would have missed the national essence of Imperial restoration right at the beginning.<sup>28</sup>

In the autumn of the fifth year of Meiji (1872), Nishimura Shigeki 西村茂樹 (1828–1902) explained the “principle of the three powers” (*sanken no ri* 三権之理) in the preface to his *Brief history of all countries* (*Bankoku shiryaku* 万国史略) by noting: “There are three powers in a state: the legislative, the executive, and the judiciary. When the three powers are balanced, then the state will be stable and prosperous.” With the words “The English law is the most perfect one, but the American system even surpasses it,” he valued the system of the United States highly. Nishimura’s preface was continued to be included in both the print edition of 1875 and in the second edition of 1879.

### The Bagehot moment

As has been seen, the presence of Montesquieu’s model of division of power (actually, the US federal model via *The Federalist*) was strong from the late Edo period (*bakumatsu*) to the mid-second decade of the Meiji era (the early 1880s). One of the reasons for this was that the structure of the contemporary Japanese archipelago as a *hōken* state (called “federation” by Tsuda) was deemed to conform to Montesquieu’s theory, which it had inherited. However, this situation was already unstable by the late Edo period. For example, as Katō Hiroyuki’s 加藤弘之 (1836–1916) *Grass in the vicinity* (*Tonarigusa* 隣草) already perceived correctly, there were in fact two options in the circumstances of the late Edo times: (1) either that of establishing a federative parliament in order to safeguard integration while maintaining the *hōken* system, or (2) that of constructing a centralized *gunken* system by destroying the decentralized *hōken* system. Of these two, as has been seen in the previous sections, Nishi and Tsuda groped for the first one, but what was thereafter carried out in political practice was in fact the second option, i.e., the way of “gunkenization.” Of course, what was groped for from 1862 up to 1868 was the “Taikun monarchy” (*Taikun no monaruki* 大君之モナルキ; Fukuzawa Yukichi 福澤諭吉, 1835–1901)<sup>29</sup> centered around the Tokugawa, and

then, after 1868, the *gunken* system centered around the Emperor. But the crucial point is that the 1868 “restoration of royal government” did not immediately mean a *gunken* structure. The following discussion points brought forward by Mori Arinori 森有礼 (1847–1889) in 1869 at the newly convened assembly were characteristic of this (this assembly itself was a federal system which assembled representatives of all domains):

1. At present, the form of our state resembles one divided into half *hōken* and half *gunken*. Hence, what will the national affairs really be like in the future?
2. If one should reform this, conforming to one of them, should one adapt to a *hōken* system or else to a *gunken* system? What are, after all, their respective advantages and disadvantages?
3. If one were to fully conform to *hōken*, what measures should one take such that it conforms to human nature and the tendencies of the time?
4. If one were to fully conform to *gunken*, what measures should one take such that it conforms to human nature and the tendencies of the time?

(Four articles on questions concerning matters of the national polity [Okokutai no gi ni tsuki mondai shijō 御国体之儀に付問題四条])<sup>30</sup>

Mori’s understanding that Japan was “at present” (i.e., in the year of 1869, after the restoration of a royal government) a mixed constitution “divided half-half” into *hōken* and *gunken* was extremely precise. Exactly because of this, the “abolition of the domains and establishment of prefectures” (*haihan-chiken* 廃藩置県 – actually the materialization of *gunken*), which happened only two years thereafter, was a sudden event for which the name of revolution or *coup d’état* would be appropriate, rather than a foreseeable event within the expected course of things.

Considering the above context, the importance of the “Memorial on the Adoption of Popular Elections and a Parliament” (*Minsen giin setsuritsu kenpakusho* 民選議院設立建白書), submitted in 1874, also becomes clear. This “Memorial” has been often highly evaluated for its function as the spark that caused the “Freedom and People’s Rights Movement” (*Jiyū minken undō* 自由民権運動), which has been deemed to have been a “bourgeois democratic revolutionary movement.”<sup>31</sup> What has been emphasized is the picture of a “popular” (*minshū* 民衆) resistance against the power-holding élites, and the “Memorial on the Adoption of Popular Elections and a Parliament” fits into such a picture. However, as has been pointed out since that time, most of the signatories of the memorial were figures who had been active within the government right up to that date, and in reality it was a fight for power within the élites, a “discord among friends” (*nakamaware* 仲間割れ). Furthermore, as has been shown in this chapter, the idea of establishing a parliament by itself was not new at all. If there was any novelty in the “Memorial on the Adoption of Popular Elections and a Parliament,” it was simply that it was the first full-dress plan to open a parliament after the *gunken* revolution. It was the first time that the groping for a “*gunken* parliament” began in full scale.

What is interesting is that the groping for such a “*gunken* parliament” could not immediately find an appropriate term for it. Even after the realization of *gunken*,

many commentators who supported the Freedom and People's Rights Movement continued to devise the parliament according to a Montesquieuan (Federalistian) three-power model, notwithstanding that its premise, the *hōken* system or the mixed *hōken* and *gunken* system, had already disappeared. An evidence for this is the fact that new editions of Nishimura Shigeki's *Brief history of all countries* – with its preface advocating high esteem for the “separation of three powers” – continued to appear after the abolition of the domain system, when the Freedom and People's Rights Movement was in full bloom. One of the reasons why this was possible is the vagueness of the contemporary terminology for “separation of powers.” It was the common understanding at that time that a parliamentary system was the materialization of the “separation of powers” (*bunken* 分権). However, for example, in the case of the “separation of powers” between the monarch and the parliament, it was not self-evident whether that would be a vertical division of powers or a horizontal division of powers. In other words, it was frequently (and possibly intentionally) kept in the vague between what actors this “separation” (division) of powers would be worked out: whether it would be a vertical “separation of powers” between élites and the common people (called, e.g., “separation between above and below” – *jōka bunken* 上下分権), or whether it would be a horizontal “separation of powers” between each domain and the government institutions (called, e.g., “regional separation of powers” – *chihō bunken* 地方分権).

Fukuzawa Yukichi's epoch-making significance in the history of how a parliamentary system was adopted in Meiji times is in fact related to this aspect: (1) Fukuzawa tried to correctly understand the conceptual confusion in the word “separation of powers” and to redefine this term as a horizontal division of powers, i.e., to give it the specialized meaning of “regional separation of powers” (*chihō bunken* 地方分権); (2) based on this, he envisioned and proposed a Bagehotian Westminster Model in which two major parties would carry out a “civilized competition” for political form in the form of a *gunken* parliament.<sup>32</sup>

Fukuzawa redefined “separation of powers” in his 1877 work *On separation of powers* (*Bunken-ron* 分権論). Here, invoking Alexis de Tocqueville (1805–1859), Fukuzawa distinguished between “government” (*seiken* 政権) and “administration” (*chiken* 治権), assigning the former to the central governments and the latter to the regional governments. The idea he defended hereby was that of a horizontal division of powers between the central and the local governments. He aimed at preventing an excessive implementation of *gunken*, i.e., the Meiji government's tendency to excessively centralize powers. However, concomitantly, a point that also needed attention was the denial of the *hōken* system. As has been shown above, ten years before *On the separation of powers* was written, an even more federalized division of powers had been institutionally guaranteed in the form of *hōken*. Of course, Fukuzawa did not really hope for the realization of such a decentralizing separation of powers in the form of a federal state. His plan staunchly presupposed the *gunken* system in place after the abolition of the domains. His real aim was not to adapt the horizontal division of powers between the central and the local governments in the form of a federal system within a

*hōken* polity but precisely to subsume it under a framework of local autonomy appropriate for a *gunken* system.

In this way, after he had revised the definition of “separation of powers” (*bunken* 分権) as a question of local autonomy in a *gunken* polity, what Fukuzawa presented in his works *On the National Diet* (*Kokkai-ron* 国会論, 1879) and *Transformation of the People’s Spirit* (*Minjō isshin* 民情一新, 1879) was a Westminster-like system with a parliament and a cabinet. Concerning the “government” (*seiken* 政権) as delimited from “administration” (*jiken* 治権) in *On the separation of powers* (1877), Fukuzawa did not regard it as a fight between “above” (élites) and “below” (the common people) but imagined it as a horizontal competition between the two political forces of “conservatism” (*hoshu* 保守) and “reformism” (*kaishin* 改進). “Competition” (*kyōsō* 競争) was a keyword much beloved by Fukuzawa at that time, implying a fair competition by two partners on the same level.<sup>33</sup> “That is, contemporary society is a single big stage for competition.”<sup>34</sup> As Fukuzawa said, the English method to materialize this fair competition was superior to the US one:

The parliamentary theorists of this generation lock government officials out of parliaments, taking them out from elections for members of parliament. Thus, the government is made up of officials, the National Diet is made up of the people, and the confrontation of government and diet is like a device to set the boundaries which delimit a government for the court and the people. Our side also once believed that a National Diet had to be opened based on this consideration. ... Nonetheless, as we examined the question of how a National Diet should be opened back then, our side had a moment of great enlightenment. Now, as we are about to open a National Diet in our country, and since we wish to draw our models from the various countries of the West, methinks that it will be most convenient to copy the English law in what regards the matter of parliamentary elections. A comparison between the parliaments of England and the USA yields that, even if they are akin to each other in set-up and strength, the United States prohibit officials from being elected as members of parliament, while England is different to this: There, hardly any dignified government officials do not become members of parliament. According to this law, English officials become administrative officials when they are in government, and they become parliamentary officials when they are in parliament. Because it is as if they combine in themselves the two powers of administration and deliberation (i.e., the executive and the legislative powers – note of the author), the English government frequently undertakes to cajole the majority of the members of parliament, always achieving a satisfactory result.<sup>35</sup>

What is here called “officials” (*kanri* 官吏) is not the same as the so-called bureaucrats (*kanryō* 官僚) present in later times, after a specialized bureaucratic system had been established. The gist of Fukuzawa’s discussion can be summarized into two points. First, there was an overlap between the image

of the parliamentary system nurtured by those who at that time supported the Freedom and People's Rights Movement (the "parliamentary theorists of this generation") – a model of vertical political struggle between the government as the court and the parliament as the people – with the US model of the separation of powers, which makes a sharp distinction between the executive and the legislative branches. Second, in contrast to the above confrontational model, he seeks from "English law," i.e., from the Westminster system, a model of competitive democracy which combines "the two powers of administration and deliberation."

### Federalism and unicameralism

In other words, it is certainly possible to evaluate the intellectual activities led by Fukuzawa in the early 1880s as an attempt to analyze according to new *terms* the question of how to balance the concentration and separation of powers within the political system, which had theretofore approached with the *terms* *hōken* and *gunken*. The separation of powers theretofore attached to the word *hōken* was reframed as a regional autonomy (more stable than the federal system), and the centralization of powers manifested in the word *gunken* was reconceptualized as a parliamentary cabinet system providing for the combination of "the two powers of administration and deliberation."

However, the problem was of course not really solved with this. For example, the *hōken* problem continued to linger thereafter. The fact the Fukuzawa himself was actually not sure about whether federalism and regional autonomy can be clearly distinguished from each other is already reflected in his *On the abolition of domains* (*Haiken-ron* 廢県論, 1872). Fukuzawa, who had warned of an excessive implementation of *gunken* and advocated a revival of the *hōken* element in his *On the separation of powers*, here, so to speak, praises the thoroughness of the implementation of *gunken*. Such a theoretical "swaying" is of difficult explanation without taking Fukuzawa's vigilance against the Freedom and People's Rights Movement into consideration. For example, Ueki Emori's 植木枝盛 (1857–1892) private *Draft of a Constitution for the Oriental State of Japan* (*Tōyō Dainihonkoku kokken an* 東洋大日本国国憲按), which was the theoretical underpinning of the Freedom and People's Rights Movement, clearly stipulated a federal system along with a centralized unicameral parliamentary structure. This shows that, at the camp of the Freedom and People's Rights Movement, attempts to analyze the *hōken* problem not as "regional autonomy" but as "federalism" were not rare at all.<sup>36</sup>

Furthermore, Fukuzawa's theory did not get adopted by the political authorities. The "discord among friends" within the government known as the Meiji 14 Coup of 1881 (continuing the one of 1874) – in concrete, the dismissal of Ōkuma Shigenobu 大隈重信 (1838–1922) and the formation of the Constitutional Reform Party (*Rikken kaishintō* 立憲改進黨) – signified the preliminary collapse of Fukuzawa's ideas. Instead of refusing to accept the Westminster Model according to Ōkuma and Fukuzawa, the government promised to convene a parliament

after ten years. Yet, it was left completely blank as to what kind of parliament this would be.

Thereafter, what kind of twists did the parliament convened in 1890 take? As there is already plentiful research on this question, the author does not have any new insight to add to it. However, broadly speaking, the form of the parliament in these more than 100 years can be positioned in between what in this chapter has been preliminarily called the Montesquieu Model and the Bagehot Model. Paper width does not allow to prove this in this chapter. What this chapter has done is to clarify the moment when these two models appeared.

## Notes

- 1 The Sunagawa Case Decision (*Sunagawa jiken hanketsu* 砂川事件判決; Supreme Court, March 30, 1964). “The legal determination of whether or not a highly political treaty, such as the Security Treaty, which has a serious bearing on the basis of our existence as a sovereign nation, is unconstitutional, is of a nature that does not fit in principle with the examination of the judicial courts, whose mission is to perform a purely judicial function, unless it is found to be quite obviously unconstitutional and invalid at first glance. It is reasonable to conclude that this is outside the scope of the Court’s power of judicial review.” In this high-profile case involving the constitutionality of the U.S.-Japan security treaty, the Supreme Court avoided deciding the constitutionality of the treaty, and thenceforth it was established as precedent that the judicial branch, an undemocratic body, would avoid deciding on issues of “highly political nature.” [https://www.courts.go.jp/app/hanrei\\_jp/detail2?id=55816](https://www.courts.go.jp/app/hanrei_jp/detail2?id=55816) (accessed on October 11, 2020).
- 2 Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, 2nd ed. (New Haven, CT: Yale University Press, 2012); Bruce Ackerman, “The New Separation of Powers,” *Harvard Law Review* CXIII, no. 3 (2000): 633–729.
- 3 “Le parlement peut tout, excepté faire une femme d’un homme, & vice versa.” Jean Louis de Lolme, *Constitution de l’Angleterre*. Nouvelle édition entièrement revue & corrigée sur la quatrième édition, 2 vols. (Geneva: Barde, Manget & Cie, 1793), 1:126. Originally written in French in 1771, Lolme’s book was translated into English in 1775 and widely read. It became famous for the saying “Parliament can do everything, except making a Woman a Man, or a Man a Woman,” which characterizes the legislative primacy within the British state system. However, the original context is rather complicated: The sentence refers to a fiction of law by which exceptions to matrilineal inheritance could be made by “considering a daughter as a son” in Roman law. It was Alexis de Tocqueville or A. V. Dicey who began to use it as a legal proverb separate from the context. Indeed, by approving the *Act on Special Cases Handling Gender Status for Persons with Gender Identity Disorder* (*sei dōitsusei shōgaisha no seibetsu no toriatsukai no tokurei ni kansuru hōritsu* 性同一性障害者の性別の取扱いの特例に関する法律) in 2003, the National Diet has possibly “advanced” this point even further than the England of yore (see [https://elaws.e-gov.go.jp/search/elawsSearch/elaws\\_search/lsg0500/detail?lawId=415AC1000000111](https://elaws.e-gov.go.jp/search/elawsSearch/elaws_search/lsg0500/detail?lawId=415AC1000000111), accessed on October 11, 2020).
- 4 Iio Jun 飯尾潤, *Nihon no tōchi kōzō: Kanryō naikakusei kara giin naikakusei e* 日本の統治構造: 官僚内閣制から議院内閣制へ [Japan’s system of government: From bureaucratic cabinet to parliamentary cabinet] (Tokyo: Chūō Kōronsha, 2007); Takenaka Harukata 首相支配: 日本政治の変貌 [The Prime Minister’s rule: Transfigurations of Japanese politics] (Tokyo: Chūō Kōronsha, 2006).
- 5 Iio, *Nihon no tōchi kōzō*; Takenaka, *Shushō shihai*.

- 6 Shimizu Masato 清水真人, *Heisei demokurashī* 平成デモクラシー史 (Tokyo: Chikuma shobō, 2018).
- 7 Oka Yoshisato 岡義達, “Seitō to seitō seiji” 政党と政党政治 [Parties and party politics], in *Gendai nihon no seiji katei* 現代日本の政治過程 [The political process in contemporary Japan], ed. Oka Yoshitake 岡義武 (Tokyo: Iwanami shoten, 1958); Robert A. Scalapino and Masumi Junnosuke 升味準之輔, *Gendai Nihon no seitō to seiji* 現代日本の政党と政治 [Parties and politics in contemporary Japan] (Tokyo: Iwanami shoten, 1962).
- 8 For example, the website of the House of Representatives also writes: “The Constitution of Japan provides for the principle of the separation of powers. Three independent organs—the Diet, the Cabinet, and the Judiciary—are established, and each limits the power of the others through a system of checks and balances. This prevents the abuse of power and guarantees the rights and freedom of the people.” [http://www.shugiin.go.jp/internet/itdb\\_english.nsf/html/statics/guide/separation.htm](http://www.shugiin.go.jp/internet/itdb_english.nsf/html/statics/guide/separation.htm); for the English translation see [http://www.shugiin.go.jp/internet/itdb\\_anna.nsf/html/statics/kokkai/kokkai\\_sankenbunritsu.htm](http://www.shugiin.go.jp/internet/itdb_anna.nsf/html/statics/kokkai/kokkai_sankenbunritsu.htm).
- 9 “Et si vous dy que il ont tant d’or que c’est sans nombre, car il le treuvent en leur isle. Et si vous [dy] que nul n’en oseroit oster n’emporter or de l’isle, pour ce que pou de marchans de terre ferme si vont la pour ce que elle est si loing; si que pour ce ont il tant d’or a desmesure que il n’en scevent que faire.” (And I tell you that they have so much gold that it cannot be counted, for they find it on their island. And I [tell] you that nobody would dare to remove or to carry away gold from the island, for few merchants from the continent go there because it is so far away. Also therefore they have so excessively much gold that they don’t know what to do with it.—Translation by Egas Moniz Bandeira.) Marco Polo, *La Description du monde*, ed. Pierre-Yves Badel (Paris: Livre de Poche, 1998), 378. However, this exceptional adventurer never actually visited Japan. See Katayama Mikio 片山幹夫, “Maruko Pōro *Sekai no kijutsu ni okeru ‘Jipangu’*” マルコ・ポーロ『世界の記述』における「ジパング」 [«Sy-pangu» dans *La description du monde* de Marco Polo = “Sy-pangu” in Marco Polo’s *Description of the World*], *Azur* 6 (2005): 19–33.
- 10 According to the census, the population of the United States in 1860 was about 30 million. But of course, the meaning of “population” in the United States, with its problems of territorial annexation, immigration, and “emancipated” slaves, was quite different from that of Japan, which was a relatively closed nation. For population estimates for eighteenth century Japan, see Kito Hiroshi 鬼頭宏, *Jinkō kara yomu Nihon no rekishi* 人口から読む日本の歴史 [History of Japan from the perspective of population] (Tokyo: Kodansha, 2000).
- 11 Watanabe Hiroshi 渡辺浩, *Nihon seiji shisōshi 1600–1901* 日本政治思想史 1600–1901 [A history of Japanese political thought, 1600–1901] (Tokyo: Tōkyō Daigaku shuppankai, 2010). Watanabe Hiroshi 渡辺浩, *A History of Japanese Political Thought, 1600–1901*, trans. David Noble (Tokyo: International House of Japan, 2012), cap. 15, 302–303. Watanabe Hiroshi 渡辺浩, “Itsu kara ‘kokumin’ wa iru no ka—Nihon no baai” いつから「国民」はいるのか——「日本」の場合 [Since when do ‘nationals’ exist? The case of Japan], *UP* 39 (2010), no. 2, 1–6. People imagined the Japanese archipelago as a region inhabited by a giant “dragon.” Kuroda Hideo 黒田日出雄, *Ryū no sumu Nihon* 龍の棲む日本 [The Japan where a dragon dwells] (Tokyo: Iwanamishoten, 2003).
- 12 Bitō Masahide 尾藤正英, *Edo jidai to wa nani ka? Nihonshi jō no kinsei to kindai* 江戸時代とは何か: 日本史上の近世と近代 [What was the Edo period? Early modernity and modernity in Japanese history] (Tokyo: Iwanami shoten, 2006).
- 13 The term *hōken* is conventionally, though highly misleadingly, translated as “feudal,” while there is no handy equivalent for its opposite, *gunken*. See David Mervart, “Meiji Japan’s China Solution to Tokugawa Japan’s China Problem,” *Japan Forum* 27, no. 4 (2015): 548–552.



- 14 Zhang Xiang 張翔 and Sonoda Hidehiro 園田英弘, “Hōken,” “gunken” saikō: *Higashi Ajia shakai taisei ron no shinsō* 「封建」・「郡県」再考: 東アジア社会体制論の深層 [A new study of *hōken* and *gunken*: The deep structure of East Asian discourses on societal systems] (Kyoto: Shibunkaku, 2006). David Mervart, “A Forgotten Landscape of the Forms of Government: A Case for the Counterfactual History of Political Theory,” in *The Dynamics of Transculturality: Concepts and Institutions in Motion*, eds. Antje Flüchter and Jivanta Schöttli (Dordrecht: Springer, 2014).
- 15 This legal theory is called “theory of entrustment of ruling power” (*taisei in'in ron* 大政委任論). See Fujita Satoru 藤田覚, *Kinsei seiji shi to Tennō* 近世政治史と天皇 [Modern political history and the Emperor] (Tokyo: Yoshikawa kōbunkan, 1999), cap. 3, 109–132; Watanabe, *Nihon seiji shisōshi 1600–1901*; Watanabe, *A History of Japanese Political Thought, 1600–1901*.
- 16 While the Confucian façade was always “the people are the most important element in a nation; the spirits of the land and grain are the next; the sovereign is the lightest” (Mencius, *Jinshin* 尽心 II), according to Tokutomi Sohō, the “people” were essentially nothing more than a “logistics unit” (*shichōbu* 輜重部) for the Tokugawa government: “In fact, all peasants, artisans, and merchants at that time were logistics units which existed for the sake of the supply and service of these warriors and the high-ranking warriors.” Tokutomi Sohō 徳富蘇峰, *Shōrai no Nihon* 将来の日本 [Future Japan] (Tokyo: Keizai zasshi sha, 1886), 155. The quote from Mencius is translated according to James Legge, ed. *The Chinese Classics: A Translation, Critical and Exegetical Notes, Prolegomena, and Copious Indexes*, 7 vols. (Hong Kong: at the author’s; London: Trübner & Co., 1861–1872), 2:359. See further Bruce Grover’s contribution in this volume.
- 17 Watanabe Hiroshi 渡辺浩, *Kinsei Nihon shakai to Sōgaku* 近世日本社会と宋学 [The modern Japanese society and Song studies], 2nd ed. (Tokyo: Tōkyō Daigaku shuppankai, 2010), cap. 1, 6–32; cap. 2, 66–76; Watanabe Hiroshi 渡辺浩, *Higashi Ajia no ōken to shisō* 東アジアの王権と思想 [Royal authority and ideology in East Asia] (Tokyo: Tōkyō Daigaku shuppankai, 2016), cap. 1, 16–61.
- 18 Mitani Taichirō 三谷太一郎, *Nihon no Kindai to wa nan deatta no ka: Mondaishiteki kōsatsu* 日本の近代とは何であったか: 問題史的考察 [What was modernity in Japan? An investigation according to the history of the issue] (Tokyo: Iwanami shoten, 2017), cap. 1, 42–50. This mechanism emerged more strongly with the weakening of the Tokugawa government’s military power. See Mitani Hiroshi, *Escape from Impasse: The Decision to Open Japan*, trans. David Noble, revised and expanded edition (Tokyo: International House of Japan Press, 2008), cap. 4, 69–73.
- 19 Okubo Takeharu, *The Quest for Civilization: Encounters with Dutch Jurisprudence, Political Economy, and Statistics at the Dawn of Modern Japan*, trans. David Noble (Leiden: Brill, 2014).
- 20 Nishi Amane 西周, *Gidai sōan* 議題草案 [Draft of discussion topics], in *Nishi Amane zenshū* 西周全集 [Complete works of Nishi Amane], ed. Ōkubo Toshiaki 大久保利謙, 3 vols. (Tokyo: Munetaka shobō, 1962), 2:170.
- 21 *Ibid.*, 2:169. The locution “the heavenly revenue to come to a perpetual end” is an allusion to the *Analects of Confucius* (*Rongo* 論語) XX, 1: “Yao said, ‘Oh! you, Shun, the Heaven-determined order of succession now rests in your person. Sincerely hold fast the due Mean. If there shall be distress and want within the four seas, your Heavenly revenue will come to a perpetual end.’” The translation of the passage is adapted from Legge, ed. *The Chinese Classics*, 1:214. The terms “personal fields” and “salary fields” and “personal fields” refer to types of tax land established in the seventh century. See Astrid Brochlos, *Grundherrschaft in Japan: Entstehung und Struktur des Minase no Shō* (Wiesbaden: Harrassowitz, 2001), 108–114, 234, 277.
- 22 Nishi Amane 西周, *Taisei kansei ryakusetsu* 泰西官制略説 [Brief explanation of the administrative systems of the West], in *Nishi Amane zenshū*, ed. Ōkubo, 2:184.
- 23 Nishi, *Gidai sōan*, 2:181.

- 24 Ibid., 2:181.
- 25 Tsuda Mamichi 津田真道, *Nihon sōseido* 日本総制度 [General Institutions of Japan], in *Tsuda Mamichi zenshū* 津田真道全集 [Collected works of Tsuda Mamichi], eds. Ōkubo Toshiaki 大久保利謙, Kuwahara Nobusuke 桑原伸介, and Kawasaki Masaru 川崎勝, 2 vols. (Tokyo: Misuzu shobō, 2001), 1:265.
- 26 Ibid., 1:264.
- 27 Fukuoka Takachika 福岡孝弟, “Gokojō goseimon to Seitai-sho no yūrai ni tsuite” 五箇条御誓文と政体書の由来に就いて [On the origins of the *Charter Oath* and of the *Constitutional Document*], in *Meiji kensei keisai shi ron* 明治憲政経済史論: 国家学会創立満三十年記念 [Debates on the history of Meiji constitutional government and economy: Remembering the 30th anniversary of the establishment of the Association of Political and Social Sciences], eds. Kokka gakkai 国家学会 (Tokyo: Yūhikaku, 1919), 44. On the *Seitai* see also Kōno Yūri 河野有理, “Seitai” 政体 [The *Constitutional Document*], in *Seiji gainen no rekishiteki tenkai* 政治概念の歴史的展開 [The historical development of political concepts], ed. Yonehara Ken 米原謙, 10 vols. (Tokyo: Kōyō shobō, 2016), 9:158–181.
- 28 Kume Kunitake 久米邦武, *Kume hakushi kyūjūnen kaikoroku* 久米博士九十年回顧録 [Dr. Kume’s nonagenarian memoirs], 2 vols. (Tokyo: Waseda Daigaku shuppanbu, 1934), 2:439–440.
- 29 “Fukuzawa Einosuke ate, Keiō 2-nen 11-getsu 7-nichi” 福澤英之助宛、慶応二年十一月七日 / 1866年12月13日) [Letter to Fukuzawa Einosuke, 7th day of the 11th month of Keiō 2/December 13, 1866], in *Fukuzawa Yukichi shokanshō* 福澤論吉書簡集 [Collected letters of Fukuzawa Yukichi], ed. Keiō gijuku 慶應義塾, 9 vols. (Tokyo: Iwanami shoten, 2001–2003), 1:65.
- 30 Mori Arinori 森有禮, *Shinshū Mori Arinori zenshū* 新修森有礼全集 [Collected works of Mori Arinori, revised edition], eds. Ōkubo Toshiaki 大久保利謙, Kaminuma Hachirō 上沼八郎, and Inuzuka Takaaki 犬塚孝明, 9 vols. (Tokyo: Bunsendō shoten, 1997), 1:9.
- 31 “Jiyū minken undō” 自由民権運動 [The Freedom and People’s Rights Movement], in *Nihon daihyakka zensho* 日本大百科全書 [Encyclopedia Nipponica], ed. Shōgakusan Inc. 小学館, JapanKnowledge, 1994, <https://japanknowledge.com> (accessed on August 24, 2020).
- 32 “Civilized competition” is not Fukuzawa’s original wording, but a paraphrase by the author. Fukuzawa actually calls the change of government by the two major parties a “contention between noble men” (*jōbu no arasoi* 丈夫の争). Fukuzawa Yukichi 福澤諭吉, *Kokkai-ron* 国会論 [On a National Diet], in *Fukuzawa Yukichi zenshū* 福沢諭吉全集 [Collected works of Fukuzawa Yukichi], ed. Keiō gijuku 慶應義塾, 22 vols. (Tokyo: Iwanami shoten, 1958–1972), 5:91. Fukuzawa’s expression is an allusion to the *Analects of Confucius* III, 7: “The student of virtue has no contentions.” See Legge, ed. *The Chinese Classics*, 1:21.
- 33 Banno Junji 坂野潤治, “Nihon kindaiishi no naka no Kōjunsha shigi kenpōan” 日本近代史の中の交詢社私擬憲法案 [The *Kōjunsha* private constitutional draft in modern Japanese history] *Kindai Nihon kenkyū* 近代日本研究 22 (2005): 1–19.
- 34 Fukuzawa, *Kokkai-ron*, 5:85.
- 35 Ibid., 5:85–86.
- 36 At that time, within the Freedom and People’s Rights Movement, there was a conflict in strategy about whether one should dissolve *hōken* in the form of a federal system or whether one should deal with it in the form of regional representation in an upper house of a bicameral parliament.

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### 3 Public opinion under imperial benevolence

#### Japanese “national essence” leader Torio Koyata’s anti-liberal parliamentarianism in the *Genrō-in* and the House of Lords<sup>1</sup>

*Bruce Grover*

I was born into a lowly family and I endured severe poverty. Thus, as a small child this hit me with a visceral feeling and I was painfully saddened by the misery of poverty and low-rank status. As I think about it now from the vantage point of our current era, it is like the feudal regime was a separate world. That “autonomy” (celebrated by the liberal reformers) is in reality having the Emperor above us and becoming one subject of the Emperor below him. That “liberty” is a monarchy that has no bias towards class status and a legal system entirely devoted to the creation of a land for our own happiness. The meaning of this is hard to understand for those who have not lived through feudal despotism.<sup>2</sup>

Torio Koyata, in  
*Discussion of Current Affairs*

#### Introduction

Writing during the intense ferment of public debate over the most suitable constitutional system for the Japanese polity, arch-conservative member of the *Genrō-in* (Senate) Lieutenant-General Torio Koyata was emblematic of the breadth and complexity of visions seeking to fundamentally reshape the concepts and operation of liberal parliamentarianism and adapt them to the needs of Meiji Japan. The former ranking military commander who had helped usher in the modern state was among the most Emperor-centric politicians of the period. He was a trenchant critic of republicanism denouncing the foreign ideal of popular sovereignty as a menace to Japan’s religious-ethical traditions of unity and mutual cooperation. Yet, Torio was no less an indefatigable advocate of a Japanese-style constitution and a popularly elected national assembly earning praise from a range of voices as a defender of “People’s Rights.” In 1890, the popular daily newspaper *Yomiuri* described Torio as being “nicknamed ‘the People’s Rights activist within the government,’ and for many years has been a thorn in the side of the authorities.”<sup>3</sup> Contemporary books written on the “People’s Rights Movement” did in fact include Torio as a central figure in the movement, and the official party history of the Liberal Party edited by its central member Itagaki Taisuke, among

the most prominent advocates of the establishment of constitutional government, stated that “among the members of the *Genrō-in*, Torio Koyata, ... and others, listened to what the representatives of the party opposition said and often had a tendency to support the popular will.”<sup>4</sup>

At first glance Torio appears to be a paradox. He was at once among the most obstinate anti-liberal and anti-Christian political activists of rank during the mid-Meiji period, routinely stating that Western “civilization and enlightenment will destroy the customs of our Imperial land.” Nevertheless, he was also deeply critical of the liberal parties’ view that suffrage should be limited to the propertied elite and appears to have had an expansive view of the role of the people as one central pillar of the nation in tandem with the Emperor.<sup>5</sup> In the late 1870s, Torio, along with other colleagues historians have deemed the “National Essence Preservation Movement,” grew increasingly disillusioned with the rapid modernization reforms implemented by the ruling oligarchy committed to renegotiating the unequal treaties with the Western powers and to stabilizing the state. This faction of the culturally conservative opposition perceived the rapid succession of reforms for national development as opening the floodgate of indiscriminate and arbitrary Westernization at the expense not only of historical Japanese culture but also of the welfare and development of the Japanese people. In 1881, Torio and fellow military generals who resigned from the military in protest of the oligarch’s despotic approach to governance petitioned the Emperor to demand a constitution which would establish an independent legislature. Outside of the state, Torio campaigned tirelessly through his political and religious organizations on the one hand to stem the tide of Western liberalism and Christianity, and on the other to restrain the despotism of the oligarchy through idealizing a unique constitutional separation of powers with a legislature which could channel the thoughts and needs of the people to the Emperor to ensure benevolent rule.<sup>6</sup> Despite his rigid dedication to defending the integrity of Eastern thought, Torio showed resourcefulness and adaptability in integrating the strengths of diverse trends in seeking to harness the newly prevalent concept of “public opinion,” —*kōgi yoron* 公議輿論, or *kōron* 公論 – to legitimize greater demands for the representation of the will of the public to check the arbitrary power of the oligarchy.

Torio’s openness to a more expansive role for the citizen-subjects in politics has led some sharp observers, such as Barbara Teters and Janine Sawada, to recognize that despite Torio’s hostility to liberalism, his support for the popular will (*min’i* 民意) contained elements which appear surprisingly “progressive.”<sup>7</sup> Most historians, however, who have touched on Torio Koyata and his organizations have branded him a “reactionary.” One important example of this is Motoyama Yukihiro, who presumes that conservatives such as Torio and his Society of the Great Way were shackled to local feudal loyalties and sought the return of their former privileges as members of the samurai elite.<sup>8</sup> Nevertheless, as Manabe Masayuki has pointed out, there is a conflict between the historical perception of Torio as an anti-Western, Emperor-centric xenophobe whose social thought was nothing more than a holdover from feudal Nativism; and the complexity of his political thought and action which demands more careful attention.<sup>9</sup> The apparent

contradiction is reinforced by his own statements in the Privy Council, where in the same session Torio insisted that the decision of the actively involved Emperor should take precedence over the majority decision of the representatives if necessary for the nation; yet, also lambasted the possibility that the proposed national assembly could not initiate legislation, revealing his fervent belief that the representatives of the people should have considerable control over the framing of national policy.<sup>10</sup>

In Torio's ideal polity, in the intimate relationship between the Emperor and the people, the Emperor was the sole bearer of national sovereignty standing above the people as a reflection of divinity and bestowing welfare unto the people. Yet, equally vital for Torio's conception of benevolent government, in his view the primary purpose of Eastern political philosophy, was the active role of the people both in parliamentary politics and the moral self-cultivation necessary for ethical interaction in social relations. This self-initiated moral cultivation was the foundation of the ethical state for which the parliamentary system was designed to facilitate and mutually reinforce. The opposition activism in the 1880s of this Buddhist–Confucian nationalist against the despotic modernizing reforms of the Meiji oligarchy, articulated through a culturally modified parliamentary ideology, helps clarify the understudied conservative involvement in the public sphere during this formative time of public furor over the nature of the Japanese political structure. The example of Torio and his ilk associated with the “National Essence Movement” clarifies that Emperor-centric political views envisioning an intimate involvement of the Emperor in political decisions could also serve as an abstract principle to critique the state and even the Emperor himself while simultaneously embracing a more inclusive, and even central, role for the people in national affairs through the ideal of benevolent rule cognizant of the popular will. The ideal of the intertwined nature of Imperial rule and popular will can be seen in Torio's direct criticism of the Emperor in a written statement to him in November 1880. In the document, Torio criticized the failure to establish a constitution and a national assembly, financial wastefulness, and the lack of moral governance. Torio also boldly stated that the Emperor held responsibility for trustfully employing the services of the officials of the Satsuma–Chōshū clique who formed the despotic ruling oligarchy. He further reminded the Emperor that the ruler and the people have the same interests and thus the Emperor should base governance on the popular will.<sup>11</sup>

Torio's parliamentary thought was the product of an evolution from an initial support of a despotism devoted to military preparation against Western imperialism to a fervent belief in restraints on state power codified in a constitution compatible with Japanese culture. After being disillusioned by the authoritarian pragmatism of the oligarchy which he could not join in power, and which threatened his deeply held religious and ethical ideals, Torio began to demand a legislature independent of the cabinet. This legislature would channel the sentiments of the people to the Emperor through a popularly elected assembly to adhere to the ethical principles essential to ensuring benevolent rule. Torio's critical stance toward his former close colleagues in the government based on principle was made possible by wielding



the legitimacy of the concepts of the Emperor *and* the people as the base of the state against the monopolization of power by the oligarchy. The use of the people as one base of legitimacy had important political implications and was intertwined with what could be thought of as an element of egalitarian tendencies rooted in a communalist view of ethics. Communal ethics articulated by Confucianism and Buddhism served as both the guide for self-realization within moral community and for national strength through solidarity. Torio's participation in the diverse public debate over the nature of the Japanese Constitution to promote his conservative vision of the integration of both the Emperor as benevolent and active sovereign and the people as active agents in a moral system, was facilitated by his use of two themes: the concept of "public opinion," and Torio's adoption and reformulation of liberal terminology, notably his conception of naturalism or "natural law."

"Public opinion" was representative of a broader set of assumptions about the need for active citizens in the maintenance of the state. Furthermore, for Torio, natural law was based on the universal truth of "Eastern philosophy" or "Eastern religion," which prescribed the social relations most conducive to the realization of the thriving of a fixed human nature. In both cases, Torio reworked liberal concepts to privilege Confucianism and Buddhism as the basis of "civilization and enlightenment." Under the unequal treaties forced upon Japan by the imperialist powers in which Japan was regarded as not fully civilized, there was a debate among Japanese nationalists concerning the adaptability of Western norms and the optimal degree of emulation necessary to enlighten the people and develop the nation. In his campaign to prove the relevance of "traditional" intellectual and political systems as civilization, Torio appears to have sought to strategically appropriate the discourse of liberalism, while overtly acknowledging some of its strengths, to show the sophistication of "Eastern thought" and its compatibility with a strong and independent state that could hold its own against the Western powers.

Consequently, Torio's political campaigns and the influence on the public sphere he commanded help bring to light the full range of challenges confronting the oligarchy which impacted the choices they made concerning the framing of the Meiji Constitution. Torio's career also sheds light on the civil society actors who ultimately worked to validate the Emperor system in prewar Japan as in the interest of the people and as a critical platform for evaluating the performance of the state. Finally, Torio and his movement also may provide insights into deep-seated aspirations for alternative cultural systems and social ideals to liberalism which can potentially undergird a critical mass of public support for developmental, illiberal regimes whose social capital is founded on the pretense of providing for social needs divergent from the culturally, historically developed attitudes to state power in the European and North American experience.

### **From militarism to "public opinion"-based parliamentarianism**

The first records of Torio's early thought appear in 1873 when Torio was still an active military commander and primarily focused on the immediately pressing

concerns of military preparation for national defense. In an 1873 letter to Field Marshall Saigō Takamori, the head of the military at the time, Torio describes his urgent belief that the Japanese Empire should mobilize to become a garrison state with two-thirds of tax revenue devoted to national defense against what he felt to be an inevitable Western incursion.<sup>12</sup> Crucially, however, by 1875, Torio's views had significantly changed in response to what Torio saw as the shocking political self-interest of the ruling oligarchy<sup>13</sup> as well as the unpredictable popularity of Western ideals of governance and the discourse on "civilization and enlightenment." The challenge of Western liberalism galvanized Torio to co-opt its terminology to protect and promote his view of Japanese traditional political ideals. In his 1875 *On Karma and National Power*, written the year he was appointed to the deliberative body the *Genrō-in*, Torio divided "People's Rights theory" into high and low streams. The high theory of people's rights, argued Torio, would recognize the value of people's rights and eliminate the root cause of the people's "enslavement," a phrase he and his protégés used frequently to denounce despotic governance and religion. Valuing the people's rights would serve as the basis of the spirit of national independence. The state would pass laws respecting the rights of the people, while the people each individually would thus be encouraged to exert their strengths through the wielding of their rights. The low theory of people's rights, represented by the emerging movement to emulate foreign models of governance, sought rapid change and reform and was grounded in nothing more than dissatisfaction with the government. In this writing, Torio also begins to develop his answer to natural law, writing that human rights (*jinken* 人權) are granted by heaven and are not arbitrary creations of men. It was the role of the monarch to defend these natural human rights.<sup>14</sup> Further hints of his evolving view of the people can be gleaned from an 1880 memorial to the Emperor co-signed with Tani Tateki and other "National Essence" generals. Following a government corruption scandal concerning the sale of property, which was seen as the necessary outcome of overcentralized control, there was a groundswell of public anger prompting a spate of memorials to the Emperor and government. In his memorial, Torio revealingly relies on the sentiments of the "people" as justification to express his own opposition:

Since the government has lost its essential principles to an extent unprecedented in recent times at home or abroad, the three great powers, legislative, and judicial authority, are all united in the cabinet. We have the name of Imperial rule but not the reality. This has given suspicions among all the people.<sup>15</sup>

Torio had begun to more thoroughly codify his worldview in his 1878 political tract *Kingly Law*. This piece showed a more developed argument for the rights of the people and of social law as grounded in a human nature which could not be altered by the arbitrary power of state officials. The tract became influential and informed his general political activity throughout much of the 1880s. Torio's *Kingly Law* claims that any ruler deserving the name govern according to the

sentiments of the people, thus advocating for the establishment of constitutional government through the founding of a legislative assembly. Torio maintained that “the mind of the people is the great law of the state” and that its members should have the great right to carry out politics in the realm. Torio argued: “The people have the great of right of choosing wise men to become legislators. Their task is to serve the interests of the realm and provide justice.”<sup>16</sup> Torio’s argument that the state should be grounded in representative government draws on Mencius, stating: “Heaven sees according to what the people see and hears according to what the people hear. The Kingly Way comes into being when the ruler sees according to what the people see and hears what the people hear.”<sup>17</sup> Remarkably, Torio justifies the need for a legislature by stating that a ruler may not necessarily have the ability to adhere to the will of the people and ensure their happiness and stability.<sup>18</sup> As a result, the establishment of a legislative assembly chosen by the people could serve as a system to help ensure the implementation of these ideals. Through a parliament, contended Torio, the people would assist in carrying out the natural order which served as the premise of communal morality.

In the late 1880s and 1890s, Torio still conceded that his natural inclination was toward a benevolent despotism in which just rule was guaranteed by monarchy and not thwarted by self-interested politicians. Yet, Torio’s disillusionment with the dictatorial oligarchy led him to acknowledge that “despotic authoritarianism can be effective in solving problems, yet if power is used for self-interest and is wielded through coercion it is called tyranny.”<sup>19</sup> What was needed was, in part, to “take the strong point of the West, the elected legislature.”<sup>20</sup> Torio would ultimately come to the conclusion that this required a new attitude to the role of the people. Torio approvingly wrote after the promulgation of the Meiji Constitution:

Where once Japan was divided into castes, each with different occupations and the warrior class was tasked with leadership, now after the restoration of the monarchy, this monopoly is gone and replaced with a new constitutional state. All citizen-subjects are now tasked with the affairs of the state.<sup>21</sup>

A clear expression of the culminating political worldview which drove Torio’s political activism in the 1880s in the anticipation of the promulgation of the constitution can be seen in a memorial demanding the empowerment of the *Genrō-in* as an independent legislature which he wrote in 1887 as a member. The *Genrō-in* had been established by an Imperial Edict in 1875 announcing the intent to gradually transition toward a constitutional system and was to a significant degree a response to the rise of the parliamentary movement. The Senate was tasked with drafting a constitution with a second edict giving instructions to “determine the cardinal laws of Japan” through “widely consulting the laws of foreign lands.”<sup>22</sup> Its first draft in 1876 was highly elitist and called for the gradual introduction of representative government. Further drafts in 1878 and 1880, however, incrementally accepted broader representation with a “council of representatives.”<sup>23</sup> Nevertheless, the Senate’s recommendations were not accepted by the oligarchy.

In his memorial, Torio denounces the relegation of the Senate, or *Genrō-in*, to a powerless bureaucracy. He argues that “the creation of laws is in fact the central basis of the state” and must be carried out by an independent legislature. However, the cabinet dominated by the oligarchy had despotically monopolized this power and had ignored the will of the people. Such unjust despotism was opposed even by Eastern ideals of governance based on monarchy. Legislation carried out by the state must follow two essential principles: the mind of the people, which is ordained by heaven, and the laws of heaven, thus restricting the powers of the state. “From ancient times,” wrote Torio,

the leader of a new initiative would reflect on the heavenly ordained mind of the people, and determine laws through the laws of the ancient holy sages as his constitutional principles. Descendants would maintain the ancestral laws, and the realm would be governed by obediently conforming to the heavenly ordained mind of the people.<sup>24</sup>

The limits of power applied even to the Emperor, who must obediently follow his ancestral laws, and as a result, the people gratefully and respectfully accept his rule.

However, following the Restoration, it was no longer possible to maintain the old system as it was. Now was the time to determine the nature of legislative power and place the Empire on a firm basis, establishing a constitution through broadly consulting domestic and foreign political knowledge. To settle the issue of legislative power was to settle the existential crisis of the Japanese state.<sup>25</sup> It was deeply regrettable that the *Genrō-in*, which should be endowed with legislative powers, was entirely powerless. All of the power was relinquished to the cabinet ministers.<sup>26</sup> The oligarchy was dangerously governing without relying on the ancestral law of the Imperial Household, not reflecting on the popular will (*min'i jinshin* 民意人心) or even adopting Western regulations.<sup>27</sup> Here it should be emphasized that for Torio, not only were the ancestral law of the Imperial House and the popular will mutually reinforcing, but his ideal of governance was also potentially compatible with Western political thought if suited for his agenda of checking the power of the oligarchy. Torio continued his critique by arguing that cabinet ministers were acting on short-term interest according to what was convenient for themselves, which may prove inconvenient for later cabinets. Yet, the arbitrary nature of relying on their own ideologies and opinions did not allow for decision-making through public opinion. The main problem with the government was that both the powers of administration and legislation were held by the cabinet. These powers should be separated, and officials of state tasked with implementing legislations should have a nonbiased, nonpartisan stance. The cabinet should only follow the law of the Emperor. Crucially, Torio declares that “[i]t is truly the great virtue of the Emperor that he freely, willingly abstains from being a despot and vows to decide (his policies) through public opinion.”<sup>28</sup> The cabinet ministers, however, toyed with the Emperor and silenced his logical arguments.<sup>29</sup>

Building on an argument he began making as his disillusionment with the government grew, Torio drew on what Winston Davis refers to as the “latent populism” in the thought of Mencius to argue that a just ruler reflects the thoughts and needs of the people in his governance.<sup>30</sup> Torio emphasized “public opinion” as one core tenet of the state to critique the Cabinet’s abuse of power and justify the expanded role of the *Genrō-in* as the government’s primary creator of laws and representative of the people. Mencius’ ideal was equated with the legitimizing quality of this newly prominent concept of “public opinion” and, in turn, the channeling of “public opinion” is equated with ideal of the benevolent “Kingly Way” to be facilitated through an independent legislature. According to Torio, the role of the Cabinet – the cabinet system having been established in 1885 to cement the oligarchy’s centralized control – was simply to implement the policy of the legislature in consultation with the Emperor.<sup>31</sup>

Despite being a religious and political conservative seen as standing at the extreme end of the political spectrum, Torio’s critique of the puppet status of the *Genrō-in* (Senate) and greater need to integrate public opinion to address the popular will struck a chord with several of the *Genrō-in*’s prominent members during this juncture in history. Among them, the memorial won signatures of support from two prominent “enlightenment” figures in the *Genrō-in* who had been members of the *Meiroku-sha*, Tsuda Mamichi, and Katō Hiroyuki, as well as cultural conservatives who would become members of Torio’s future political party, the Conservative Impartial Party.<sup>32</sup> These discursive strategies promoting a degree of inclusion for the people were no doubt partly adopted in the pursuit of their own advancement out of resentment at exclusion from the inner sanctum power. However, at the very least, the adoption of “public opinion” reveals the conceptual adaptations and innovations that allowed effective communication in public ideological debates with political actors of different backgrounds. It further shows that a critique of the oligarchy conceived through a culturally domesticated form of parliamentary thought could underpin a broad, if fleeting, consensus among often conflicting ideological factions.

### **“Public opinion” and the impact of the public sphere**

Kyu Hyun Kim, in his study of the Japanese parliamentary movement, has clarified the prevalence of the term “public opinion” and its central significance in the public discourse on Meiji-era parliamentarianism. Kim argues that the rise of “public opinion” formed in tandem with a vibrant public sphere. The Japanese term, *kōgi yoron* or *kōron*, had long-standing historical significance for legitimizing the state and was initially used by domain lords to prove that they would work for the public good rather their own private interests. However, from the crisis sparked by the shock of Commodore Perry’s gunboat diplomacy in 1853 to the restoration of monarchical government in 1868, Kim explains, the term became frequently used by intellectuals and had evolved to mean public opinion in the modern sense. Channeling public opinion was seen as important among advocates of the reform of the shogunate system and for preventing extreme centralization under the Emperor.<sup>33</sup>

Yet, Kim's argument concerning the emergence of a public sphere has rekindled a contentious debate about the nature of the constitutional order in Meiji Japan. Kim's analysis of the broad range of views on the ideal function of parliamentary government within both the state and the civilian movement demanding the expansion of political participation through the opening of a national assembly led Kim to conclude that state power was not absolute and that civil society was powerful enough to impact state policy. Parallel to Carol Gluck's pathbreaking argument that the Imperial system and its political myths in the late Meiji period was not purely a one-sided imposition, but rather a co-creation actively embraced by imperial subjects to protect their own interests even against the state, Kim draws on the work of Elizabeth Berry to assert that the public sphere marshaled a degree of disciplining power on state efforts to monopolize control. Even outside a democratic framework, Berry argues, the public sphere can act through various means to hold power accountable and force it to live up to the rhetorical ideals which justify its control.<sup>34</sup> As a result, Kim contends that the Meiji constitutional system was in part a product of a negotiation between the state and civil society.<sup>35</sup>

Other historians have challenged Kim's attempt at revisionism, arguing that the "People's Rights Movement" seeking to introduce constitutional reforms imploded as the result of internal class divisions and a repressive state which was ultimately successful in imposing a largely Prussian constitutional regime.<sup>36</sup> Objectively evaluating an enduring, positive impact from the public sphere on state power will continue to elicit debate in ways likely tinged by the political assumptions and ideals of the historians themselves. What can be said in the case of the conservative opposition active in the public sphere is that although their success in impacting the constitutional structure paled in comparison to their great hopes, "National Essence" leaders such as Torio had an indelible effect on the formation of a modern ethnic nationalism among a younger generation of nationalist activists who directly impacted policy in the interwar period. The example of army general and Prime Minister Hayashi Senjūrō, an ardent disciple of the Society of the Great Way founded by Torio, will be briefly discussed in the conclusion.

Nevertheless, Kim has undeniably shown that there were few political actors who outright rejected parliamentaryism. There was a clear spectrum, however, of differing assumptions about the abilities of the people and the role of the state, etc., which were often either a misunderstanding of liberal ideas or deliberate reformulations. Kim acknowledges that this spectrum of parliamentary thought ranged from "reactionary" to "radical." Yet, undergirding and informing nearly all of the strands of parliamentary discourse was a central emphasis on the concept of public opinion, or public discussion. In the case of conservatives, however, there remains a clear tendency to assume that "Emperor-centric views" were typically mutually exclusive with governance informed by public opinion. The diversity of "Emperor-centric" positions has been partly obscured by a tendency in the secondary literature to equate what is perceived as a largely monolithic conservatism and Confucianism with an opposition to the participation of the people in politics. Even in Kim's work, which does recognize the complexity of conservatism, Torio is briefly mentioned in the same stroke as Confucianist

Motoda Eifu and even Inoue Kowashi, central advocate of a Prussian constitution, without explanation of their vast differences.<sup>37</sup> The example of Torio, among the most enthusiastically Emperor-centric and doggedly Confucian politicians of the period together with other like-minded conservative opposition activists such as Tani Tateki, however, defies these assumptions and shows the breadth and diversity of ideological stances embracing the importance of integrating public opinion into Imperial rule as the method of forming public policy as well as the base of the legitimacy of the state. In fact, Torio's embrace of the people as one central pillar of the nation allowed him to transcend, not entirely, it must be stressed, but to an important degree, the elitism associated with many Confucian thinkers (in Japanese *guminkan* 愚民觀, a view that the people are foolish and unequipped to meaningfully participate in national affairs). This allowed Torio to make the charge of elitism to the oligarchy calling for more equal treatment of the people. Torio argued that "a government worthy of the name should not provide (spoils) to the rich, selfishly use the poor (for their own purposes), should not be partisan to the wise, nor look down on the foolish."<sup>38</sup>

In contrast, the oligarchs Itō Hirobumi and Inoue Kowashi set about creating a Prussian constitution with notable assistance from German scholars who advocated a social monarchy with the constitution ostensibly enshrining an Emperor with extensive power in response to the emergence of a vigorous parliamentary movement. Yet, to consolidate state institutions, the oligarchy enacted state-centric policies, including the formation of the cabinet system in 1885 maligned by many opposition voices of many ideological backgrounds, including Torio's. Kim explains that the state ideology ultimately engineered by the oligarchy was

expressed in the confirmation of the nation of the "national body" (*kokutai* 国体) headed by the Emperor as the central tenet of the Japanese nation. The notions of popular sovereignty as well as "public opinion" as the source of political legitimacy was decisively refuted. Never would the legitimacy of the imperial government be challenged by mere "voices of the people."<sup>39</sup>

Thus, Torio's views based on public opinion can be easily distinguished from a purely statist view of the Imperial system.

### **Parliamentarianism as facilitating the natural order of the unity of the ethical state and society**

Torio's parliamentarianism, however, was not merely the product of the discourse on public opinion. There is a second undercurrent discernable in the language of the memorial on the *Genrō-in*, and Torio's thought in general, which clarifies how he was able to balance an emphasis on state policy reflecting public opinion and yet also his explicit rejection of popular sovereignty in favor for sovereignty held exclusively by the Emperor. This was the concept of naturalism, of natural law. Torio sought to turn the tables on liberal thought by redefining liberal terms, and especially the concept of natural law used initially to justify the limitation of state intervention into society and potentially opening the way to value-pluralism and

republicanism challenging the cherished place of the Emperor. Torio, in his political writings of the 1880s and 1890s, defines natural law as the universal truth of Confucian social relations and the karmic cause and effect of Buddhist law.<sup>40</sup> The embrace of the discourse on law hinted at in his memorial on the *Genrō-in* also likely facilitated the communication of his ideas with the aforementioned enlightenment thinkers Tsuda, a noted legal scholar, and Katō, whose social Darwinist thought had not yet matured at this stage and whose earlier political view had been grounded in a conception of natural law, albeit one very different from the conception espoused by Torio.

For Torio, a popularly elected assembly was a mechanism for the nation to conform to the natural law of the universe, which would lead to stability and happiness for the people of the realm. Public opinion served not merely to legitimize the power of the state but primarily as a necessary guide for the function of this benevolent government. Torio argued for an assembly which could integrate both of these ideals of public opinion and Confucian–Buddhist natural law. And the two ideals became axial principles providing a standard for critiquing the state as refined in his 1878 political treatise *Kingly Law*. Adopting a reformulated discourse on “natural law” was another way in which the conservative Torio was able to participate in the public sphere and interact and communicate with fundamentally differing viewpoints in the debate over the nature of a constitutional system appropriate for Japan. Torio used a culturally domesticated “natural law” based on “Eastern philosophy” to show a system of ethical laws must be suited to human thriving as determined by human nature and its natural passions. This was a hard truth which could not be arbitrarily manipulated by the oligarchy or the liberal parties.<sup>41</sup>

Like other advocates of the “National Essence Preservation Movement,” such as Torio’s associate, general Tani Tateki, Torio was angered by the oligarchy’s drive for nation-building and military strength at the expense of the general welfare of the people. Governance guided by natural law should conform to the ethical natural order. Yet, “civilization and enlightenment” suppressed the natural sentiments of human nature. Westernization was unnatural and may go against the needs of the people and their stability, which must be the first priority of the state. Torio used the metaphor of a river that must be allowed to flow naturally. If dammed improperly, the river can overflow in unpredictable and destructive directions, suggesting that rapid national development may be counterproductive.<sup>42</sup>

A similar concern also comes out strongly in his views of education. Torio denounced the modernizing education policy of the oligarchy geared toward rapid national development. This approach, he cautioned, sacrificed the self-realization of a person’s true human nature. Education cannot impose the desires of the educators onto children. Torio argues that the people are not mere tools of the state and denounces the “for the state, we should do anything” attitude of many reformers, stating, “people are not puppets to be manipulated from above.” Education must conform to human nature and its natural sentiments and passions. To force an unnatural development would do irreparable harm to the people of the nation. Natural law reflected the natural order and served as the foundation of ethics and



the standard of judging governance.<sup>43</sup> As a result, the presentation of the fundamental principles of the constitutional state based on his understanding of natural laws also allowed Torio to justify his ideal communal ethics as the natural order to which all citizen-subjects must conform.

Torio's development of his concept of natural law (*tennen shizen no hō* 天然自然の法) occurred during the prominence of liberal concepts of society during the Meiji period and can be seen as a response to liberal influenced legal thought as introduced and popularized by Tsuda Mamichi and Nishi Amane, members of the *Meiroku-sha* "enlightenment" society mentioned above. Tsuda and Nishi had been sent by the Tokugawa shogunal government to study under Simon Vissering at Leiden from 1863 to 1865. Central to the education received from Vissering was his concept of natural law, which Nishi described as being "rooted in man's nature, that is why it is called natural law."<sup>44</sup> However, under Vissering's influence these two legal thinkers came to promote a division between subjective morals, and governance and law. Kiri Paramore explains that Tsuda and Nishi came to argue that:

natural law ... was different to human nature, in that while human nature was a moral state that related one's own conduct, natural law related to one's relations with others, and was therefore concerned with what was just or unjust. Morals and law were therefore divided, and the ultimate status of natural law was described by Vissering as allowing freedom to the extent that the freedom of another is not hindered. Assisting people in poverty or sickness, or saving others in danger, was "a matter of morals, not of natural law."<sup>45</sup>

Nishi saw the liberal ideals of Vissering as consistent with early, pure Confucianism and that later schools of neo-Confucianism had erroneously sought to fuse subjective morals and law. Nishi wrote that it was the post-Zhu Xi neo-Confucians who sought to equate morality and governance, "making true one's intention and rectifying the mind as wanting to equalize all under heaven," a description which suited the neo-Confucian and Zen naturalism of Torio.<sup>46</sup>

By grounding his political worldview on the laws of Confucian relations, the cultivation of a human nature which intrinsically understood morality and Buddhist karmic law of cause and effect, Torio sought to legitimize a holistic conception of social law as unified with morality, uniting governance and a universal morality determined by human nature. This concern for presenting Eastern tradition as describing rational laws which explained society and were legitimately consistent with the natural world was part of broader effort in the late 1880s to prove that Confucianism and Buddhism were integral elements of "Eastern philosophy" that could hold its own against Western social and natural philosophy, and were in fact its superiors.<sup>47</sup> Torio's *Kingly Law*, in which he equates natural law with Confucianism and Buddhism, was a treatise which sought to offset the strength of liberal thought by redefining natural law not as limited government and individualistic value-pluralism, but rather as communal ethics buttressed by religious metaphysics which governed both the universe and the ideal social state.

Natural law was a reflection of laws of morality most suited to human nature. For Torio, the base of morality was the law of human interactions. Morality was the reciprocation of the two virtues of empathy and the knowledge of right and wrong.<sup>48</sup> People are already equipped with the tools to engage in moral behavior, and these tools are found in *seijō* 性情, which is human nature and its range of human emotions. A disciplined human nature can effectively harness the emotions and if the *seijō* of the people is correct, then the fundamental principles of morality can be achieved. The work of true “civilization and enlightenment” was the complete advancement of this empathy and knowledge implemented through education.<sup>49</sup>

In his writings throughout the 1880s from *Kingly Way* onward, Torio sought to redefine the terms of liberalism such as freedom, autonomy, and equality to align with these Confucian and Buddhist concepts. In his Buddhist formulation, liberty and autonomy were the agency to pursue moral cultivation and the responsibility of reaping the consequences of one’s actions in the context of the laws of the universe which were most conducive to ethics and morality.<sup>50</sup> The law was realized through action, and each individual receives the effects of these actions. According to Torio, autonomy was used to realize the law, and freedom to follow the way. The people had the right to exert themselves to fulfill their own nature and not harm others. Their obligations were to maintain their own responsibility.<sup>51</sup> As opposed to the liberal concepts introduced by proponents of Western “civilization and enlightenment,” Torio rejected the concept of fundamental subjective differences between individuals and with it the need for the liberty explore these subjective differences in thought and values. True freedom was the ability to discover pre-set universal laws true for everyone and which guided the goals of life and the direction of self-cultivation.

### **Egalitarian communalism and the agency of moral autonomy**

*Kingly Law* became widely read and admired by such influential opinion makers as the publicist Kuga Katsunan, who admired a progressive quality in Torio’s argument. Kuga wrote:

(Torio) Sensei already had as his fundamental belief the equality heaven and earth, there being, from the beginning, no difference between high and low, self and others, and in this respect, his views almost resembled those expressed by Rousseau in *Le discours sur l’origine de l’inégalité parmi les hommes* in which he regarded equality as the original state (...)

This school believed constitutional government was right and proper; it recognized the well-understood truth of the liberal system, and did not cling at all to the customs of the past. Therefore, even though its members call themselves conservative, I must say that the truth is that they are instead radically progressive. However, in urging the truth of liberty and independence, they bitterly attack Europeanization and call themselves the Conservative School. Since they usually expound Confucianism and Buddhism and do not talk carelessly about the academic theories of the West, people misunderstand them

and believe they resemble the name they bear, the “Conservative School”. This is indeed a case in which name and fact do not agree. An indiscriminating school borrows some of the beliefs of old Western scholars, patches them together and constructs an antiquated political theory, and calls itself the Liberal or the Reform School. Such people should be greatly ashamed when they face this Conservative School.<sup>52</sup>

Yet, despite Kuga’s astonishing characterization of the highly conservative views of Torio as parallel to Rousseau, *Kingly Law* was in fact a concerted effort to stem the tide of liberalism. By reorienting the perceived strengths of liberal concepts, namely, equality, freedom, and autonomy, and grounding them on a base of Buddhist and Confucian thought, Torio sought to conceptualize a parliamentary system regulated by a concept of natural law compatible with his ideal of communalist commitment to ethics. Whereas Kuga was especially enthusiastic about Torio’s embrace of “equality,” Torio uses the word in the Buddhist sense that all things in the universe are intertwined, and that equality is in fact also a reflection of differentiation. Torio’s argument that equality must come through differentiation was designed to protect differentiated roles within society and through it, the five Confucian relations. Torio emphasized that the social order and meaning depended on validating normative human relations undergirding the Confucian ideal of “rectifying names.” Torio states that human society must have “a morality for people as people,” in other words, that must be built around the communal cooperative bonds most conducive to the flourishing of a fixed human nature. Most of all, the purpose of this argument appears to protect the transcendent status of the Emperor against republican ideas being introduced into Japan.

As Manabe Masayuki has pointed out, it appears that Kuga misunderstood that Torio was clearly seeking to counteract liberal individualism and the perceived shirking of moral obligations inherent in liberal freedom. Yet, there was something akin to a seductively liberating and egalitarian quality within the confines of a nationalist ideology which sought to harness the commitment of the people through devotion to the Emperor and nation all determined by the natural law of morality. This egalitarian element further clarifies his metaphysical natural law and the allure of his worldview. An understanding of this element can be gleaned from the opposition of his concept of liberty versus his use of “slavery” applied to both Christian creationism and repressive political systems. Stemming from his interpretation of Zen Buddhism and neo-Confucianism, which stressed that the world was a reflection of mind and its karmic effects, the cornerstone of Torio’s worldview was self-powered moral cultivation. One article in the periodical of the Society of the Great Way states that “if we Japanese master the Way, correct our mind, accumulate virtue and work for the benefit of the world, we (Japanese citizen-subjects) can become even a god (*kami* 神), even a Buddha, even a wise ruling-class gentleman.”<sup>53</sup>

There was a striking emphasis in both his writings on Buddhism and politics on individual will and the importance of self-driven striving for morality and knowledge which would serve as the base of moral order. Yet, there would appear

to be a tension between the subjectivity or agency in the autonomy of exerting individual will on the one hand and the absoluteness of the law of the universe on the other, which is a truth that “cannot be changed by the hands of men,” and is true regardless of whether the people recognize it or not. I suggest that the meaning and purpose of self-powered striving for self-cultivation was made secure by law believed to be universal truth. Law based on Confucianism and Buddhism also served to manage the unity of the thought of the people not through coercion but through willing commitment, enticing all members of the nation to be striving toward the same goals and driven by the same values. Torio idealized unity of thought, in which the whole nation would come to a consensus on politics, which would transcend the partisan divisions he saw weakening the nation. The goal of politics, he argued, cannot be achieved if the minds of people are divided. Torio wrote that “if each individual will is divided into different interpretations we cannot come to a non-partisan view. The peoples’ thought will be torn apart and will not be mended.” Each individual, family, village, and region had its own subjective interests, but individuals must abandon their understandings of self-interest as delusions of the mind and work for the interest of the public.<sup>54</sup>

Bob Wakabayashi has argued that Confucian thought during the Meiji period was designed to protect the status quo and entrench hierarchy.<sup>55</sup> In reality, parallel to “enlightenment” figures within the *Meiroke-sha*, Torio’s cultural nationalist political worldview was constructed in part as opposition to the oppressive despotism and arbitrary class-based hierarchy of the Tokugawa regime, and his campaign against the Meiji oligarchy was highly colored by this critique. In fact, as suggested above, a trenchant attack on unjust government was the central thrust in his articulation of political ideals, for despotism leads to misery and economic inequality, and ultimately to national weakness. Underpinning his political ideals was a clearly defined set of communal ethics which was not strictly top-down and instrumentalist. It was this communalist view which propelled his opposition to liberal individualism, value-pluralism, and economic thought he associated with selfish greed and exploitation. Along these lines, Torio characteristically stated:

Determining superior and inferior, and competition, is not the truth of nature. If trying to maintain human morality and the equality of happiness, the (liberal) theory of the strong defeating the weak is absolutely not the way to follow the truth of the universe.<sup>56</sup>

Further evidence of Torio’s more inclusive role for the people comes from his vision for the people outside of the state. Torio makes clear that the parliamentary system in which the needs of the people are recognized by the state itself is not complete. The constitutional state must operate within a broader moral system in which the people play an essential role, thus valuing the ethical agency of the people. As Torio states: “A country’s civilization, its rightful path... even if it can be said that it is potentially facilitated by the wisdom of politicians, is entirely based on the nature of a nation, which emerges from the manners and customs of the people.”<sup>57</sup> These customs and manners guided the people in their

self-cultivation and their ethical interactions with their peers. Torio believed that each individual must reflect on one's own actions and determine what is mutually beneficial for self and others.<sup>58</sup> Self-reflection to gauge the impact on others was possible because "all heart-minds are the same" and this equality of self and others (*jita byōdō* 自他平等) allows the empathy essential for self-reflection.<sup>59</sup>

Moral action was further facilitated by the fact that all people are naturally equipped with an innate understanding of morality, but devices, such as religiously informed manners, are needed to act on this innate awareness. Torio believed that "the separation of religion and politics was the result of Western public discussion." But ethics must be rooted in social customs, and in Japan, religious ethics and politics were united. Social behavior was guided by Shinto, Confucianism, and Buddhism.<sup>60</sup> The contest over the nature of the Japanese Constitution was for Torio a question of what values should orient the hearts and minds of the people and form the social manners necessary for civilization, the cornerstone of which was morality. Torio explains:

In the West, having the God of Heaven as an object of worship provides the social manners which allow the people to seek to improve the world and is the source of equality, and is the reason behind the popular demand for liberalism and egalitarianism.<sup>61</sup>

However, in Japanese civilization, manners emerged from loyalty and filial piety to the Emperor, the laws of the Imperial Household being equated and intertwined with the laws of Confucianism and Buddhism.

In sum, Torio's conception of a moral constitutional order required both a national assembly channeling public opinion and the moral agency of the people for just governance to conform to the ethical natural order. The central thrust of Torio's ideal of ethical natural order, which conformity to natural law was to bring about, was defined by the striving to support the public good over private self-interest. To not live in accordance with this public ideal would bring suffering upon self and society. This prioritization of the public over private and consequent belief in the necessity of the active participation of all members of the nation in the maintenance of benevolent rule led to important political implications.

### **The egalitarianism of ethnic nationalism**

Torio's totalistic worldview integrating morality and governance demanded inclusion of the entirety of the nation for the realization of ethical ideals and for national strength. Despite Torio's statements that Western "civilization and enlightenment" is the path to human extinction and that Western "theories of freedom and equality would destroy the good customs of our land," by which he largely meant that they would lead to republicanism and challenge the status of the Emperor,<sup>62</sup> Torio was opposed to the class system in which the warrior class monopolized privileges to the detriment of meritocracy, noting that "even highly talented people cannot help save the world if they are suppressed by class hierarchy."<sup>63</sup> Now that feudalism had been eliminated and Japan must construct

a strong, independent state, the solution to preventing both the injustice of self-serving Western liberalism and the despotism of arbitrary authoritarian developmentalism was an ethical system informed by the traditional Eastern principles of benevolent governance. From ancient times, Eastern thought was solely carried out for the happiness of the people and it was not morally acceptable for the strong to take advantage of the weak and foolish.<sup>64</sup>

Benevolent government could only come about through a public spirit and not through self-interested competition. Western “civilization and enlightenment,” however, was fundamentally driven by self-interest, and by satisfying worldly desires. This led Torio to claim that “Western civilization and enlightenment is driven by greed and is nothing more than a great struggle where the strong and intelligent win supremacy” over the weak.<sup>65</sup> Republican America proudly claims to be the world’s most free and politically equal country. Yet, economic equality is not possible in this kind of system. A new hierarchy emerges based on the accumulation of property and not through moral striving. This leads to the misery of the poor. For Torio, this reflected a morally bankrupt society and may also lead to political extremism such as republicanism.<sup>66</sup> Writing in the context of not only a burdensome tax regime for developmental goals but also the unequal treaties which forbid import tariffs ultimately causing negative trade imbalances, Torio argued that those who see Western history in a positive light, and who worship the West, do not see that their policies were causing harm for generations and that most of the population in Japan was suffering. Torio laments that no matter how much the people work, their production is not enough to earn a living. Torio voices similar denunciations of imperialism, which he explains as the result of selfish immorality leading the West to lose the Way.<sup>67</sup>

Torio’s tirade against the Meiji government’s perceived exclusion of the people extended to education. Torio argues that education is not just for the elite. True civilization fully recognizes the central importance of everyday skills, and the contributions to society of a range of different people and the need for their cultivation. Civilization must be for the whole of the nation. With seething indignation, Torio fumes that “this idea that the ‘high-collar’ upper class, who have assets above the average and have a little education and knowledge, are the only ones with ‘civilization,’ is not true civilization.” If this was the case,

then imagine if a new train line was created. Are the well-to-do passengers in the train the only ones with civilization? But that means that those who toil underground to mine the coal (and who make the train run) have no civilization.

In this recklessly hasty developmentalism, for “those good people doing menial labor and suffering under increased taxation, there is no ‘civilization.’”<sup>68</sup> Torio continues by exclaiming that despite the hostility of the elites toward the lowly *jinrikisha* drivers, he had always found them to be morally upright and scrupulous about money, unlike many upper-class people who manipulated the nuances and gaps in law for their own profit. In referencing cart pullers, Torio was possibly

making a veiled criticism of the elitism of the penultimate Meiji liberal thinker and central *Meiroku-sha* member Fukuzawa Yukichi, who had stated the unwashed masses, “the peasants and cart pullers,” were not yet equipped to participate in politics. For Torio, the privileging of industrial and financial power for national development over the moral customs of the people, which in his eyes brought true happiness and stability, meant that the true definition of civilization had been turned “upside-down.”<sup>69</sup>

Torio’s views can also be interpreted as being tinged with a level of paternalism stating that if the people’s thought and action are not enlightened, they can fall back into an acceptance of despotism. Yet, crucially, he does evince the recognition that the ruling class was not possible without the lower classes. Torio states that it is inevitable that the wealthy and respectable dominate human society, and the poor will be forced to submit. Yet, drawing on his belief in Confucian benevolence, those with power must take responsibility accordingly, and through their own self-initiative seize the duty of the exemplary gentlemen. The wealthy, cautions Torio,

are not capable of earning their wealth by themselves. The status of wealth and respect must inevitably come from benefitting from the poor. Therefore, they must also (work) for the interests of the masses, and love the mass of commoners. They should lovingly use them and bring about their happiness and virtue. The wealthy should lovingly cultivate the poor, and the respectable should lovingly protect them.<sup>70</sup>

Torio goes on to explain that deciding the Emperor as the leader of the nation prevents competition and fighting over who is superior and inferior, preventing the exploitation seen in the liberalism of the West.<sup>71</sup> Nevertheless, Torio’s spirited defense of the underrepresented and exploited, which commanded the respect of many who saw him as champion of People’s Rights, was not only motivated by ethics. Torio’s need for inclusion of the populace was also driven by the pragmatic concerns of strengthening national security. In his writing on tax law, Torio makes this explicit. Torio argued that tax policy favoring landlords would enrich the property owners and bring calamity to poor farmers. In the crucible of Western imperialism and intense competition among nations, Japan must not engage in destructive competition within the country. Japanese policy concerning land, which he argued was the property of the state, and taxation must be for the “total” of the nation to ensure ethics and strength, a mentality that has resonances with the interwar period.<sup>72</sup>

### **Party politics and the role of the public-minded exemplary gentleman**

The question is then what was the nature of the relationship between the state, which was ideally informed by public opinion while conforming to the ethical natural order, and society, which operated on individual moral striving; and how

they were seen to be joined into a functional whole. As the opening of the Diet approached in the late 1880s, Torio began to delineate more specific ideas about party politics. He imagined that the parliamentary system would create a fluid interaction between the benevolent state and the active populace. Whereas *Kingly Law* had laid out the ethical philosophy underpinning Torio's argument for a constitutional system, *Discussions of Current Affairs* emphasized that the ethical state required assistance from exemplary moral gentlemen to assist the Emperor in carrying out the affairs of the state.<sup>73</sup> More concrete details concerning the role of exemplary gentlemen in party politics were detailed in a publication for Torio's political party, the Conservative Impartial Party founded in 1888. Torio's presentation of the fusing of the mind of the people and the Emperor remains the central priority:

In regard to our Imperial Diet, the gathering of the people's representatives, it is entirely (a process in which) the monarch takes the mind of the people as his own mind, and this is born from the great mind of the Imperial ancestry. The monarch cultivates the great morality of the Imperial ancestry and clarifies it for the current era.<sup>74</sup>

The Party's journal, *New Thesis on Conservatism*, began publishing along with the establishment of the party in 1888 during a period when Torio had become a member of the Privy Council. An 1889 editorial, "On Political Parties," begins with an invocation of the central Confucian ideals of filial piety, of good and beauty and meritocratic employment of men of talent in the state. Yet, as compelling as these truths are, they are not enough to save the nation from its weakness.<sup>75</sup> Thus again, for Torio's party, the establishment of an elected legislative assembly was seen by Torio and his followers as essential for the empowerment of the nation and its deliverance from debilitating internal divisions and existential external threats. Nevertheless, the pursuit of morality and the active participation of the people was required for the system to function. In the post-feudal era, claims the editorial, the Emperor saw that the country had deteriorated into chaos and decided that Japan must have constitutional government. A constitutional government requires political parties, and inevitably there will be competition and disagreement about ideas. However, the purpose of the parties should be to determine the interests of the nation and to preserve its ancient foundation by showing the right path.<sup>76</sup> As in many of Torio's writings, parliamentary reforms in the modern era were clarified in contradistinction to the concept of despotism, in which the ruler chooses who is worthy of serving the state. In contrast, in a constitutional polity, representatives and policy are chosen by the majority of the people.<sup>77</sup> Those seeking office may be exemplary gentlemen (*kunshi*, defined as those who put public good over private interest) whose ideas conform to morality, or may be small men driven by self-interest. Given the inherent difficulty for the average citizen to distinguish between the exemplary gentlemen and the opportunists, the parties' fundamental task is to define their philosophy and publicize them. Both the exemplary gentlemen and the small men must come forward with



their platforms, and the people decide.<sup>78</sup> This facilitates the process in which the people distinguish between the well-intentioned statesmen and the small men, thus orienting the people.<sup>79</sup> It is assumed that the political process will expose the fraudulent opportunists telling the people what they want to hear, bringing to the fore true patriots seeking to implement ethical principles naturally shared by everyone once properly clarified.

The ultimate goal, according to Torio, is to orient and unify the thought of the people. Under the Constitution of the country, the way of the nation is determined by the majority of the people, and it is their choice which determines its prosperity or decline and fall. But he cautions that this does not mean that the people will choose the way of stability and prosperity. It is imperative that upright men of loyalty, imagined by Torio to be outside the state, give their all to analyzing and critiquing the platforms of the various parties to help identify which political parties are the parties of the exemplary gentlemen and which would bring catastrophe to the country. For Torio and his conservatives, the Great Way, the natural order of morality, was a reality whether the people chose it or not. Yet, it is important that the people come to understand the Way through persuasion and the work of righteous patriots. *New Thesis on Conservatism* states that even if a system is fundamentally sound and the ruler strong, the ideals of politics cannot be achieved if the minds of the people are divided.<sup>80</sup> The importance of the people choosing their representatives is central, and yet the ideal outcome is to achieve willing consensus.

However, as *New Thesis on Conservatism* makes abundantly clear, this does not mean that the people are sovereign. The Emperor has granted the people the right to participate in his legislation and are to assist in the creation of laws within the limits of their power through the people's representatives. Torio's party flatly rejected the concept of party cabinets, which would mean depriving the Emperor of all power. The realm of the people's rights was the legislature, and the realm of the ruler's rights (the prerogative of the Emperor) was the cabinet.<sup>81</sup> This conception further sought to ideologically restrict the ability of the Diet to stray from Torio and his party's idealized views by arguing that those members of the legislative assembly elected by a majority of the people should uphold the fundamental principles of the polity, which are fixed by culture and cannot be arbitrarily changed.<sup>82</sup> Thus, it can be gleaned from the party platform, and his career as a whole, that Torio's vision of benevolent government simultaneously sought to empower the people to embrace an active role in the nation and ideologically enforce boundaries of acceptable thought and values to protect his own ideals for communal ethics and nationalism. Following the promulgation of the Constitution, Torio gave his thoughts on the details of the document in a writing titled *Omi no Tomogaki* (The Limits of the Emperor's Servants). Barbara Teters and Janine Sawada have noted that Torio continued to vigorously seek revisions to draft constitutions sent to the newly formed Privy Council, of which he was a member, despite winning only a few concessions such as the right of the Diet to initiate legislation.<sup>83</sup> This suggests the degree in which Torio was deeply frustrated with the nature of the emerging constitution being crafted by the ruling oligarchy. However, in *Omi no Tomogaki*, Torio seems enthusiastic that the Constitution, often thought to be a Prussian façade, provided actual rights and

should be regarded as the “scripture” of the nation. Torio approvingly notes that the Constitution provided an independent legislature the proof of which was the opening of elections. Torio also suggests that the Diet would have real power over the budget. Torio argues that the nation, and the liberal parties, should be satisfied with the rights codified in the Meiji Constitution and not demand more rights.<sup>84</sup> This apparent approval of the Meiji Constitution would perhaps expose the limits of Torio’s ideas as an opposition worldview. Yet, Torio’s view of the Diet’s power with the budget presaged an argument later made by historian Banno Junji, who has shown that the power to reject a budget from the cabinet during a time when the government required ever more funding for its developmental goals, especially during the Sino-Japanese war, granted a level of negotiating leverage. Banno has shown that the popular parties, who advocated tax reduction, could exploit such opportunities to check the ruling clique, if only in consequence to force a stalemate until some in the oligarchy later relinquished opposition to reduction in the tax burden.<sup>85</sup> Furthermore, the continuity of Torio’s opposition stance is revealed most clearly in his later writing criticizing proposals to reevaluate land values which Torio saw as a bid by landlords to evade their proper share of taxation. After denouncing the proposals for seeking to enrich landed elites, Torio fumed that “it could be said that the House of Representatives is the landlord’s Diet,” which preaches public opinion and claims the mantle of people’s rights as people’s parties, yet merely represents the will and interests of a small number of landlords.<sup>86</sup> Torio further lamented that in “the circumstances of today, it can rather be said that the right to vote is not a human right, but a right of land, a right of property ownership.”<sup>87</sup> This bitter disillusionment with the reality of self-serving politics set the tone for a younger generation of nationalist activists eager to rectify the betrayal of the Restoration and achieve true justice and self-realization through the intimate relationship between devoted subjects and benevolent Emperor.

## **Conclusion**

The Chōshū military commander and conservative politician Torio Koyata aggressively promoted a constitutional parliamentarianism which fundamentally rejected liberal Westernization. Torio sought to develop an alternative form of parliamentarianism based on social values informed by Buddhism and neo-Confucianism. Torio’s participation in the national discussion to win support for his political views was facilitated by the use of two themes in his argument for a Japanese-style representative government: the reflection of “public opinion” in governance, which he equated with his interpretation of Mencian thought, namely, benevolent monarchy reflecting the popular will; and the reinterpretation of liberal terms such as liberty, autonomy, equality, and natural law to have Confucian and Buddhist meanings. This parliamentarian construct was designed to offset the rise of individualism, value-pluralism, and economic liberalism, and protect a system of ethical cultivation under a benevolent Emperor which he saw as the source of personal self-realization. Torio also perceived this system as the source for the national ideological solidarity necessary for independence and military strength

during a period when Japan was still vulnerable to Imperialist encroachment. This discourse further had, to a significant degree, egalitarian consequences for perceptions of the people's inclusion in politics and impacted a later generation of nationalist ideologues who would come to power in the 1930s.

Torio's efforts to pressure the state and persuade fellow citizens to share his ideals for the Japanese political structure and the nature of "people's rights" not only shows the important conservative participation in the parliamentary movement during the lead up to the promulgation of the Constitution, but also how "public opinion," a discourse which had pre-Restoration roots and suggests a broadening base of inclusion in politics, was understood as an essential element of benevolent Imperial rule. Some historians have argued that this trend represented a public sphere, a place where state power was scrutinized and disciplined by a civil society powerful enough to exert agency through vigorous protest if the state deviated from a tacit social contract. As a result, the Meiji constitutional structure must be recognized as a negotiated product between state and society and not merely a one-sided imposition. I suggest for further research that one way of identifying the actual impact of the public sphere represented by the parliamentary movement on the state would be to broaden the temporal scope of analysis beyond the impact on the Meiji Constitution itself to the interwar period, when nationalists influenced by the "National Essence" ideologues of the 1880s and 1890s who had participated in the parliamentary movement began to challenge the Meiji consensus on government with parallel critiques in the 1930s. The process of mid-Meiji cultural conservatives agitating through writings, speeches, the formation of parties, and petitions forged a new ethnic nationalism which conditioned popular attitudes idealizing a benevolent state and a populace whose ideological commitment sustained the state. These ideals influenced a younger generation who later emerged as important officials and thinkers and may help explain the political climate of the interwar period. One direct example of this influence is Army General Hayashi Senjūrō, who participated in the Manchurian Incident in 1931, served as Minister of the Army in 1934–1935, and briefly became prime minister in 1937. In his youth in the 1890s, Hayashi had, in fact, been an ardent disciple and member of the Society of the Great Way founded by Torio Koyata along with other religious nationalists such as Kawai Kiyomaru. During his tenure as Prime Minister, Hayashi sought to promote the *Fundamentals of Our National Polity* as national ideology orthodoxy and saw his cabinet as a way of implementing the ideals of the Society of the Great Way.<sup>88</sup> In 1938, Hayashi resuscitated the Society of the Great Way for the purpose of war mobilization on the home front and reprinted many of its Meiji-era writings on political ideals.<sup>89</sup> Hayashi's own writings also reveal familiar criticisms of the distortions of Japanese culture through the incursions of Western political liberalism and economic thought.<sup>90</sup>

In understanding the enthusiastic embrace of the paradigm of an active public sphere outside of popular sovereignty, it is helpful to consider why the ideals of the religio-political organizations led by Torio as well as other "National Essence" ideologues could have inspired a critical mass of Japanese nationalists as private citizen-subjects before they entered the state. Torio did not argue for a return to feudal

hierarchies. In contrast, his was a call for human liberation under benevolent governance providing welfare for the people. This would free the people from oppression, obstructing the realization of their true nature. Nevertheless, as Mary Elizabeth Berry has stated, it is a matter of historical fact that Japan was an authoritarian state in the prewar period.<sup>91</sup> However, the career of Torio Koyata and his followers helps clarify that the Emperor-centric opposition worldviews of some prominent conservatives did not perceive the ideal of the Imperial system as authoritarian in the sense of abusive despotism. Torio, who helped promote Imperial rule as beneficial to the interests of the people and saw the Emperor as a reification of principle, criticized feudal despotism as trenchantly as he did liberalism. In fact, he saw both as leading to a tyranny which prevented the true realization of a moral community.

Torio's views sought justification in the transcendent principles of religion and thus appeared to some observers rigidly opposed to change. Nevertheless, the assumptions underlying his attitudes to state and society broadly overlapped with mainstream views current throughout the prewar period. In fact, Manabe Masayuki has referred to Torio's political views as "Confucian *minpon-shugi*."<sup>92</sup> The term *minpon-shugi* 民本主義, the "people as base," was promoted by prewar Japanese liberalist thinkers denoting representative government, yet with the Emperor as sovereign. This concept was conceived in distinction to democracy, *minshu-shugi* 民主主義, in which the people are sovereign, and was seen as a form of constitutional government compatible with the unique nature of the Imperial Japanese polity. *Minpon-shugi* is a concept most closely associated with "liberal" theorist Yoshino Sakuzō during the period of "Taishō Democracy." Thus, some might quibble that this would be a superficial and anachronistic label for Torio's Meiji-era thought. Yet, a comparison between the thought of the ostensibly more palatable Yoshino, surely thought to be radically more progressive than the "reactionary" Torio, reveals a shared paradigm of state society relations outside of democracy that allowed for a vibrant public sphere scrutinizing power and seeking to discipline a despotic state. This paradigm and its obvious parallels to Torio's earlier discourse can be seen in the explanation of Yoshino's theory of *minpon-shugi* provided in the classic article by Berry, which informed the work of Kyu Hyun Kim. Berry explains:

Yoshino Sakuzō ... argued that "minority rule is always government in a dark chamber" where "excesses" and "abuses" are given license. Thus he insisted that policy be set "in accordance with the people's opinions" and that suffrage be extended to guarantee a "just and equitable" government devoted to "the welfare of the people." At the same time, Yoshino rejected "the dangerous theory of popular sovereignty," embracing "loyalty to the Emperor" as the "essence of our national polity." Like the overwhelming majority of political actors in pre-occupation Japan, Yoshino Sakuzō continued to accept the premise of authoritarian rule: the power of decision lay finally in a leadership subordinate only to a sovereign Emperor. The challenge is to reconcile this authoritarian premise with the role claimed for popular "opinion" in opposition to "minority rule."<sup>93</sup>

Berry's influential solution was the concept of a public sphere in which power was scrutinized and held in check without challenging the premise of the authoritarian paradigm. However, the question of why the paradigm itself, at least among some prominent thinkers, was not viscerally felt to be inherently oppressive but in fact liberating also requires analysis. The solution is partially suggested in the quote which opens this article. Torio believed that true liberty and autonomy, as well as equality, were guaranteed by equal happiness and the meeting of fixed human needs which all individuals naturally share through the positive rights of state-provided welfare. As Torio argued, politics was for the sake of the happiness and welfare of the whole of the people and should conform to natural needs. It should not be dictated by foreign standards, nor be artificially concocted by cunning and skillful politicians.<sup>94</sup> This paradigm is only conceivable with the rejection of subjective differences among individuals in perceptions of self-interest. Liberal civil society, the space for voluntary cooperation and the negotiation of conflicting perceptions of self-interest, as well as popular sovereignty, the mechanism to determine the direction of state policy through an electoral majority, are entirely unnecessary if all citizens share the same fundamental understanding of self-interest reflected in and enforced by the transcendent principles of the ethical state. Individual subjectivity, which legitimated pluralism and competition, in fact threatened the ethics of mutual cooperation and of a tightly bound collective subjectivity needed for national strength. According to Torio, individual self-interest which deviated this ideal was thus viewed suspiciously in a Buddhist sense as delusions of the mind, as false consciousness.

Despite the reputation of Torio's ideology as a reaction against modernity, his parliamentary views reflect a modern ethnic nationalism rejecting the stagnating rigidity of class-based feudal despotism for a more broadly inclusive national politics. This allowed the critical independence to oppose national development at the expense of the human development of the people. Torio's worldview was a product of one trend within the Japanese response to the crisis of nation-building, which out of an acute sense of geopolitical urgency emphasized the importance of expanding the sectors of the society who could be the bearers of the state. One purpose of his conception of a constitutional parliamentary system was to harness this broad-based modern ethnic nationalism in an effort to politicize yet homogenize a national body activated by national cultural awareness, an impulse which perhaps sheds light on other anti-liberal developmentalist movements in East Asia and the world.

## Notes

- 1 Following Barbara Teters and Janine Sawada, I have used the label National Essence to describe the thought of Torio Koyata. Although he appears to have not regularly used the term "national essence," or *kokusui* 国粹, in his major writings, his culturalist views share fundamental parallels with thinkers who did and it is therefore a reasonable way to categorize his worldview. See Janine Sawada, "Political Waves in the Zen Sea: The Engakuku-ji Circle in Early Meiji Japan," *Japanese Journal of Religious Studies* 25, no. 1–2 (1998): 117–150; Barbara Teters, "The Genrō In and the National Essence Movement," *Pacific Historical Review* 31 (1961): 359–378.

- 2 Torio Koyata, *Jijidan*, 546, in Torio Koyata, *Tokuhan zensho* (Tokyo: Tokuankai, 1911).
- 3 Yomiuri shinbun, “Torio chūjō jihyō hōei no gen’in” 鳥尾中将辞表奉呈の原因 [The reasons for Lieutenant-General Torio’s request resignation]. 1890.04.06. Quoted in Manabe Masayuki, “Torio Koyata ni okeru seifu hihan no keisei,” *Nihon shisō* 657 (2003): 64.
- 4 Teters, “The Genrō In and the National Essence Movement,” 373.
- 5 Manabe Masayuki, “Kindai kokka keiseiki ni okeru dentō shisō,” *Waseda Daigaku daigakuin bunka kenkyūka kiyō*, 4-47 (2001), 67–79, 76.
- 6 Teters, “The Genrō In and the National Essence Movement,” 361.
- 7 Sawada, “Political Waves in the Zen Sea,” 144.
- 8 Motoyama Yukihiko, *Proliferating Talent* (Honolulu: University of Hawai’i Press, 1997), 359; and 341, 349.
- 9 Manabe Masayuki, *Kindai Kokka*, 67. Along these lines Nakanome Tōru, in a recent contribution to an edited volume on historiography published in January 2020 titled the *Frontlines of Meiji Research*, has likewise commented on the “astonishing” historical puzzle of Confucian influenced cultural conservatives such as Torio and his colleague Tani Tateki as being respected as People’s Rights Movement leaders. “Meiji ‘hoshu’ shisō kenkyū no ronten,” in *Meiji kenkyū no zensen*, ed. Kobayashi Kazuyuki (Tokyo: Chikuma shobō, 2020), 102.
- 10 See quotations of Torio’s statements in the Privy Council in Manabe Masayuki, “Torio Koyata ni okeru seifu hihan no keisei,” 65.
- 11 See Manabe, “Torio Koyata ni okeru seifu hihan no keisei,” 72–73.
- 12 Manabe, “Torio Koyata ni okeru seifu hihan no keisei,” 68.
- 13 More specifically, Torio along with Kido Takayoshi, a close colleague, was disillusioned with the politics surrounding the Taiwan expedition. See Manabe, “Torio Koyata ni okeru seifu hihan no keisei,” 69.
- 14 Manabe, “Torio Koyata ni okeru seifu hihan no keisei,” 69–70. This argument concerning the high and low streams of people’s rights is restated in Torio’s *Jijidan*. See *Jijidan*, 541, 586.
- 15 Teters, “The Genrō In and the National Essence Movement,” 368.
- 16 Manabe Masayuki, “Kindai kokka keiseiki ni okeru dentō shisō,” 74.
- 17 Manabe, “Kindai kokka keiseiki ni okeru dentō shisō,” 75.
- 18 Manabe, “Kindai kokka keiseiki ni okeru dentō shisō,” 74.
- 19 Torio, *Jijidan*, 544–545.
- 20 Torio, *Jijidan*, 595.
- 21 Torio, *Omi no Tomogaki* (Tokyo: Nihon kokkyō daidōsha, 1890), 8.
- 22 Kyu Hyun Kim, *The Age of Visions and Arguments, Parliamentarianism and the National Public Sphere in Early Modern Japan* (Cambridge: Harvard University Press, 2007), 337.
- 23 Kim, *The Age of Visions*, 338.
- 24 Torio Koyata, *Genrō-in shōtei ni kansuru ikensho*, in *Toakuan zensho*, 180–181.
- 25 Torio, *Genrō-in shōtei*, 181.
- 26 Torio, *Genrō-in shōtei*, 182.
- 27 Torio, *Genrō-in shōtei*, 182.
- 28 Torio, *Genrō-in shōtei*, 184.
- 29 Torio, *Genrō-in shōtei*, 186.
- 30 Winston Davis, *The Moral and Political Naturalism of Baron Katō* (Berkeley: University of California Press, 1996), 5.
- 31 Torio, *Genrō-in shōtei*, in *Toakuan zensho*. 187.
- 32 Supported by Okauchi Shigetoshi, Harada Ichido, Katō Hiroyuki, Makimura Masanao, Tsuda Mamichi and Hayashi Tomofusa, listed with Torio’s signature.
- 33 Kim, *The Age of Visions and Arguments*, 48–57.
- 34 Mary Elizabeth Berry, “Public Life in Authoritarian Japan,” *Daedalus* 127, no. 3 (Summer 1998): 144.
- 35 See Introduction to Kim.

- 36 See Stephen Vlastos' review of Kim in *Harvard Journal of Asiatic Studies* 70, no. 1 (June 2010): 282–286.
- 37 See Kim, *The Age of Visions*, 430.
- 38 Torio, *Jijidan*, 574 and 686–687.
- 39 Kim, *The Age of Visions*, 326.
- 40 Torio, *Jijidan*, 538.
- 41 Torio, *Jijidan*, 576–577; 605–615.
- 42 Torio, *Jijidan*, 576.
- 43 Torio, *Jijidan*, 605–614.
- 44 In Paramore, *Japanese Confucianism* (Cambridge: Cambridge University Press, 2016), 124.
- 45 Paramore, 124.
- 46 Paramore, 125.
- 47 See Torio, “Tōyō tetsugaku ikensho,” in *Tokuan zensho*.
- 48 Torio, *Jijidan*, 608.
- 49 Torio, *Jijidan*, 605–609.
- 50 Torio, *Jijidan*, 615.
- 51 Manabe, “Kindai kokka,” 72.
- 52 Kuga Katsunan, “Kinjiseironkō. Thoughts on Recent Political Discourse,” trans. Barbara Teters, *Monumenta Nipponica* 26, no. 3/4 (1971): 381–382.
- 53 Kawai Kiyomaru, “Nihon ni okeru kiristokyō no ichi,” in ed. Hashimoto Itsuo *Kawai Kiyomaru zensho* (Tokyo: Kawai Kiyomaru zensho kankōkai, 1933).
- 54 Torio, *Jijidan*, 571.
- 55 Bob Tadashi Wakabayashi, “Katō Hiroyuki and Confucian Natural Rights, 1861–1870,” *Harvard Journal of Asiatic Studies* 44, no. 2 (1984): 469–492.
- 56 Torio, *Jijidan*, 614.
- 57 Torio, *Jijidan*, 575.
- 58 Torio, *Dōtoku ben*, in *Torio Tokuan zensho*, 1122.
- 59 Torio, *Jijidan*, 606.
- 60 Torio, *Jijidan*, 535.
- 61 Torio, *Omi no Tomogaki*, 8. Crucially, the term for egalitarianism (*jita byōdō* 自他平等) is what he applies to Japanese thought in a similar sense in his writings revealing that despite the difference in the object of orientation, he appears to have seen Japanese civilization as also having an equivalent ethical standard of egalitarianism.
- 62 Torio, *Jijidan*, 537; *Dōtoku ben*, 1141.
- 63 Torio, *Jijidan*, 575.
- 64 Torio, *Jijidan*, 533.
- 65 Torio, *Jijidan*, 533.
- 66 Torio, *Jijidan*, 531–535.
- 67 Torio, *Jijidan*, 532.
- 68 Torio, *Tokuan issekiwa*, in *Tokuan zensho*, 1095.
- 69 Torio, *Tokuan issekiwa*, in *Tokuan zensho*, 1096.
- 70 Torio, *Dōtoku ben*, 1141.
- 71 Torio, *Jijidan*, 546.
- 72 See Torio, “Chika shūsei hōan hantai ensetsu,” in *Tokuan zensho*.
- 73 Torio, *Jijidan*, 530.
- 74 Hoshu chūseitō, “Seitō ron,” *Hoshu shinron*, no. 2 (1889), 6.
- 75 Hoshu chūseitō, “Seitō ron,” 2.
- 76 Hoshu chūseitō, “Seitō ron,” 3.
- 77 Hoshu chūseitō, “Seitō ron,” 4.
- 78 Hoshu chūseitō, “Seitō ron,” 8.
- 79 Hoshu chūseitō, “Seitō ron,” 4–5.
- 80 Hoshu chūseitō, “Seitō ron,” 3.

- 81 Torio, "Seitō naikaku-ron" [On Party Cabinets]," *Hoshu shinron*, no. 3 (1889), 8–12.
- 82 Torio, *Omi no tomogaki*, 7–8.
- 83 Teters, "The Genrō In and the National Essence Movement," 367; Sawada, "Political Waves in the Zen Sea," 139.
- 84 Torio, *Omi no tomogaki*, 8.
- 85 See Junji Banno, *The Establishment of the Japanese Constitutional System*, trans. James Arthur Ainscow Stockwin (London: Routledge, 1992). See Introduction for the description of the overall argument.
- 86 Torio, "Chika shūsei hōan hantai ensetsu," 1006.
- 87 Torio, "Chika shūsei hōan hantai ensetsu," 1007.
- 88 See Miyamura Saburō, *Hayashi Senjūrō* (Tokyo: Hara shobō, 1972); and Hayashi Senjūrō, *Kōa no rinen* (Tokyo: Fumimatsu shobōten, 1943).
- 89 Monthly magazine published from 1938–1945, *Daidō*, Tokyo: Nihon kokkyō daidōsha.
- 90 Hayashi, *Kōa no rinen* (Tokyo: Fumimatsu shobōten, 1943).
- 91 Berry, "Public Life in Authoritarian Japan," 133.
- 92 Manabe, "Kindai kokka keisei," 75.
- 93 Berry, "Public Life in Authoritarian Japan," 139.
- 94 Torio, *Jijidan*, 522–523.

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## 4 The assembly of the land (*zemskii sobor*)

### Historiographies and mythologies of a Russian “parliament”<sup>1</sup>

*Ivan Sablin and Kuzma Kukushkin*

#### Introduction

The term *zemskii sobor* (“the assembly of the land”) was coined in the nineteenth century to refer to a number of different assemblies in the Tsardom of Russia.<sup>2</sup> It was contested in the historiographies of early modern Russia, with the discussions revolving around the questions whether the individual instances of *sobor* (“assembly”) and *sovet* (“council”) in the sixteenth and seventeenth centuries could be seen as a coherent, albeit dynamic, institution; what constituencies (local and “social estate”) were represented there; what role they played in the relations between the autocrat and his subjects; and how they could be compared to “parliaments” and other assemblies in premodern and early modern Europe and Asia. Most of contemporary authors agree that the *zemskii sobor* was not a coherent institution, and that it was not a “parliament” comparable to, for instance, the English Parliament or the Polish–Lithuanian Sejm (“assembly”) of the time. The historiographic debates on the *zemskii sobor* had intertwined with myth-making since before the consolidation of the term. The *zemskii sobor* was used by both the opponents and the proponents of parliamentarism in Russia, nourishing both autocratic and democratic political mythologies. Furthermore, during the Revolution of 1905–1907, the Revolution of 1917, and the Civil War of 1918–1922, practical attempts were made to “reestablish” the institution. The Priamur Zemskii Sobor, which convened in Vladivostok in the summer of 1922, became the first assembly to bear such a name.

The current study charted the interpretations of the *zemskii sobor* in historiography and positioned the term in the autocratic and democratic mythologies of the nineteenth and early twentieth centuries. The historiographic debates on the *zemskii sobor*, be it a coherent institution or an umbrella term for disconnected assemblies, was stimulated by the lack of reliable sources on individual assemblies, which made the reconstruction of representation and proceedings impossible in many cases. When such reconstruction was possible, the situational representation of different localities and social groups at the assemblies, as well as the latter’s irregularity and incoherence, pointed to the embeddedness of individual assemblies in the hierarchical imperial governance. The heterogeneity of the interactions between the monarch and his subjects, which could be categorized

according to their social strata, locality, and position of service, contributed to the imagining of the *zemskii sobor* as an institution of pluralistic political representation in a dynamic composite society, that is, an imperial “parliament,”<sup>3</sup> even though there is no evidence that the historical *sobors* played such a role. At the same time, this heterogeneity also made the individual *sobors* part of the differentiated yet centralized imperial autocratic governance, built through heterogenous practices,<sup>4</sup> and hence a “non-parliament.”

This study benefited from the Cambridge approach to intellectual history. When discussing historical texts, produced by Russian-language intellectuals and bureaucrats before 1922, it foregrounded the performative aspect of the term’s use within concrete political circumstances and, following Quentin Skinner, understood the contextualized texts as political actions in the authors’ pursuit of specific objectives rather than mere reflections.<sup>5</sup> In this respect, this study defined political mythology as the narratives of the presumed phenomena of the past which were modified and applied to suit the political goals of the present. Given the chapter’s focus on the nineteenth and early twentieth centuries, the mythologies of the *zemskii sobor* were studied against the backdrop of Russia’s heterogeneous nationalist discourse in its multiple and intersecting romantic and civic aspects.<sup>6</sup>

The variety of the *sobors* in terms of their composition and genesis and the lack of factual information on the individual assemblies made the term *zemskii sobor* applicable for both autocratic and democratic mythologies.<sup>7</sup> In the autocratic mythology, it represented the popular consensus behind God’s anointed Romanov Tsars, referring to the 1613 “*Zemskii sobor*,” which approved the new dynasty, ending the Time of Troubles (1598–1613). This interpretation was employed in the legitimation of the Romanov dynasty, including during the imperial crisis of the early twentieth century, and became an important component of romantic and pragmatic monarchist nationalism. In the democratic mythology, it was a historical Russian “parliament,” or at least a precursor of one, which legitimized and constituted the Russian state. In this sense, the *zemskii sobor* was used for criticizing autocracy. If “reconvened,” it was anticipated to become a modern constituent assembly, similar to the French National Constituent Assembly of 1789, or a modern parliament, and the concept was built into the different approaches to the Russian civic nation. Both mythologies, as well as their intersections, informed political imaginations and designs of the imperial and postimperial government. Given the intersections of ideas and the changing agendas of the authors, the division of the mythologies of the *zemskii sobor* into autocratic and democratic was schematic and based on the predominance of the Tsar or the people as the source of authority in the individual texts and on the extent of the proposed political changes.

## Historiographies

The term *zemskii sobor*, denoting the assemblies in Russia of the sixteenth and seventeenth centuries, is a historiographic term. As such, it appeared in the 1850s, together with the systematic discussion of the presumed institution. The

historiographic discussions of the nineteenth and early twentieth centuries were heavily influenced by the authors' political views, including on Russia's future. Over the course of the debates, however, more and more sources came to the knowledge of historians, providing the foundation for more neutral takes on the term and informing the contemporary historiographic discussion. The latter has unfolded since the second half of the twentieth century and featured direct polemics between Soviet and international authors in the 1980s. Since their beginning in the nineteenth century, the debates have revolved around the position of the *sobors* in the system of autocracy, the connections between the central government and localities (towns and provinces), and the existence or nonexistence of social estates in early modern Russia. There has been a growing consensus that the *zemskii sobor* was not a coherent institution, and some authors prefer not to use this term at all even when discussing the widespread process of consultation in early modern Russia.<sup>8</sup>

Historically, the word *sobor* was used for assemblies since the premodern period. It appeared in the ecclesiastical context in relation to Rus' already in the eleventh century. A text, dated to the 1030s–1050s and surviving in a fifteenth-century version, for instance, mentioned Prince Vladimir getting advice from the bishops on legislative matters and compared him to the Byzantine Emperor Constantin the Great, who issued legislation with the *Sobor* of Nicaea.<sup>9</sup> In the premodern chronicles, the term continued to be used for Christian assemblies. The *Kievan Chronicle*, dated to the twelfth century and surviving in a fifteenth-century version, discussed the relations between a *sobor* and a prince, portraying the former as an institution which could pass judgment whether a particular action was considered sinful.<sup>10</sup>

The word *sobor* began to be used for the nonexclusively ecclesiastical assemblies since the middle of the sixteenth century, but the term *zemskii sobor* was not used for describing such assemblies in the sources.<sup>11</sup> Ivan IV (later known as “the Terrible”), who was crowned the first Russian Tsar in 1547, convened *Sobor primireniia* (“the Assembly of Reconciliation”) in 1549, following the disturbances in Moscow in 1547. Since, apart from the clergy, the *Sobor primireniia* included the Boyar Duma (“the Council of Lords”), *voevodas* (“military governors”), and boyars' sons, this assembly has usually been considered to be the first *zemskii sobor* by the proponents of the concept.<sup>12</sup> The exclusively ecclesiastical *sobors*, however, also continued, and in 1551 Ivan IV convened the *Stoglavyi sobor* (“the Assembly of a Hundred Chapters”) for regulating religious life. In his supposed address to this *sobor*, the Tsar stressed that he was not only interested in the organization of the land (*ustroenie zemskoe*) but also in the matters of the Church.<sup>13</sup>

Other major nonexclusively ecclesiastical assemblies were held on the continuation of the war with Poland–Lithuania in 1566, on the “election” of Boris Fedorovich Godunov and Mikhail Fedorovich Romanov Tsars in 1598 and 1613, respectively, on the adoption of the legal Assembly Code (*Sobornoe ulozhenie*) in 1648–1649, and on the allegiance of the Cossack Hetmanate to the Tsar in 1653. The available sources demonstrated that the members of the assemblies

were identified through a number of different categories. The 1566 assembly, for instance, included chancellery (*prikaz*) bureaucrats, gentry (*dvoriane*), and merchants, in addition to the clergy and the Boyar Duma. The 1613 assembly, called the *Zemskii soviet* (“the Council of the Land”) in some of the sources, included townsmen, Cossacks, and peasants in addition to the groups mentioned in relation to the 1566 assembly. There are sources on further assemblies on different matters. Most of them were called *sobor* (1619, 1621, 1634, 1642, 1651), but there was also another *soviet* (1616). The membership was not always discussed in detail, with the “people of different rank [*chin*]” mentioned in the documents. The clergy, which participated in the larger assemblies, was referred to as the *Osviashchennyi sobor* (“the Holy Assembly”).<sup>14</sup>

The phenomenon of these assemblies was addressed by Russian intellectuals in the nineteenth century, with the development of modern history writing and the emergence of romantic nationalism. Nikolai Mikhailovich Karamzin, one of the first modern historians in Russia, used the terms *velikaia дума zemskaia* (“the great council of the land”), *velikii sobor* (“the great assembly”), *duma zemskaia* (“the council of the land”), and *gosudarstvennyi sobor* (“the state assembly”) when discussing such assemblies.<sup>15</sup> Karamzin was the first to generalize the *duma zemskaia* as a larger assembly convened for discussing important state matters.<sup>16</sup> The term *zemskii sobor* was used by the Slavophile<sup>17</sup> author Aleksei Stepanovich Khomiakov in a theater piece in 1833.<sup>18</sup> Starting with the polemics between Konstantin Sergeevich Aksakov, another Slavophile, and Sergei Mikhailovich Solov’ev on the origins of the *zemskii sobors* in the 1850s, the term became frequently used in the historiographic debates.<sup>19</sup>

K. S. Aksakov, Solov’ev, Afansii Prokof’evich Shchapov, Boris Nikolaevich Chicherin, Ivan Dmitrievich Beliaev, Nikolai Ivanovich Kostomarov, Vasiliĭ Ivanovich Sergeevich, Nikolai Pavlovich Zagoskin, Ivan Ivanovich Ditiatin, Sergei Fedorovich Platonov, Valerii Nikolaevich Latkin, and other authors who wrote about *zemskii sobors* in the 1850s–1880s interlaced historical observations, based on scarce sources available then, with their political views and made program statements. Some of their works, based on the premise that the *zemskii sobor* was a coherent institution, are discussed in the following sections.<sup>20</sup> Among the findings which proved influential for the twentieth-century debates were Solov’ev’s differentiated approach to the *sobors* and Platonov’s interpretation of the *sobors* as a medium of communication between the government and the localities in the process of administrative centralization of the Russian state.<sup>21</sup>

Vasiliĭ Osipovich Kliuchevskii’s study, published in the early 1890s, proved especially influential. Kliuchevskii’s main conclusions were based on the study of the *sobors* of the sixteenth century. He argued that the participation in the *sobors* was based exclusively on the service position of a participant, who did not represent a particular social group but was summoned by the government to provide information. Kliuchevskii located the origin of the *zemskii sobors* in the administration of localities. According to Kliuchevskii, the *zemskii sobors* were always consultative and connected the Tsar to multiple government agents. Kliuchevskii

noted that in the seventeenth century, the *sobors* became truly representative but did not go into much detail on the matter.<sup>22</sup>

Later authors in the Russian Empire continued the research of individual *sobors* and uncovered new sources. A major reinterpretation came with the development of the Marxist historiography in the late imperial and Soviet periods. Mikhail Nikolaevich Pokrovskii integrated the *zemskii sobor* into his concept of feudalism in Russia. Noting its primitivity in class representation and unclear competence, Pokrovskii defined the *zemskii sobor* as an extraordinary body of “vassals,” with whom the Russian “suzerain” consulted and through which he acted.<sup>23</sup> In an article accompanying the first Soviet history textbook, authored by him, Pokrovskii defined the *zemskii sobors* as the assemblies of representatives of landowners and bourgeoisie, using the terms which were common for Soviet political discourse.<sup>24</sup> Konstantin Mikhailovich Takhtarev, a sociologist and a social democratic activist, defined the “*Zemskii sobor*” of 1613 as an assembly of estate representatives but stressed its role in ensuring national unity and saving the Russian state in his study of the state from a world history perspective, which he wrote in 1917 and devoted to the “participants of class struggle.” Takhtarev included many allusions to the Revolution of 1917, defining, for instance, the *zemskii sobor* as a “genuine constituent assembly” or stressing the central role which “the union of towns and zemstvos [local self-government bodies]” allegedly played in saving the state. Takhtarev also understood the election of the first Romanov Tsar as limiting autocracy by “popular representation” (*narodnoe predstavitel'stvo*).<sup>25</sup> At the same time, Takhtarev considered the institution’s capacity to ensure peace in the society limited, suggesting that the interests of the estates in the second half of the seventeenth century could not be reconciled.<sup>26</sup>

Nikolai Ivanovich Cheliapov, an early Soviet legal scholar, defined the *zemskii sobor* as a consultative medieval estate assembly and a representative body, similar to the French Estates General.<sup>27</sup> Serafim Vladimirovich Iushkov and some other early Soviet scholars positioned the *zemskii sobor*, as a body of estate representation, in the system of estate monarchy, itself part of the feudal period of the Russian history. This was not, however, a predominant view in the 1930s and the 1940s. The *Small Soviet Encyclopedia* described the *zemskii sobors* as “partially” similar to other estate assemblies, like the French Estates General. The *Great Soviet Encyclopedia*, in which Konstantin Vasil'evich Sivkov oversaw the articles on history, mentioned autocracy as a more important factor compared to estate representation, on one instance. On another instance, it called the *zemskii sobor* a body of central administration in the government’s policy of centralization, directed against boyar opposition. On a third instance, the *zemskii sobor* was called a permanent body in the 1610s.<sup>28</sup>

Aleksandr Aleksandrovich Zimin, Lev Vladimirovich Cherepnin, and other Soviet historians of later generations interpreted the *zemskii sobor* as a proto-parliament or an “estate representative” body, albeit a consultative one. Ruslan Grigor'evich Skrynnikov noted the broader representation already under Ivan IV, citing the presence of gentry, bureaucracy, and merchants at the 1566 *sobor*. He also argued that after Ivan IV’s death, the *zemskii sobors* acquired the functions of

a constituent body, which was at least nominally responsible for the elections of a new Tsar. Fedor I was “elected” by a presumed *sobor* in 1584, despite being heir apparent to Ivan IV. According to Skrynnikov, the 1584 *sobor* could be seen as a way to legitimize a new boyar government, given the mental illness of Fedor I. After Fedor I’s death, Boris Fedorovich Godunov, a boyar, was “elected” in 1598 by a *sobor*, or, as Skrynnikov argued, sanctioned post factum by one in 1599. Skrynnikov noted that there were multiple candidates for the throne, with Fedor Nikitich Romanov, the future Tsar’s Mikhail Fedorovich Romanov’s father, being Godunov’s main competitor for the throne, but the formal “election” itself was not contested, and the power struggle took place in a noninstitutional context. Soviet historians also studied other institutions, such as the Boyar Duma, a smaller government council, a version of which existed as the *Zemskaiia дума* in the second half of the sixteenth century. The *zemskaiia дума* was hence not synonymous to the *zemskii sobor*, as the nineteenth-century authors implied.<sup>29</sup>

Peter B. Brown disagreed with the Soviet interpretation of the *sobors*, in particular with that of Cherepnin, pointing to the difference in the genesis and responsibility of each individual *sobor*, as well as their irregularity. Brown also mentioned the lack of evidence on their memberships and procedures, the diverse memberships of those *sobors* for which evidence was available, and the fact that the members of the *sobors* were predominantly appointed and not elected by their social peers. According to Brown, there were no constituencies for electing the *sobor* delegates, and all but three assemblies (1598, 1613, and 1648–49) seemed to be fully appointed. Peasants were present only at the 1613 assembly, which means that the absolute majority of the male population did not have any theoretical representative rights. Furthermore, Brown argued that there were no social estates in early modern Russia. He concluded that the *zemskii sobors* were different from the contemporaneous parliamentary bodies in Europe and were not quasi-legislative organs of contentious nobles and urban groups in the fiscal opposition to princes. As such, Brown defined them as irregular “government-summoned consultative assemblies” and “consensus forums” (or “sounding boards”) which were used for surveying “public” mood on particular issues. For him, the disappearance of the *sobors* after the 1650s was hence a result of the bureaucracy becoming superior in information acquisition through the urban *voevodas*.<sup>30</sup>

Although the debates on *sobors* have continued, with some historians still comparing them to the assemblies of the estates of the realm in other European polities<sup>31</sup> and others viewing them as similar to the assemblies (*kurultais*) in Tatar polities, which together with the Grand Duchy of Muscovy succeeded the Golden Horde,<sup>32</sup> there has been a growing consensus in English-language studies of early modern Russia, with most scholars agreeing with Brown’s interpretation. Marshall Poe called the *zemskii sobors* “occasional royal councils,” which did not limit the authority of the monarch.<sup>33</sup> Sergei Bogatyrev noted that even the members of the 1566 *sobor*, one of the more representative ones, saw themselves primarily as the servants of the Tsar rather than representatives of constituencies.<sup>34</sup> Andre Sashalmi noted that if the assemblies could influence the government policy, this was only through the expression of “humble requests” which might or might not have been taken into

account.<sup>35</sup> Brian Davies reaffirmed that the recognition of the local administrators' capacity to gather information was the main reason for the *sobors*' disappearance.<sup>36</sup>

Chester Dunning noted the different roles played by the assemblies during the Time of Troubles. He argued that False Dmitrii managed to remain on the throne without convening a *zemskii sobor*, but listed the lack of an election as a factor undermining Tsar Vasiliï Ivanovich Shuiskii. He also discussed the 1611 *Sovet vseï zemli* ("the Council of the Whole Land"), a *sobor*-like institution, which resolved numerous minor conflicts between the diverse groups fighting against the Polish–Lithuanian forces. Dunning argued that during Mikhail Fedorovich Romanov's early reign, the *sobors* helped the Tsar acquire local information and restore state administration, including the flow of taxes, but still foregrounded their bureaucratic functions, which strengthened autocracy, and also called them "sounding boards" with strong links to towns as the main revenue sources. According to Dunning, the members of the *sobors* acted as advisors loyal to the autocrat rather than any emerging "citizens."<sup>37</sup> The research on later periods of Russian history stressed that the formation of social estates in Russia was a product of a top-down policy in the later decades of the eighteenth century,<sup>38</sup> confirming that there could be no "estate-representative monarchy" before that. Catherine II made no references to *sobors* in her Instruction to the Legislative Commission of 1767, which she based on the works of the European Enlightenment authors.<sup>39</sup>

The constituent functions of individual assemblies also remained questioned. Discussing the 1613 assembly, Valerie Kivelson argued that the act of "electing" the Romanov Tsar was a confirmation of God's choice by the Orthodox community. She concluded that popular will remained secondary to God's will.<sup>40</sup> In this respect, Kivelson rejected the electoral functions of the assemblies – the main feature which, according to Donald Ostrowski, made them similar to the *kurultais*.<sup>41</sup> Dunning, however, noted that the 1613 election was contested, though the contestation once again happened behind the scenes of the assembly.<sup>42</sup>

There are certainly still voices supporting the interpretation of the *zemskii sobor* as a coherent institution. Mikhail Markovich Krom continued to claim that the *sobors* of the seventeenth century were comparable to European representative institutions and were part of the bottom-up construction of a modern state. Krom argued that the *sobors* acquired legislative competence, with a *sobor* promulgating a legal code in 1649, and that by the middle of the seventeenth century, the *sobors* had normalized representation for gentry and townsmen.<sup>43</sup> Richard Hellie considered the *zemskii sobors* proto-parliaments, focusing on the *sobor* of 1648–1649, and claimed that their very development into such representative assemblies led to their non-convocation since the 1650s.<sup>44</sup> The vast majority of contemporary historians of early modern Russia, however, do not see the *zemskii sobor* as a proto-parliament or even as a coherent institution.

### Autocratic mythology

The autocratic mythology of the 1613 assembly (*Zemskii soviet*) developed during the early years of the Romanov dynasty. The Romanov Tsars returned to the 1613



“election” in the nineteenth and early twentieth centuries. The mythologization of the *zemskii sobor* as a monarchical institution, in which the Tsar was primary to the people, was reinforced by the Slavophiles in the 1830s–1850s and became especially popular among the monarchist nationalists in the early twentieth century, during the crisis of the Russian Empire. The autocratic mythology was reinvigorated during the Russian Civil War and culminated in the attempted Romanov restoration at the Priamur Zemskii Sobor in Vladivostok in 1922.

The supporters of the Romanovs, the family of Anastasiia Romanovna Zakhar’ina-Iur’eva, Ivan IV’s first wife and Fedor I’s mother, attempted to sway the anticipated 1613 assembly in their favor. Avraamii Palitsyn, a religious and political figure, wrote during the preparations to the assembly that the Time of Troubles was the divine retribution for the sins of the Russians. According to Palitsyn, the Russian people could not comprehend God’s will and committed a number of errors, bringing the unworthy, Boris Fedorovich Godunov, False Dmitry, and Vasiliĭ Ivanovich Shuiskii, to the Russian throne. Palitsyn argued that the person who had the qualities of a perfect Orthodox Tsar – piety, reason in governance, and military valor – was Fedor Nikitich Romanov, and God wanted to see him on the throne. After the Russian people elected Boris Fedorovich Godunov, they were punished. Palitsyn also tried to convey the similarity between Fedor I, the last Tsar of the Rurik dynasty, and Mikhail Fedorovich Romanov, Fedor Romanov’s son, in their piety, and suggested that if the pious relative of the late Tsar Fedor I was enthroned, God would grant Russia peace. This narrative had some effect but did not guarantee the victory of Mikhail Fedorovich Romanov, and the Romanovs’ supporters opted for popularizing the earlier legend of Tsar Fedor I bequeathing the authority to Fedor Nikitich Romanov.<sup>45</sup>

The notion of following God’s will at the 1613 assembly reflected in its main document, *Utverzhdennaia gramota* (“the Approved Charter”). According to the document, during the 1613 *Zemskii sovet* (or simply *sobor*), which convened for “electing” a Tsar, God sent “His Holy Spirit to the hearts of all Orthodox Christians of the whole great Russian Tsardom.” Electing Mikhail Fedorovich Romanov the new Tsar, the people followed God’s will. The assembly was accompanied by a general prayer which was supposed to reveal it. The document also mentioned rational arguments in support of the decision, noting the relation of Fedor Nikitich Romanov and the late Tsar Fedor I and even the alleged opinion of the Swedish King, whose forces occupied parts of the Russian state, that a Russian had to sit on the Russian throne. God’s will was nevertheless presented as the main source of the unanimous “election” of Mikhail Fedorovich, who was called “elected by God” in the text.<sup>46</sup> The primacy of God’s will and mercy in the “election” of the Tsar was reaffirmed in later chronicles<sup>47</sup> and Palitsyn’s *Skazanie* (“Tale”), which stressed that God heard the collective prayer and granted Russia the new Tsar.<sup>48</sup> The manuscript *Kniga ob izbranii na tsarstvo Velikogo Gosudaria, Tsaria i Velikogo Kniazia Mikhaila Fedorovicha* (“The Book on the Election of Mikhail Fedorovich to the Throne of the Great Master, Tsar and Grand Duke”), which was written under the supervision of the boyar Artamon Sergeevich Matveev, who is occasionally called “one of the first Westernizers,”<sup>49</sup> in the 1670s, mentioned

deliberation about candidates and presented the “election” as a multistage process, even though it also foregrounded God’s will.<sup>50</sup>

The autocratic mythology was revived in the nineteenth century. Karamzin’s approach to Russia’s early modern assemblies as an institution included the participation of the people and hence contributed to democratic ideas, but the author himself foregrounded autocracy. He was critical of the limited autocracy during Tsar Fedor I’s rule with the Boyar Duma. According to Karamzin, after the election of Boris Fedorovich Godunov Tsar in 1598, the Patriarch proclaimed to the *sobor* that “the voice of the people” was “the voice of God,” and hence the new Tsar was elected according to God’s will.<sup>51</sup> Discussing the 1611 *Sovet vsei zemli* (which he called *duma zemskaia*), Karamzin deemed the reestablished Russian government a “shadow” of one, since without an autocrat a government in an autocracy was “soulless.”<sup>52</sup>

The Slavophiles, who idealized ancient Russia and rejected Russia’s alleged inferiority to the West, became especially influential in creating a coherent autocratic mythology of the *zemskii sobors*. Although it was A. S. Khomiakov who introduced the term to the nineteenth-century discussions, he did not use it when considering the nature of the supposed institution in 1839. According to A. S. Khomiakov, the “friendship of the government [the Tsar] and the people” manifested itself in the “old custom” of “assembling deputies of all estates for the discussion of the most important state issues,” which survived under Tsar Aleksei Mikhailovich.<sup>53</sup> The Slavophile K. S. Aksakov combined Khomiakov’s term and understanding of the alleged institution in his early-1850s manuscript and located the origins of the *zemskii sobor* in the Slavic traditional community (*obshchina*), which was based on giving up self-interest in favor of absolute consensus (*edinoglasie*) or love – the central idea of the romantic nationalism of the Slavophiles. He argued that the assemblies, such as *veche* (“assembly” or “council”), *sobor*, and *duma*, were the embodiment of the community’s moral activity and could not conclude before reaching a consensus. The first *zemskii sobor*, according to K. S. Aksakov, embodied the unification of the Russian land in one state under Tsar Ivan IV. After the unification, the land (*zemlia*) acquired the right to opinion and speech, while the state enjoyed the unlimited right to action and legislation.<sup>54</sup> The land was hence the new manifestation of the community. According to the Slavophiles, Russia’s increasing closeness to the West corrupted its popular order, resulting in the crisis of the institutions of the land and the emergence of the German bureaucracy around the Tsar, but a revival was deemed possible.<sup>55</sup>

K. S. Aksakov was also the first one to bring the concept of *zemskii sobor* into politics by including it into his 1855 memorandum to Alexander II. He stressed the connection between the government and the people in his understanding of the alleged institution. Applauding the “wisdom” of the Tsars, he claimed that they convened the *zemskii sobors* of those elected from all estates of Russia and offered them different issues for discussion. K. S. Aksakov argued, however, that the government was aware that it did not concede any rights to the *zemskii sobors*, while the people knew that the assemblies did not acquire any, asserting that the relations between the assemblies and the government were “friendly”

and “full of trust.” K. S. Aksakov maintained that such assemblies were radically different from parliaments but nevertheless stressed their role in surveying public opinion. This conformed to his main suggestion of gradually introducing full freedom of speech and press, when it would become clear that it was “inseparably connected to unrestrained monarchy.” Although K. S. Aksakov suggested convening a *zemskii sobor* when the government desired to ask for the country’s opinion, he opposed its immediate convocation. He deemed an immediate *zemskii sobor* pointless due to the remoteness of the nobles from the “popular foundations” and the fascination of both the nobles and the merchants with the West, which allegedly made it impossible to gather “the voice of the whole Russian land” at such an assembly. According to K. S. Aksakov, before a *zemskii sobor* could be convened, the freely expressed public opinion could perform its role. He also proposed convening assemblies of individual estates but emphasized that such assemblies and the future *zemskii sobors* were to be irregular and that their convocation was not supposed to be the government’s obligation.<sup>56</sup>

Although Tsar Alexander II did not implement K. S. Aksakov’s suggestions on the freedom of speech and press and the irregular estate assemblies, the government returned to the mythology of the “election” of the first Romanovs at the 1613 *Zemskii sovet*. The introduction to *Kniga ob izbranii na tsarstvo Velikogo Gosudaria, Tsaria i Velikogo Kniazia Mikhaila Fedorovicha*, which was published by an official commission on Royal decree in 1856, maintained that “the whole people” or “the people of the land” (*zemskie liudi*) decided that it was not possible to be “without a master,”<sup>57</sup> reaffirming thereby the autocratic mythology of the assembly.

Some Slavophiles continued to use alternative terms when speaking of the premodern assemblies. Aleksandr Ivanovich Koshelev published a pamphlet in Leipzig in 1862 in which he called for a general *zemskaia дума*. Although it was supposed to be a consultative body, tasked with informing the Tsar about the needs of the country, Koshelev also expected it to form the cabinet, which connected it to the democratic slogans. He published another pamphlet on the *zemskaia дума* the same year.<sup>58</sup> Later Slavophiles popularized K. S. Aksakov’s term and understanding of the *zemskii sobor*. Il’ia Vasil’evich Beliaev reaffirmed the connection of the *zemskii sobor* to the ancient Slavic *veche* in his 1866 popular history book. He also noted that after the unification of Russia under one Tsar, Ivan IV, “the first Russian Tsar convened the first *veche* of the whole Russian land or the *zemskii sobor*.” Citing the Tsar’s criticism of the boyar rule, I. V. Beliaev interpreted the assembly as the symbolic start of autocracy, since the Tsar took full authority himself. According to I. V. Beliaev, the assembly was highly emotional. “The Tsar and the people burst into tears. This was the opening of the first *zemskii sobor*.”<sup>59</sup> In his 1867 speech, the Slavophile I. D. Beliaev also argued that the *zemskii sobor* finished the unification of Russia and strengthened autocracy but noted that it was not similar to the previous *veches*, since it was convened by the will of the Tsar and included representatives and not the whole political communities of towns, which were present at the *veches*.<sup>60</sup>

In 1874, Konstantin Dmitrievich Kavelin, a former Westernizer and a former Slavophile, provided a different explanation for the possibility of representative institutions in autocracies. He generalized *veches* and *zemskii sobors* as a form of elected state representation, comparing them to the Estates General and assemblies in Germany, but argued that they predated absolutism. He concluded that the supposed limitation of state power (monarchy) through representation was hence invented in response to European history since the late eighteenth century (implying the French Revolution), but this did not mean that representation could not exist in other contexts.<sup>61</sup> In his unpublished 1880 article, Kavelin translated his historical observations into the idea of a general *zemskii sobor* under the autocratic Tsar, which was similar to the Slavophile designs but was based on comparative argumentation rather than on Russia's exclusivity.<sup>62</sup>

The *zemskii sobor* was discussed in the top tier of Russia's ruling elite as well. After the assassination of Alexander II, his brother Konstantin Nikolaevich Romanov was allegedly convinced that only the convocation of a *zemskii sobor* could save Russia.<sup>63</sup> The Slavophiles nevertheless did not find support for a possible political reform among the new conservative ruling circles. Minister of Internal Affairs Nikolai Pavlovich Ignat'ev, who supported Slavophile ideas, proposed to the new Tsar Alexander III to convene a consultative *zemskii sobor* of some 3,000 people simultaneously with his coronation in 1882. Ivan Sergeevich Aksakov, K. S. Aksakov's brother, and Pavel Dmitrievich Golokhvastov, who were the main authors of Ignat'ev's proposal, reinforced the autocratic mythology in their publications, but Alexander III rejected it and made Ignat'ev resign.<sup>64</sup>

The *zemskii sobor* as a monarchist slogan, however, survived. In 1889, Aleksandr Alekseevich Kireev, a writer and a general, summed up the Slavophile suggestions of reintroducing the consultative *zemskii sobors* – the councils of the Tsar with the land – not for limiting the power of the ruler but for helping him with local information. The Tsar, according to Kireev, represented the single will, while the *soviet zemli* (“the council of the land”) represented the many minds. He argued that the Russian people needed a strong yet understanding government for the people's self-improvement but rejected politicking. Kireev also stressed the unity of the state and the Orthodox Church as the ultimate ideal of the society.<sup>65</sup>

The idea of a revived *zemskii sobor* loomed large in response to the demands of a “popular representation,” an expression used for a parliament, by liberal and moderate socialist intellectuals. The socialist turned conservative Lev Aleksandrovich Tikhomirov argued in 1902 that the direct communication between the supreme authority and the people was possible only in an organized nation, while in a disorganized one, the bureaucracy was a “mediastinum” which isolated the authority from the people. A parliament, according to Tikhomirov, could not reestablish the communication, since the deputies only expressed the will of the “politicking estate,” and in fact even increased the separation between the state and the nation. He asserted that only the creative and conservative (*okhranitel'nyi*) stratum could enable the government's [the Tsar's] communication with the “spirit of the people.” According to Tikhomirov, such communication could take place in a *zemskii sobor* but could also occur directly through individuals.<sup>66</sup>

The Slavophile interpretation of the premodern and pre-Petrine Russian state in general and the *zemskii sobor* in particular contributed greatly to the debates of a political reform shortly before and during the Revolution of 1905–1907.<sup>67</sup> In the fall of 1904, Petr Sergeevich Porokhovshchikov, a jurist and a right-wing author, proposed a “revival” of the *zemskii sobor*. In January 1905, a meeting of Saint Petersburg editors composed an address to Minister of Internal Affairs Petr Dmitrievich Sviatopolk-Mirskii, suggesting to convene a *zemskii sobor* of representatives from all estates and classes with “the unlimited freedom of opinions.” The same month the idea was reaffirmed in a newspaper article by the publisher Aleksei Sergeevich Suvorin. Apart from establishing the communication between the Tsar and the “whole Russian land” and ensuring a strong government, Suvorin expected the *zemskii sobor* to raise the international prestige of Russian monarchy, especially among the Slavic peoples. In another article, published in February, Suvorin specified that the *sobor* was to consist of some thousand deputies, while the elections were to be almost universal, including women and the ethnic non-Russians who knew the Russian language. The idea of the *zemskii sobor* was supported by several other Slavophile and right-wing authors at the time. Some monarchists seemed to agree on an irregular *sobor*, which would meet on the Tsar’s orders and be primarily used for channeling the needs of the people to the Tsar. Its decisions would not be binding for the government.<sup>68</sup> Nikolai Nikolaevich Mazurenko’s pamphlet, published in 1905, backed the program with historical arguments. Mazurenko claimed that Russian monarchs frequently convened *sobors* for listening to the opinion of the people and interpreted Catherine II’s Legislative Commission of estate representatives as a *zemskii sobor*.<sup>69</sup>

Many right-wing intellectuals and activists agreed to a one-time *sobor* if the monarch deemed it necessary, but some of the monarchists, who opposed any changes which could threaten the autocracy, saw the very idea as a compromise and rejected it. Vladimir Andreevich Gringmut, a far-right author and a politician, for instance accused the Slavophiles of a “mystical or aesthetical” policy.<sup>70</sup> Andrei Sergeevich Viazigin, a historian and later a member of the Third State Duma, also dismissed the idea completely. In 1905, he argued that the *zemskii sobor* existed when the “tops and bottoms” of the society had the same worldview. According to Viazigin, in the situation when the Russians were fragmented into numerous social strata, including classes, its revival was not possible. He also argued that the function of gathering local information could be easily performed by press, telegraph, and telephone and did not require a *zemskii sobor*.<sup>71</sup>

Officials also discussed a possible *zemskii sobor* since January 1905 in the context of the revolution and the disastrous Russo–Japanese War (1904–1905). In February 1905, the Council of Ministers under Nicholas II’s presidency considered a possible consultative and irregular *zemskii sobor*, elected from the estates, but there was no unity in the cabinet on the matter. In March 1905, Minister of Agriculture and State Property Aleksei Sergeevich Ermolov suggested in a letter, which was passed to Nicholas II, to establish a people’s *zemskaia дума*, freely elected from all classes and estates, for direct communication between the Tsar and the people on the most pressing issues. Anatolii Ivanovich Kulomzin, a

member of the State Council, proposed a bureaucratic *sobor* of the existing government bodies and four representatives from each province (from the clergy, the landowners, the merchants, and the peasants, respectively).<sup>72</sup>

The far right continued to oppose the idea of a *sobor*, but the *zemskii sobor* in Kireev's interpretation became a popular idea among the broader right. Kireev criticized "bureaucratic autocracy" and deemed the *zemskii sobor* an alternative to revolution. His plan was to transform autocracy from bureaucratic into "consultative" through a *sobor*. In March 1905, the idea of combining autocracy with popular representation, put forward by Nikolai Alekseevich Khomiakov, A. S. Khomiakov's son, was backed by a meeting of several leaders of provincial nobility, but there were also provincial noble assemblies which rejected it. Interestingly, Fedor Dmitrievich Samarin, the son of another early Slavophile Dmitrii Fedorovich Samarin, rejected the idea of a *sobor*, claiming that it would inevitably turn into a parliament and stimulate the revolution. The same month, a group of right-wing politicians under Aleksei Aleksandrovich Bobrinskii united into a party, the Patriotic Union (*Otechestvennyi soiuz*), and discussed their own project of a *zemskii sobor*. Vladimir Iosifovich Gurko drafted the electoral regulations, according to which the *sobor* was to include 612 deputies, elected from different groups of the population based on property or land qualifications, expecting that the peasants and the landowners would form the largest groups. The *sobor* was to convene for a short period to resolve the most urgent matters of state life, but it was also to form a standing body, the *zemskaia дума* of 128 members, which would participate in drafting legislation. The Patriotic Union debated on how not to prevent the intelligentsia from being elected to the *sobor* and resolved to raise the qualifications.<sup>73</sup>

A governmental commission, which was created on the initiative of Minister of Internal Affairs Aleksandr Grigor'evich Bulygin and began its meetings in March 1905, nevertheless resolved that a *zemskii sobor* was not suitable and suggested a permanent assembly of 400–500 people, the State Duma. In May 1905, however, Nicholas II still expressed interest in a *zemskii sobor*. The idea gained momentum after the defeat in the Battle of Tsushima (May 14–15, 1905), with a possible *sobor* assembling to discuss the continuation of the war with Japan. The projects prepared at this time suggested the use of parishes (including the territorial divisions of non-Orthodox faiths) as the basic electoral units. The *sobor*, from 200 to 1,000 deputies, according to different projects, was expected to be convened as soon as possible, for instance, in August 1905. On May 23, however, Nicholas II presented Bulygin commission's project of a bicameral consultative body, consisting of the State Duma and the State Council, to the Council of Ministers. At the special meeting on May 24, Bulygin cautioned that a possible *zemskii sobor* would lead to a constitution and turn into a constituent assembly, and the project of his commission prevailed. In June 1905, Nicholas II, however, still spoke of reestablishing the old connection between the Tsar and All Rus', repeating the Slavophiles' slogans, but approved the project of the consultative State Duma later that summer. On October 17, 1905, the Duma was made legislative.<sup>74</sup>

Right-wing politicians nevertheless did not abandon the idea of a *zemskii sobor*, presenting it as an alternative to the legislative State Duma. In December 1905, the far-right Union of the Russian People (*Soiuz russkikh liudei*), headed by Aleksandr Grigor'evich Shcherbatov, appealed to the Tsar, promising to defend autocracy and asking him to convene a "great *zemskii sobor*" of the Russian people, based on faith and descendance, the people who had "enthroned" Nicolas II's ancestor, in Moscow. The *sobor* was to be formed from the existing estate bodies.<sup>75</sup> In 1906, ahead of the convocation of the First State Duma, a proclamation of the Union of the Russian People defended autocracy but argued that the unity of the Tsar and the people was to be manifested through the consultation with the State Duma and the *zemskii sobors*. The latter were to be convened for discussing fundamental laws, "extraordinary" events of state life, and the general directions of domestic policy.<sup>76</sup> In its 1906 program, the Union of the Russian People specified that the "original Russian Orthodox land-state community [*zemsko-gosudarstvennaia sobornost'*]" was to be manifested in the *zemskii sobor* or the State Duma of Orthodox Russians, based on the estate principle and elected from the Church or administrative units. All non-Orthodox peoples were to be included into the *sobor* or the Duma as petitioners.<sup>77</sup>

Sergei Fedorovich Sharapov, a founding member of the Union of the Russian People, was one of the main advocates of a *zemskii sobor* in the Slavophile understanding and included it into his vision of future Russia. In his political program, he specified that the future *zemskii sobor* was to be a consultative body and could not have constituent power.<sup>78</sup> In his 1907 speech, Sharapov denounced the convocation of the Third State Duma after the alleged complete failure of parliamentarism, which for him manifested in the first two Dumas (1906 and 1907), and proposed to return "to the genuinely Russian foundations and the covenants of history" and to convene "a *zemskii sobor*" in Moscow instead.<sup>79</sup>

Tikhomirov was among the minority of right-wing intellectuals, arguing that the introduction of a "popular representation" was the only positive outcome of the 1905–1906 events. He nevertheless advocated a monarchist reform of the legislature. Tikhomirov proposed to create a Legislative Council (*Zakonodatel'nyi sovet*) which would discuss and draft laws and pass them to the Tsar. The body was to be formed by appointment and through nomination from "organized societal institutions," such as "zemstvos, municipal, social estate, and professional organizations." Tikhomirov also suggested forming an elected People's Duma (*Narodnaia дума*) which would deal with all matters on which the Tsar wanted "to consult with the people." The People's Duma was supposed to convene every three years for three to four months. According to his project, in extraordinary cases, the Tsar could also convene a *zemskii sobor*, which would consist of the Legislative Council, ministries, the supreme Church authority, the supreme legislative authority, the supreme command, the People's Duma, and further representatives of social estates, as well as the individuals who performed meritorious service to the Fatherland.<sup>80</sup>

There is no evidence that the government seriously considered returning to the idea of a *zemskii sobor* despite its conflict with the oppositional State Duma, but

in June 1907, the month when the Second Duma was dissolved and the electoral law was replaced by a more restrictive one, marking the end of the Revolution of 1905–1907, Prime Minister Petr Arkad'evich Stolypin mentioned a *zemskii sobor* (instead of the State Duma) in his notes on the planned dissolution of the parliament.<sup>81</sup> In 1907–1917, the discussions of the *zemskii sobor* shifted to the background but continued. The Archangel Michael Russian People's Union (*Russkii narodnyi soiuz imeni Mikhaila Arkhangela*), a far-right organization, campaigned for making the State Duma consultative in 1912. The *zemskii sobors* were to be a historical example for such a body of communication between the Tsar and the people, which did not limit autocracy. The organization also reaffirmed God's will in autocratic decision-making, suggesting that the Tsar's decisions were based on "God's truth."<sup>82</sup> Shcherbatov returned to the idea of convening a *zemskii sobor* in extraordinary circumstances in a 1912 publication. He suggested that only "officials" of different social estates could be nominated to the *sobors*, while the ultimate selection was to be done by lot.<sup>83</sup>

The publications, accompanying the celebration of the 300th anniversary of the Romanov dynasty in 1913, foregrounded the monarchist and patriotic meanings of the 1613 events. A popular brochure, for instance, stressed the general popular consensus in the election of the Romanovs.<sup>84</sup> The historian Dmitrii Vladimirovich Tsvetaev stressed the connections of the *zemskii sobors* to local communal councils and celebrated both the unification of Russia around Moscow and monarchy.<sup>85</sup> The popular print by Antonina Khristianovna Vestfalen placed Mikhail Fedorovich and his mother Marfa (Kseniia Ivanovna Shestova) at the center of the composition, while religious and lay figures, most likely representing the 1613 *Zemskii sovet*, bowed before them (see Figure 4.1).

With the Revolution of 1917, and especially the Civil War of 1918–1922, the political discussions of the *zemskii sobor* were revived. Some left politicians ironically called the Moscow State Conference (*Gosudarstvennoe soveshchanie*), which united deputies of the four imperial State Dumas and representatives of self-government bodies, soviets, the Army and the Navy, trade unions, cooperative societies, non-Russian national organizations, and other groups on August 12–15, 1917, a "*zemskii sobor*," implying its alleged counterrevolutionary character, but the left members of the Provisional Government defended its convocation.<sup>86</sup> In contrast with the 1905–1907 events, the *zemskii sobor* as a monarchist slogan was much less popular than the democratic takes on the institution in 1917–1922.

In the monarchist sense, the idea of a *zemskii sobor* was evoked by anti-Bolshevik politicians in Manchuria and the Russian Far East, with the mythology of the Time of Troubles playing a pivotal role. The monarchist Nikolai Aleksandrovich Andrushkevich, for instance, proposed the idea to the anti-Bolshevik Vladivostok government in 1921 as a way to resolve the crisis in whole Russia. Such an assembly in a modified regional form was convened in Vladivostok on July 23–August 10, 1922, under the name of the Priamur *Zemskii Sobor*. Although initially it was not clearly aimed at reestablishing monarchy, it marginalized moderate anti-Bolsheviks, foregrounding the ultra-royalists who indeed aspired to find a





Figure 4.1 A. Kh. Vestfalen. Izbranie na Vserossiiskii Prestol Tsaria i Velikogo Kniazia Mikhaila Fedorovicha [The election of Mikhail Fedorovich to the All-Russian Throne of Tsar and Grand Duke]. Saint Peterburg: Litografaskaia masterskaia Imperatorskogo obshchestva pooshchreniia khudozhestv, 1913.

new Romanov Tsar.<sup>87</sup> The Priamur Zemskii Sobor became the first institution in Russian history to include the words *zemskii sobor* into its official name.

The Priamur Zemskii Sobor included delegates from the existing anti-Bolshevik authorities, as well as representatives of the clergy, the military, public agencies, nonsocialist organizations, landlords, rural population, trade and industrial class, Orthodox parishes, Old Believer communities, and other organizations. It also included the Main Army Mullah, apparently representing the Tatars and the Bashkirs among the anti-Bolshevik troops. Workers' representatives were also formally included, but Communists and their supporters, as well as other socialists-internationalists, were not allowed to participate in the Priamur Zemskii Sobor. Uniting some 230 delegates, the assembly became a historical reenactment, a new "Resurrection of Muscovy." Its Presidium was located in front of an iconostasis-like screen featuring an icon of Jesus Christ and simpler depictions of archangels and Saint George. Although some of its members opposed reestablishing monarchy, the *sobor* elected Mikhail Konstantinovich Diterikhs provisional dictator and sent a delegation to the members of House Romanov living abroad for finding a candidate for the throne. Ultimately, no candidate was provided by the Romanovs. Diterikhs, nevertheless, extensively used the mythology of the Time of Troubles in his short-lived regime (toppled in October 1922) and convened a

consultative *zemskaia дума*. Furthermore, the planned reconstruction of regional government featured making the parishes basic administrative units.<sup>88</sup>

### Democratic mythology

The democratic mythology of the *zemskii sobors* emerged in the 1820s with the fusion of civic<sup>89</sup> and romantic nationalism in the Decemberist Revolt of 1825. Since the 1850s, the evaluations of the *zemskii sobors* vis-à-vis European parliaments accompanied the historiographic and political debates. The ideas of decentralization proved especially important for the development of the democratic mythology. Since the 1860s, the idea of the *zemskii sobor* had attracted the attention of oppositional intellectuals who integrated it into their political programs, with the establishment of a *zemskii sobor* becoming a slogan of some Russian socialists and regionalists. Several historical works developed the vision of the *zemskii sobor* as a Russian “parliament” or a “proto-parliament,” but the term in such interpretation did not enter the mainstream liberal discourse. The democratic interpretations of the *zemskii sobor* nevertheless predominated during the Russian Civil War of 1918–1922, even though the concept proved marginal compared to the much more popular slogan of the All-Russian Constituent Assembly.

The concept of an early modern representative institution was known to the Russian ruling elites (see Chapter 1 in this volume). The word *sobor* was sometimes used in the translated news on the European assemblies in the seventeenth century, for instance, when discussing the English Parliament in 1627–1628, but the term *sejm* (*soim*) was more frequent. The adjective *zemskii* was, however, often used in relation to foreign assemblies, dubbed *zemskaia soim*. The word parliament (*parlament*) was used in the discussion of English politics already in the 1640s.<sup>90</sup>

In the eighteenth century, foreign terms predominated, and it was only *sovet* which was continuously used for the projected and introduced collegial bodies, such as the Supreme Privy Council (*Verkhovnyi tainyi sovet*), which was supposed to limit autocracy in 1730, or the Imperial Council (*Imperatorskii sovet*), which was another proposed body for limiting autocracy in 1762.<sup>91</sup> The participants of the 1730 discussions did not reference the *sobors* at all and drew inspiration from the Sejm of Poland–Lithuania. Vasilii Nikitich Tatishchev, who authored one of the first modern takes on Russian history in the first half of the eighteenth century, also did not discuss the *sobors* as an institution when investigating Russia’s political development.<sup>92</sup>

The nationalization (or vernacularization) of the discourse on modern representative institutions happened in Russia before the terms entered historical mainstream. The statesman Mikhail Mikhailovich Speranskii became the first to introduce the word *duma* into the modern political discourse in his project of the legislative State Duma and the *dumas* at different levels of self-government in 1809. Furthermore, he did so with a direct appeal to the supposed attempts to limit autocracy under Tsar Alexei Mikhailovich through the council which included “part of the people.”<sup>93</sup> Karamzin contributed to the rejection of the

State Duma by Alexander I by accusing Speranskii of the attempts to reduce the status of the monarch to that of the executive branch.<sup>94</sup> The 1820 constitutional project, submitted by Nikolai Nikolaevich Novosil'tsev, the Russian official in charge of the Kingdom (Tsardom) of Poland at the time, used the Polish word *sejm* and the State Duma interchangeably for the projected parliament. Its lower Ambassadorial Chamber was to include *zemskie posly* "ambassadors of the land," just like in Poland–Lithuania. Even though the term was also borrowed from the Constitution, which Alexander I granted to the Kingdom of Poland in 1815, just like *sejm*, the word *zemskie* was a Russian addition. The project was also rejected by Alexander I.<sup>95</sup>

Karamzin contributed to both autocratic and democratic takes on the historical assemblies. Karamzin wrote that it was the government around Tsar Fedor I which convened the *velikaia дума zemskaia* of the clergy, gentry, and all honorable people for settling some general matters of the state, generalizing that such *dumas* were convened for important state decisions.<sup>96</sup> Karamzin also implied the right of the *duma zemskaia* to depose a monarch, claiming that Vasilii Ivanovich Shuiskii told his opponents that only this institution of "great boyars and state ranks" could resolve the fate of the country and his own and depose him.<sup>97</sup> Furthermore, Karamzin mentioned that the Russians considered limiting autocracy by delegating the authority in justice and taxation to the boyars and "civil legislation" to a *zemskaia дума* in the talks with the Poles during the Time of Troubles.<sup>98</sup> As mentioned above, Karamzin also paid attention to the *duma zemskaia* existing without a Tsar during this period.<sup>99</sup>

Even though Karamzin's detailed discussion of the *duma zemskaia* was published in 1829, the future participants of the 1825 Decemberist Revolt used the terms *duma* and *sobor* in Karamzin's interpretation of such a historical assembly in their political projects already in the first half of the 1820s. Ivan Dmitrievich Iakushkin drafted an address to Alexander I, suggesting to convene a *zemskaia дума* for overcoming Russia's troubles, just like the Tsar's ancestors did. According to Kondratii Fedorovich Ryleev's testimony, if the Decemberist Revolt succeeded, the Great *sobor* of popular representatives would make decisions on the future of the dynasty, the system of government, and Poland's independence. Nikita Mikhailovich Murav'ev, whose acquaintance with Karamzin's studies was documented, included the archaic terms into his draft Constitution. In Murav'ev's federalist project, the Supreme Duma (*Verkhovnaia дума*) was the lower chamber of the federal parliament, called the People's Assembly (*Narodnoe veche*). Each state of the federation was also to have a bicameral parliament, with a *derzhavnaia дума* ("duma of a state") being one of the chambers. Murav'ev reserved the right to amend the Constitution and elect a new Tsar for the "People's" (*Narodnyi*) and State *sobors*. The constitutional project of Pavel Ivanovich Pestel' also included a parliament, called *Narodnoe veche*, while the *Derzhavnaia дума* was the proposed name for the cabinet. Pestel' also spoke of a "controlling" (*bliustitel'naia*) branch of power, which was to be represented by the Supreme *sobor* (*Verkhovnyi sobor*). Furthermore, his project featured the convocation of a constituent *sobor* (called "people's" or "representative"). According to Pestel', the latter could not,

however, be convened immediately due to the lack of foundations for representative rule in Russia and therefore a provisional government was needed after the revolt.<sup>100</sup> After the Decemberist Revolt was suppressed, the suggestions to revive a supposed historical Russian assembly as a modern democratic institution subsided for several decades.

Since the 1840s, the Westernizers, the opponents of Russia's exclusivity, polemicized with the Slavophiles on the nature of historical institutions. In 1847, Vissarion Grigor'evich Belinskii rejected the idea that consensus at the *veche* and, in the case of Novgorod, between the *veche* and the prince was unique for the Slavic community. He argued that it embodied decision-making by majority and was hence the same as in constitutional states, including constitutional monarchies. He then argued that it was the Germanic peoples who developed the communal principle by making law its foundation.<sup>101</sup> The Westernizers also criticized the Slavophile moral idealism. Konstantin Nikolaevich Bestuzhev-Riumin, for instance, argued in 1862 that absolute consensus (*edinoglasie*) was incompatible with the civil society, which was based on the struggle of opinions and parties. He denounced the Slavophile interpretation of the *zemskii sobor* as the "veche of the whole Russian land," arguing that the early modern *sobors* were an institutional development rather than a revival of an ancient assembly.<sup>102</sup>

In the early 1860s, however, historical terms again became popular among the critics of autocracy, stimulating the development of the *zemskii sobor's* democratic mythology. The ideas of regionalism and decentralization proved especially important for Shchapov's interpretation of the *zemskii sobor*, which he articulated in late 1860 in his first lecture at the University of Kazan.<sup>103</sup> Shchapov located the origins of the *zemskii sobors* in the original "land-regional" (*zemska-oblastnaia*) form of the "historical development of the Great Russian people." According to Shchapov, the regions were lands and hence a regional popular assembly was called *zemskii sovet*. Shchapov argued that the 1613 "*Zemskii sobor*" (or *sovet*) embodied the "land-regional" form's principle of *zemskae narodosovetie* ("the people-council [system] of the land") and formally limited autocracy. He argued that later *sobors* functioned on the same principle. According to Shchapov, in the second half of the seventeenth century, this form gave way to the "state-union" one, and the state began to play the leading role.<sup>104</sup> A few months later, in May 1861, Shchapov sent a letter to Alexander II outlining a reform project based on his theory. He proposed "reestablishing" the regional all-estate *zemskii sovets* and the central *zemskii sobors* (or *sovets*), elected by the former, as a continuation of the general revival of the ancient structure, which for Shchapov began with the emancipation of the serfs on February 19, 1861. The central *sobors* were supposed to discuss state matters, represent provincial interests and needs, report on taxes, and provide information for legislation.<sup>105</sup>

In his letter to the imperial official Pavel Petrovich Viazemskii, written in October 1861, Shchapov outlined his federalist vision of future Russia, consisting of self-organized communities, and based on *zemskae narodosovetie*. He reiterated the claim that the Great Moscow *zemskii sovet* or *sobor* of 1613 limited autocracy by a written act, which the Tsars Alexei Mikhailovich and Peter

I violated. Furthermore, Shchapov stressed that the people elected the Tsar but made the wrong choice. Shchapov then suggested that during the celebration of the 1,000th anniversary of Russia's statehood, which was supposed to take place in 1862, the people should gather for a new *zemskii sobor*, either by themselves or after being summoned by the Tsar, "renounce the emperor and centralization, grant autonomy to Poland, Ukraine, Great Russia, Siberia, and all provinces, and create a federative social democratic constitution, the union, communal-democratic *zemskoe narodosovetie*." Shchapov asserted that by initiating the bottom-up self-organization of the whole country through assemblies at different levels and ultimately through the "all-Russian great union or federal *zemskii sovet, s'ezd* ('congress'), *sobor*" was the way for the Tsar to avoid a revolution. The Tsar, Shchapov argued, would naturally have to renounce autocracy.<sup>106</sup> In March 1862, he published an article in a Saint Petersburg periodical on the *zemskii sobors* in the seventeenth century where he again mentioned the role of the 1613 assembly as a popular government and the act which supposedly limited autocracy.<sup>107</sup>

Aleksandr Ivanovich Gertsen and Nikolai Platonovich Ogarev, living in London, and other authors of the émigré opposition articulated the idea of the *zemskii sobor* as a manifestation of popular sovereignty even more prominently. Shchapov's letter to Viazemskii was copied and sent to Gertsen by the members of the first Land and Freedom (*Zemlia i volia*) secret society (1861–1864) in early 1862.<sup>108</sup> In late 1862, Gertsen used the terms *duma* and *zemskii sobor* as synonyms for a parliament, to which the cabinet should be responsible. His newspaper *Kolokol* ("The Bell") also published a proclamation of Russian officers in Poland then, which called for convening a *zemskii sobor*, elected from the whole Russian land, for establishing a union of autonomous regions and a rational system, which was similar to Shchapov's ideas. The same year, Petr Vladimirovich Dolgorukov, another émigré author, suggested establishing constitutional monarchy, with the *zemskaia дума* (which in his 1860 historical narrative of Russia was a synonym to *zemskii sobor*) being one of the parliament's chambers. Petr Alekseevich Mart'ianov, a former serf, who also emigrated to London and met Gertsen and Ogarev there, outlined his vision of the future Russian state in a letter to Alexander II and a pamphlet in 1862. In the letter, Mart'ianov proposed the concept of estateless people's monarchy, headed by a *zemskii* Tsar. In the pamphlet, he defined the people as the *zemstvo*, which was oppressed by the state. In the new system, proposed by Mart'ianov, the representative government of the people was to be headed by the Great All-Popular *zemskaia дума*, the manifestation of the union and unity of the whole Slavic world.<sup>109</sup>

The term *zemskii sobor* predominated among the émigré opposition. In June 1862, Ogarev, who advocated making Russia a federation of autonomous regions since 1861,<sup>110</sup> interpreted the *zemskii sobor* as a parliament, limiting autocracy, in a draft address to Alexander II, which was approved by Gertsen and Mikhail Aleksandrovich Bakunin but never submitted. In early 1863, Gertsen claimed that the year 1862 was a pause, after the 1861 emancipation of the serfs, and the eve of the convocation of a *zemskii sobor*. The latter was supposed to limit autocracy through a constitution, which had to be composed by the people and the Tsar by

February 19, 1863. Gertsen concluded by urging Alexander II to trust his people at the anticipated *zemskii sobor*. Over the course of 1863, *Kolokol* published Ogarev's article *Constitution and the Zemskii sobor*. He defined the *zemskii sobor* as the congress of deputies, which was supposed to be elected from the whole *zemstvo* (most likely "the people" in Mart'ianov's understanding) in estateless elections and to organize the Russian land according to the needs of the *zemstvo*. It was supposed to legalize land use rights, introduce elected administration and court, regulate the relations between regions, and establish a new system of government. The first *zemskii sobor* was supposed to be provisional and elected from districts. It was to establish the new system of the state, delimiting the borders between regions and granting the legal basis for regional *dumas*. The second *zemskii sobor* was supposed to convene, based on the new laws, as a permanent body of regional deputies.<sup>111</sup>

The words *zemskii* and *zemstvo* proved important for the continued reforms. During the preparations to the introduction of the *zemstvo* (*zemskoe*, "local" or "rural" in this context) self-government on provincial and district levels in parts of the Russian Empire, which was eventually implemented on January 1, 1864, there was a discussion of possible introduction of an empire-wide *zemstvo* body. In 1863, Minister of Internal Affairs Petr Aleksandrovich Valuev, who briefly employed Shchapov as an expert on Old Believers,<sup>112</sup> presented the project of a Congress of State Deputies under the State Council to be elected by provincial *zemstvo* assemblies<sup>113</sup> and cited the widespread praises to the *zemskii sobors* of the past in the note which accompanied it.<sup>114</sup> Although Alexander II rejected the project, the discussions of a possible assembly continued. Among the representatives of the nobility, who advocated the convocation of an assembly since 1858 and mentioned a possible *zemskaia дума* since 1862, Vladimir Petrovich Orlov-Davydov was the first to use the word *sobor* when speaking of an institution uniting individual *zemstvo* assemblies in 1865.<sup>115</sup>

The limited character of the reforms stimulated radical opposition. The estateless *zemskii sobor* became one of the goals of the first Land and Freedom society.<sup>116</sup> Gertsen argued in 1867 that the convocation of a great *sobor* without the distinction of classes was the only means to reveal the true needs of the people and overcome the crisis in Russia without a coup, terror, and horror. Gertsen defined the *sobor* as "the first constituent assembly" or the first parliament, which would mean the freedom of speech and a legal foundation for progress.<sup>117</sup> Mykhailo Petrovych Drahomanov, who initially supported the reformism of Alexander II, became radicalized during the suppression of the Ukrainian national movement. Supporting the slogans of federalism and decentralization, Drahomanov claimed during the 1877–1878 Russo–Ottoman War in the Balkans that Russia first needed to become a free country, a free federation of Slavs. He called for extending the competence of local self-government through a reform of the *zemstvos* and for an immediate election of a *zemskii sobor*, a transitional institution on the way to further reforms. Like for Shchapov and Bakunin, for Drahomanov the local units were the foundation of the future federation, organized in a bottom-up manner. According to Drahomanov, the all-Russian *zemskii sobor* was expected to

immediately grant personal freedoms, freedom to all cultural and national groups, and self-government.<sup>118</sup>

The democratic understanding of the *zemskii sobor* spread within Russia among the members of the zemstvo bodies and in secret organizations. In 1879, Ivan Il'ich Petrunkevich and other zemstvo activists of the Chernigov Province supported the idea of a *zemskii sobor*. In his program of the zemstvo movement, published the same year, Petrunkevich, however, spoke of a constituent assembly as the movement's goal.<sup>119</sup> With the spread of the idea of a constituent assembly among the radical opposition, the term *zemskii sobor* consolidated as its synonym. The revolutionary organization People's Will (*Narodnaia volia*), formed in 1879, included it in this sense into its program. Its members used the terms constituent assembly, *zemskii sobor*, and *zemskoe sobranie* ("the assembly of the land") interchangeably.<sup>120</sup>

New historical interpretations of the *zemskii sobor* accompanied the political developments. Chicherin, whose 1866 work *On Popular Representation* became the first major study of parliamentarism in Russian, located Russia in Europe and defined the historical *zemskii sobors* as estate-representative institutions, which were comparable to their European counterparts. He nevertheless concluded that the geographic conditions, the lack of corporatist foundations and communal self-organization, and the peculiarities of elite development in Russia precluded the *sobors'* development into a representative institution with political rights. Furthermore, the estate representation, according to Chicherin, was worked out in a top-down manner for organizing the disjointed and mobile population. Connecting his work to contemporary developments and discussing consultative assemblies, Chicherin argued against the revival of irregular assemblies like the Estates General and the *zemskii sobors*, suggesting that the new political situation demanded permanent institutions. He also maintained that introducing estate assemblies would only have negative consequences. According to Chicherin, it was only after the emancipation of the serfs in 1861 that Russia started to organize the civil life on the principles of "universal liberty and law," the principles which were at the foundation of all European peoples and the precondition for representative institutions. He nevertheless argued against the latter's immediate introduction and in favor of the gradual development of social conditions.<sup>121</sup>

In his 1875 work, Sergeevich continued the comparative studies of the *zemskii sobors* and European parliaments, finding similarities with the Estates General and the English Parliament in the composition of some *sobors*. He also concluded that even though it was hard to determine the legal status of the *sobors*, they were not merely consultative. Sergeevich opposed both the Slavophile idealization of the *sobors* and their complete dismissal, calling them representative institutions in their embryonic state and deeming them "undoubtedly useful" for the direct communication between the Tsar and the people, which inter alia countered administrative arbitrariness.<sup>122</sup>

The interpretations of the *zemskii sobors* as part of the gradual political development contributed to the discussions of reforms. When commenting on his project of introducing consultation with local self-government in 1881, Mikhail

Tarielovich Loris-Melikov mentioned *zemskaia дума* and *zemskii sobor*, although he was against the revival of “ancient representation” under the new conditions.<sup>123</sup>

The possible formation of a *zemskii sobor* of self-government bodies found support among Loris-Melikov’s opponents, who rejected constitutionalism.<sup>124</sup> Rostislav Andreevich Fadeev, a general and a Panslavist author, summarized their ideas in several letters in 1879–1880, first published in 1881. According to Fadeev, the autocratic government had to rely on *zemstvo* instead of bureaucracy and officers in order to save Russia from “turning into hell.” A new, reformed, *zemstvo*, “organized and closely connected to the government,” was supposed to take place of the nobility as the stabilizing “social force” locally. Although Fadeev argued that *zemstvo* would limit only bureaucracy and not autocracy itself, he suggested that the reform had to be developed locally by the representatives of three social estates – landowners, peasants, and merchants – to be united in provisional consultative committees. Despite the frequent appeals to autocracy, Fadeev’s project was that of decentralization, since he expected *zemstvo* to acquire major fiscal and economic competence. Furthermore, the *zemstvo* reform was supposed to bring about the convocation of all-Russian consultative *zemskii sobors* by the government. Relying on Slavophile ideas and appealing to the “*zemskii sobors*” of the past, Fadeev expected the *sobors* only to inform the government about local needs, stressed the moral aspects of the proposed system, emphasized that the *sobors* had little in common with “the European parliament,” and firmly rejected a constitution as a contract between the Tsar and the people.<sup>125</sup> Fadeev’s project hence fused autocratic and democratic understandings of the *zemskii sobor*.

The assassination of Alexander II by the members of the People’s Will on March 1, 1881, prevented him from approving Loris-Melikov’s consultation reform. During the prosecution of the organization’s members in 1882, Aleksandr Dmitrievich Mikhailov, one of them, used the term *zemskae uchreditel’noe sobranie* (“the constituent assembly of the land”), which was to be universally elected. Iurii Nikolaevich Bogdanovich, another member of the organization, stressed in his testimony that the people were to decide all major state matters at a *zemskii sobor* when discussing the program of the People’s Will. Other members, however, interpreted the *zemskii sobor* as an unneeded concession from the government. In 1882, Petr Lavrovich Lavrov opposed the simultaneous demands to convene a *zemskii sobor* from the government and the attempts to stage a coup against it, arguing that a *zemskii sobor* of nobles, bureaucrats, merchants, and rich peasants would not defend social interests.<sup>126</sup>

The connection between the terrorists of the People’s Will and the *zemskii sobor* proved important for the public debates, contributing to the rejection of the institution in its Slavophile version, proposed by Ignat’ev, in 1882. Despite the publications by I. S. Aksakov and Golokhvastov, other conservative authors opposed it. Rejecting the idea of a *zemskii sobor*, Mikhail Nikiforovich Katkov stressed that Andrei Ivanovich Zheliabov, one of the organizers of Alexander II’s assassination, and other radicals used it as their slogan.<sup>127</sup> The Geneva newspaper *Vol’noe slovo* (“Free Word”) (1881–1883), which was edited by Drahomanov and was possibly a government-sponsored organ of a fictitious opposition group,



continued to use the term *zemskii sobor* in its more moderate constitutional reform suggestions.<sup>128</sup> Vladimir Il'ich Lenin was among those who considered the convocation of a *zemskii sobor* by the government as a means to Russia's political liberation in the 1890s.<sup>129</sup>

In the 1890s and 1900s, zemstvo activists greatly contributed to the production of the oppositional discourse. According to Ivan Petrovich Belokonskii, a zemstvo employee, the liberal zemstvo opposition consolidated around 1891–1892, agreeing on the need for a “popular representation” (a parliament). In 1895, however, Nicholas II rejected the zemstvos' interest in participation in the government, pledging to defend autocracy. Dmitrii Nikolaevich Shipov, who chaired the Moscow Provincial Zemstvo Administration, nevertheless initiated unofficial congresses of provincial zemstvo heads in 1896. Although the government tried to prevent regular zemstvo congresses, zemstvo activists continued to meet and discuss possible reforms. The more radical part of the liberal opposition, active both in Russia and abroad, opposed a future *zemskii sobor* in 1903–1904, which some activists proposed, due to its unclear relations to autocracy and unclear membership. Although Shipov supported a consultative *zemskii sobor*, he continued to partake in the movement which shifted toward constitutionalism. The majority at the unofficial zemstvo congress (also known as the first “legal” one), which took place on November 6–9, 1904, in Saint Petersburg and was chaired by Shipov, supported a legislative “popular representation.”<sup>130</sup>

Some proponents of terrorism in the Party of Socialists Revolutionaries (formed in 1902) named the convocation of a popular *zemskii sobor* as the condition for stopping the terror, since it would hold the arbitrariness of the government in check in a peaceful and civilized manner, in the early 1900s.<sup>131</sup> The more radical left, however, rebuked the slogan. Responding to the assassination of Minister of Internal Affairs Viacheslav Konstantinovich fon Pleve by a Socialist Revolutionary in July 1904, an anarchist group opposed the slogan of a *zemskii sobor*, claiming that it would simply legalize the dictatorship of the bourgeoisie, and called for the struggle against capital and the state in a proletarian uprising.<sup>132</sup> In November 1904, an Odessa anarchist-communist group dismissed the promises of “political freedom and a *zemskii sobor*” by the Socialist Revolutionaries and the Social Democrats, claiming that they would simply replace the autocratic oppression with constitutional and citing the violence against workers in politically free countries.<sup>133</sup> During the Revolution of 1905–1907, in March 1905, a further anarchist proclamation dismissed the *zemskii sobor* as a tool of exploitation to be used by the rich, again opposing the Social Democrats. It called for violence against the exploiters and concluded with the slogans against private property and the state.<sup>134</sup> In April 1905, an anarchist proclamation dismissed the slogans of a *zemskii sobor* and a constituent assembly, as well as parliamentarism in general, claiming that socialists in a parliament only brought more harm.<sup>135</sup> The same year, one anarchist group wrote in its proclamation: “Blessed is he who throws a bomb at the *zemskii sobor* on the first day of its convocation.”<sup>136</sup>

Interestingly, it was a right-wing author, Sharapov, who returned to the *zemskii sobor* in the context of decentralization after the introduction of the State Duma.

Sharapov's 1907 futuristic "political fantasy" *Dictator* was anti-parliamentary, but it borrowed a lot from the democratic interpretations of the *zemskii sobor*. In the text, the future dictator of Russia (working under the Tsar) immediately dissolved the State Duma, abolished the new parliamentary system, and announced the convocation of a *zemskii sobor*, which was to work out the new fundamental laws. Sharapov not only defined the *sobor* as a constituent body but also suggested that it would divide Russia into large self-governing regions. Furthermore, self-government bodies were supposed to discuss legislation before its final approval by the *sobor*.<sup>137</sup> In a way, Sharapov returned to Fadeev's ideas but was more influenced by the democratic understanding of the *zemskii sobor*.

With the introduction of the State Duma, the *zemskii sobor* lost its relevance as a democratic slogan. The polemics on the historical *sobors*, however, continued. In 1905, Ioannikii Alekseevich Malinovskii, for instance, underscored both the development of representation at the *sobors* in the seventeenth century and the supposed exercise of supreme authority by the 1648–1649 *sobor*. Citing the works of Sergeevich and Mikhail Flegontovich Vladimirskii-Budanov, Malinovskii claimed that the *sobors* were not merely consultative and concluded that the *sobors* proved that the principles of political and civil liberty were not alien to Russia.<sup>138</sup> Boris Borisovich Glinskii included the *zemskii sobors*, as a representative institution and a kind of "popular rule" or democracy, into his narrative of the struggle for constitution in a series of articles in 1905–1907. Like Shchapov, he maintained that Peter I destroyed the principle of democracy, noted the recent ban on using the term *zemskii sobor* in publications, and claimed that the idea survived among those who were dissatisfied with the existing order.<sup>139</sup>

Mikhail Vasil'evich Klochkov did not share such a view on the *zemskii sobors* in his popular publication in 1905. He acknowledged that historians had previously portrayed the *zemskii sobors* as "deeply popular" institutions but maintained that the introduction of new sources disenchanting them. Klochkov argued that the *zemskii sobors* lagged behind Western parliaments, since they were not convened according to law but in line with the desire of the supreme authority, were a primitive form of popular representation, and were hence hardly suitable for Russia at the threshold of a "new, better life."<sup>140</sup>

The *zemskii sobor*, however, still had a place in the democratic mythology. Mikhail Vladimirovich Rodzianko, the Chairman of the State Duma, noted in his memoirs that for the official celebrations of the 300th anniversary of House Romanov in 1913, the members of the Duma were assigned places in the back, behind the State Council and the Senate. Rodzianko claimed that he had to tell the organizers of the ceremony that since the celebration had to be a popular festival, one should not have forgotten that in 1613 it was the people in the "*Zemskii sobor*" and not a group of bureaucrats who elected the Tsar. According to Rodzianko, the argument worked and the organizers made the Senate cede its place to the Duma.<sup>141</sup>

The *zemskii sobor* as a democratic slogan and a metaphor returned during the Revolution of 1917 and the Civil War of 1918–1922. Interestingly, it was the anarchist Petr Alekseevich Kropotkin who internalized the ironic interpretation of

the Moscow State Conference of August 1917 as a *zemskii sobor* and called it the “the *sobor* of the Russian land,” which needed to declare Russia a republic.<sup>142</sup> In the anticipation of the All-Russian Constituent Assembly, the Old Believer activist Nikolai Petrovich Anufriev published a pamphlet, comparing the “constituent assemblies” of 1613 and 1917. He claimed that the idea of *sobor* as the way to reestablish authority became part of the popular consciousness during the Time of Troubles and that the *sobors* were supposed to be permanent due to Mikhail Fedorovich Romanov’s minority, representing hence parliamentary statehood in modern terms, but the idea of a people’s Tsar failed. Anufriev concluded that the anticipated All-Russian Constituent Assembly could constitute Russia on new principles, similar to the 1613 “*Zemskii sobor*,” but in order to avoid new “troubles” it needed to resolve social problems as well.<sup>143</sup>

The projects of a *zemskii sobor* emerged both on the left and on the right. According to some sources, Lavr Georgievich Kornilov, the Commander-in-Chief of the Russian Army, whose attempted coup failed in late August 1917, planned to establish a representative body during the anticipated dictatorial regime and to call this body a *sobor*, possibly a *zemskii* one. Vasilii Stepanovich Zavoiko, a businessman and one of Kornilov’s associates, was allegedly the main advocate of the idea. According to other sources, Zavoiko simply meant the inclusion of the clergy, the Local Council (*Sobor*) of the Russian Orthodox Church, which assembled on August 15, 1917, into the Extraordinary State Duma, the legislative authority he envisioned.<sup>144</sup> During the Bolshevik–Left Socialist Revolutionary Coup of October 25–26, 1917, Grigorii Il’ich Shreider, the moderate Socialist Revolutionary Mayor of Petrograd, attempted to rally the opposition around the Committee of Public Safety. In order to strengthen its positions, Shreider initiated the convocation of the “all-Russian *zemskii sobor*” of zemstvo and municipal self-government bodies, but only representatives of several provinces arrived by November 9, 1917, the planned opening date, and Shreider decided to call it the Conference of Representatives of Local Self-Government instead.<sup>145</sup>

Some participants of the White movement used the constituent assembly and the *zemskii sobor* as synonymous slogans and rhetorical devices during the Civil War. The government of Aleksandr Vasil’evich Kolchak in Siberia (1918–1920), for instance, refrained from recognizing Finnish independence, claiming that this could only be done by such an assembly. According to the program of the Western Volunteer Army in the Baltic region (1918–1919), the *zemskii sobor* (the constituent assembly) was supposed to determine the relations of the new postimperial states, fighting the Bolsheviks, with Russia, which in practice allowed it to ignore Latvian independence. In October 1919, the Czechoslovak politician Karel Kramarž proposed his draft Constitution of Russia to Russian émigrés in Paris. The project, which was later discussed in the anti-Bolshevik areas in the south of Russia, proposed a constitutional monarchy or a republic with a Tsar or a president as the head of state. If the system was to become monarchical, then each Tsar was to be elected from the House Romanov by the parliament for life. Explaining this compromise between monarchy and popular sovereignty, Kramarž cited the 300-year-long tradition dating back to the 1613 assembly.<sup>146</sup>

The idea of the *zemskii sobor* as a democratic institution proved especially prominent in Siberia. On July 7, 1919, Ivan Aleksandrovich Iakushev, a Socialist Revolutionary and Siberian Regionalist, presented a proclamation to the population of Siberia to the Irkutsk Provincial Zemstvo Assembly, calling for the convocation of a *zemskii sobor* as a parliamentary body. In the fall of 1919, the Socialist Revolutionary zemstvo activists in Irkutsk refused to participate in the State Zemstvo Conference, discussed by the Kolchak government, demanded the convocation of a legislative *zemskii sobor* instead, and proposed a democratic “buffer” state in Siberia. In November 1919, the Czechoslovak commander Radola Gajda joined Iakushev in organizing an uprising in Vladivostok, which was supposed to end with the convocation of a *zemskii sobor*, but it was suppressed by Kolchak’s subordinates. The Siberian Regionalist Viktor Nikolaevich Pepeliaev, who became Kolchak’s Prime Minister later the same month, also called for an immediate convocation of a *zemskii sobor*.<sup>147</sup>

After the Kolchak government collapsed under the Bolshevik offensive and the successful Socialist Revolutionary coup in Irkutsk in early 1920, it was Zavoiko who proposed a *zemskii sobor* to the new non-Bolshevik authorities in the Far East. Zavoiko’s ideas were close to those of the Siberian Regionalists, as he aspired to start rebuilding Russia by organizing Siberia through a Siberian *zemskii sobor*.<sup>148</sup> In 1920, he published a draft Constitution in Japan. The draft pertained only to the Maritime Region but envisioned a reunited Russian federation and reaffirmed the idea of convening a *zemskii sobor*. It drew heavily on the US Constitution but included conservative elements, such as the elimination of political parties.<sup>149</sup>

When the Priamur Zemskii Sobor was about to convene in Vladivostok in the summer of 1922, there still was no consensus on what the assembly meant, and both the autocratic and democratic mythologies informed the discussions. Indeed, the Socialist Revolutionary slogan of a *zemskii sobor* as a legislative assembly and its more conservative reinterpretation by Zavoiko were still relevant. According to one account, the Priamur Zemskii Sobor was supposed to elect a provisional national government in order to organize the struggle against the Bolsheviks and build the state, while Diterikhs was the first one in the Vladivostok government to openly call for the restoration of monarchy, breaking with the moderates and aspiring to return to the pre-1905 period when the State Duma had not yet established the “hated constitutional principles.”<sup>150</sup>

## Conclusion

The political mythologies of the *zemskii sobor* developed simultaneously with historiography and at times ahead of it. History writing was also a way for some authors to participate in the political debates. The autocratic mythology, promoted by the Slavophiles, proved more coherent yet it did not achieve the desired recognition from the Tsars. Initially, the autocratic approach to the *zemskii sobors* was idealistic but it became more practical at the summit of its popularity in 1905, when it was discussed by the government as a way to avoid bigger concessions. The democratic mythology was more heterogeneous and, despite occasionally

fading to the background of the debates, lasted for some hundred years between the 1820s and the 1920s. The idea of *zemskii sobor* proved influential for the projects of reimagining the empire as a federation, while some radical intellectuals also found the term useful when discussing a constituent assembly. The democratic discourse involved skepticism and criticism of the concept of *zemskii sobor* from the onset of the discussions, with many moderates becoming disillusioned with it, but the concept survived as part of the romantic nationalist imagery and flourished as a symbol during the Civil War, with the *zemskii sobor* being imagined as a Russian constituent assembly, destined to mend the new Time of Troubles. The two mythologies were not isolated and overlapped in several projects, including the Priamur Zemskii Sobor of 1922.

Both mythologies lived on after the empire's collapse. In 1964, the Supreme *sobor* as a "controlling" branch from the project by Pestel' reemerged in the outline of a Constitution proposed by a group of right-wing dissidents. With the clergy anticipated to play a major role in it, the new version of the Supreme *sobor* was supposed to remind of the historical assemblies and embodied religious nationalism.<sup>151</sup> In 1990, Aleksandr Isaevich Solzhenitsyn, the most prominent conservative dissident writer, quoted Shipov on the *zemskii sobors* and claimed that there had been no struggle between the Tsar and the people, very much like the Slavophiles. He also proposed a possible body, a *sobornaia дума* or a state *duma*, consisting of esteemed individuals with high morals, wisdom, and life experience as part of Russia's future system of government.<sup>152</sup>

The democratic mythology informed the debates on the new Russian Constitution in 1993. The Russian Social-Ecological Union, a major environmental association, included the *sobors* into its proposals on Russia's federal system, which it submitted to the Constitutional Commission. Russia was to be divided into lands, and the *zemel'nyi sobor* ("the assembly of the land") was to be the supreme legislature of each land, which was reminiscent of both Murav'ev's and Shchapov's ideas.<sup>153</sup> The nationalist Sergei Petrovich Pykhtin authored an alternative draft Constitution, in which the *Zemskii sobor* was the legislative body consisting of three chambers: the State Duma, the Senate, and the State Council. The former two chambers were to be universally elected. The whole *Zemskii sobor* elected the President without debates for a five-year term. Although this project used the language of the imperial bureaucracy and the right-wing intellectuals, in essence it represented a modern democratic system, despite the election of the President without debate<sup>154</sup> and once again demonstrated a fusion of democratic and autocratic mythologies of the *zemskii sobor*.

## Notes

- 1 This study was completed as part of the project "ENTPAR: Entangled Parliamentarisms: Constitutional Practices in Russia, Ukraine, China and Mongolia, 1905–2005," which received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation program (grant agreement no. 755504).
- 2 Peter B. Brown, "The 'Zemskii Sobor' in Recent Soviet Historiography," *Russian History* 10, no. 1 (1983): 90.

- 3 For a poststructuralist approach to the Russian Empire and imperial parliamentarism, see Ilya Gerasimov et al., “New Imperial History and the Challenges of Empire,” in *Empire Speaks Out: Languages of Rationalization and Self-Description in the Russian Empire*, eds. Ilya Gerasimov, Jan Kusber, and Alexander Semyonov (Leiden: Brill, 2009), 3–32; Alexander Semyonov, “The Real and Live Ethnographic Map of Russia: The Russian Empire in the Mirror of the State Duma,” in *Empire Speaks Out: Languages of Rationalization and Self-Description in the Russian Empire*, eds. Ilya Gerasimov, Jan Kusber, and Alexander Semyonov (Leiden: Brill, 2009), 191–228.
- 4 Nancy Shields Kollmann, *By Honor Bound: State and Society in Early Modern Russia* (Ithaca, NY: Cornell University Press, 1999), 169; Valerie Kivelson, “Muscovite ‘Citizenship’: Rights without Freedom,” *The Journal of Modern History* 74, no. 3 (2002): 467–468.
- 5 Quentin Skinner, *Visions of Politics*, vol. 1: Regarding Method (Cambridge: Cambridge University Press, 2002), 4–5; Jakob Norberg, “Concepts, Political,” in *The Encyclopedia of Political Thought*, eds. Michael T. Gibbons et al., vol. 2 (Malden, MA: Wiley-Blackwell, 2015), 647–657.
- 6 Serhiy Bilenky, *Romantic Nationalism in Eastern Europe: Russian, Polish, and Ukrainian Political Imaginations* (Stanford, CA: Stanford University Press, 2012); Susanna Rabow-Edling, “The Decembrists and the Concept of a Civic Nation,” *Nationalities Papers* 35, no. 2 (2007): 369–391.
- 7 Dimitri Von Mohrenschildt, *Toward a United States of Russia: Plans and Projects of Federal Reconstruction of Russia in the Nineteenth Century* (London: Associated University Presses, 1981), 63–65, 242; Richard S. Wortman, *Scenarios of Power: Myth and Ceremony in Russian Monarchy from Peter the Great to the Abdication of Nicholas II* (Princeton, NJ: Princeton University Press, 2006), 246, 269–270, 361–362.
- 8 Valerie A. Kivelson, “On Words, Sources, and Historical Method: Which Truth about Muscovy?,” *Kritika: Explorations in Russian and Eurasian History* 3, no. 3 (2002): 487–499.
- 9 Illarion, “Slovo o Zakone i Blagodati [Excerpts, 1030s–1050s],” in *Russkaia Sotsial’no-Politicheskaia Mysl’ XI–XVII Vv.: Khrestomatiia*, eds. S. V. Perevezentsev et al. (Moscow: Izdatel’stvo Moskovskogo universiteta, 2011), 28–29.
- 10 V. Panov and V. Lebedev, eds., “Kievskaiia Letopis’,” in *Drevnerusskie Letopisi* (Moscow: Academia, 1936), 123.
- 11 L. V. Cherepnin claimed that the term *zemskii sobor* was not mentioned in the documents of the sixteenth century and was “rarely” used in the documents of the seventeenth century but did not cite the concrete uses of the term, see L. V. Cherepnin, *Zemskie Sobory Russkogo Gosudarstva v XVI–XVII Vv.* (Moscow: Nauka, 1978), 63.
- 12 R. G. Skrynnikov, *Ivan Groznyi* (Moscow: Nauka, 1983), 33.
- 13 S. V. Perevezentsev et al., eds., “Slovo Tsaria Ivana IV Vasil’evicha na Stoglavom Sobore 1551 Goda,” in *Russkaia Sotsial’no-Politicheskaia Mysl’ XI–XVII Vv.: Khrestomatiia* (Moscow: Izdatel’stvo Moskovskogo universiteta, 2011), 241–242.
- 14 Iu. V. Got’e, ed., *Akty, Otnosiashchiesia k Istorii Zemskikh Soborov* (Moscow: Izdanie N. N. Klochkova, 1909), 1–13, 16–17, 19, 21, 24, 26, 30, 34, 37, 64–65, 68–69; S. A. Belokurov, ed., *Utverzhdenaia Gramota Ob Izbranii Na Moskovskoe Gosudarstvo Mikhaila Fedorovicha Romanova*, 2nd ed. (Moscow: Sinoidal’naia tipografiia, 1906), 43.
- 15 N. M. Karamzin, *Istoriia Gosudarstva Rossiiskogo*, vol. 10 (Saint Petersburg: Tipografiia N. Grecha, 1824), 8, 227–232; N. M. Karamzin, *Istoriia Gosudarstva Rossiiskogo*, vol. 12 (Saint Petersburg: Tipografiia N. Grecha, 1829), 145, 310, 317.
- 16 Karamzin, *Istoriia Gosudarstva Rossiiskogo*, 1824, 10:75.
- 17 The Slavophiles were the group of Russian intellectuals who insisted on the uniqueness of Russia’s history and opposed the country’s Westernization. They are usually juxta-

- posed with the Westernizers, see Bilenky, *Romantic Nationalism in Eastern Europe: Russian, Polish, and Ukrainian Political Imaginations*, 207.
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## 5 The 22 Frimaire of Yuan Shikai

### Privy councils in the constitutional architectures of Japan and China, 1887–1917

*Egas Moniz Bandeira*<sup>1</sup>

*It was indeed a grand political idea whereof even England could be jealous of us, this Council of State, which was heard over all big questions, conserved from the great political traditions of the Empire. ... This admirable creation of the Brazilian spirit, which completed the other, no less admirable one taken from Benjamin Constant, the Moderating Power, united, thus, around the Emperor the political heads of the one and the other side, all of their consummated experience, whenever it was necessary to hold consultations about an important public interest.*<sup>2</sup>

Joaquim Nabuco (1849–1910)

*This can be dealt with by a completely new invention of my own devising. When you inquire into the basic principles of our Constitution, you will see that sovereignty resides firmly in the imperial house, and that in a crisis His Majesty's judgment is to be the basis for the final decision. ... There must be conscientious imperial advisers who can clearly ascertain the state of the nation and the sentiments of the people, and in the end secure what is in their best interests. I am convinced that only a Privy Council can provide the place where such advisers may be found.*<sup>3</sup>

Itō Hirobumi 伊藤博文 (1841–1909)

#### **Introduction**

Advisory bodies to monarchs are among the most traditional forms of collective decision-making, but as institutions of modern states, they are among the least conspicuous ones. As monarchs had their powers limited by constitutional governments or even became symbolical figures in parliamentary political systems, their advisory bodies lost their legislative attributions to parliaments and their executive attributions to the cabinet. Since the nineteenth century, a privy council might seem like a relic from the autocratic past to an observer from Central Europe, the British Isles or her former colonies in North America. It was in this sense that Kenneth Colegrave wrote that the Japanese Privy Council had “almost no counterpart in contemporary Europe,” and belonged to the “England of the Stuarts or the France of Louis XVI.”<sup>4</sup>

But is that really so? Whoever, by whatever strange whim, decides to complement his reading of the Constitution of the Empire of Japan of 1889 by the Constitution of the Empire of Brazil of 1824, will find a parallel between the two of them which he will not find between the Japanese Constitution and the constitutions from which it is thought to be derived. Title V, chapter 6, of the Brazilian Constitution stipulated that the Ministers of State shall countersign and be responsible for all acts of the executive branch of the government, while the next chapter institutes a Council of State to be heard in all “important matters” as well as in cases in which the Emperor “propose to exert any of the attributions of the Moderating Power.”<sup>5</sup> While much more laconic, the Japanese Constitution had the same structure: art. 55 stipulated that the Ministers of State countersign all Laws, Imperial Ordinances, and Imperial Rescripts of whatever kind, while art. 56 laid down that the Privy Council “deliberate upon important matters of State.”<sup>6</sup> Constitutional thought has also described both institutions in very similar terms: While the Brazilian Council of State has been claimed to have been the “brain of the monarchy,”<sup>7</sup> the Japanese Privy Council was the “palladium of the constitution and of the law.”<sup>8</sup>

In both cases, it has been claimed that the consultative council was a specifically national element of the respective constitutional architecture. While the Brazilian statesman Joaquim Nabuco (1849–1910) claimed that the Council of State was an “admirable creation of the Brazilian spirit,”<sup>9</sup> the Japanese statesman Itō Hirobumi (1841–1909) spoke of a “completely new invention of my own devising.”<sup>10</sup> But as a matter of fact, Brazil and Japan were by far not the only constitutions to show such a parallel treatment of the executive body of ministers and of the advisory body to the monarch. Next to the Portuguese Constitutions of 1822 and 1826,<sup>11</sup> closely related to the Brazilian one, and the Spanish constitutional charters, such as those of 1808 and 1812,<sup>12</sup> the feature came up in other seemingly unrelated constitutions around the world, such as articles 41 and 42 of the 1845 Constitution of the Kingdom of Hawai’i and articles 54 and 55 of the 1875 Constitution of the Kingdom of Tonga.<sup>13</sup>

Did these privy councils and councils of state appear around the globe coincidentally and spontaneously? Using the example of three East Asian polities – the Japanese Empire, the Qing Empire, and the Republic of China – this chapter shows that they did not.<sup>14</sup> By the nineteenth century, privy councils were all but a moribund relic of the past. Rather, they were building blocks of global constitutional architecture which surfaced and were adapted in various parts of the world according to local needs. As Lorenz von Stein (1815–1890) explained to his Japanese interlocutors, the old privy councils of pre-constitutional times were transformed in three ways: some of them disappeared completely, others retained ceremonial roles, while some were transformed into significant organs counterbalancing the cabinet or the parliament, being it within monarchic or republican constitutional frameworks.<sup>15</sup> The first development occurred in many German states, while England is a prime example for the second type. Although these two types might lead to the impression of the institution being an anachronism, the third type also had a prominent representative in the middle of Europe, and one

which proved to be rather influential: the Napoleonic reinterpretation of the pre-constitutional *curia regis* in the form of the constitutional *Conseil d'État*.

As the chapter shows, Japan and China opted for the third type, adapting the constitutional idea in a variety of local variants designed to meet the needs of the constitution-makers. Meiji Japan opted for the strong Privy Council through the mediation of German constitutional advisors, for such an institution promised additional constitutional stability in a context where the Emperor was to occupy a role at the top of the constitutional architecture. While the strong role of the Japanese Privy Council is well-known, the various Chinese refractions of the institution seem to have been inconspicuous in the formation of the modern political institutions of the Chinese state. Carrying a host of differing names not only in Chinese, but also in English translations, it is easy to overlook that not only the imperial “constitutional preparation” from 1906 to 1911 created a Privy Council, but that early republican constitutional architectures also frequently foresaw such bodies. While, as most other new institutions, they were modeled on foreign institutions, mostly but not exclusively Japanese, they also played the role of being a traditional element within the new system, seen as a successor for indigenous institutions and as a way to accommodate old elites. The chapter shows that not only the late Qing *Bideyuan* 弼德院 (Privy Council), but also Yuan Shikai’s 袁世凱 (1859–1916) *Canzhengyuan* 參政院 (literally Political Participatory Council) were refractions of the concept. Thereby, it also highlights political continuities and discontinuities between the Qing Empire and Republican China. A privy council could be formed in both polities due to the structural similarity between constitutional monarchy and presidential republics, but it fell into oblivion when it came to be too strongly associated with monarchic and presidential strongmanship.<sup>16</sup>

### **From *curia regis* to *pouvoir neutre***

In Europe, perhaps the first place where the privy council lost its power to a responsible subset of itself was England, and later by extension, the United Kingdom. In the mid-seventeenth century, during the English Civil War, the Privy Council was first abolished, but was then replaced with a Council of State, which again became a Privy Council to Lord Protector Oliver Cromwell (1599–1658). After this episode, the royal Privy Council was reinstated, but lost most of its powers to the Cabinet, which is formally a committee of the Privy Council. Except for its main ceremonial functions, the British Privy Council has retained some residual executive, legislative, and judicial functions: it may issue royal charters to grant powers to body corporates, and its Judicial Committee acts as the court of appeal in cases concerning crown dependencies, overseas territories, and certain Commonwealth states.

Similar developments also took place in continental European processes of constitutionalization, but they tended to go a step further: As these processes, beginning from the late eighteenth century, all engendered full-blown written constitutions, the constitutional charters now tended to leave out these institutions.

For example, the Belgian Constitution of 1831 – an internationally influential document – does not mention the Crown Council (*Conseil de la Couronne*) at all. Although it continued to exist as a customary institution, it was only convened five times since the adoption of the Constitution in matters of supreme importance. In Germany, some constitutions mention the Privy Council, such as that of the Kingdom of Bavaria (1818)<sup>17</sup> and of the Kingdom of Hannover (1833),<sup>18</sup> but they often do so only in passing, and in many places, the institution was gradually sidelined during the century. This was the case, for example, in the most powerful of German states, Prussia. Although the institution saw a few short-lived revivals until the end of monarchy, the Constitution imposed by the King in 1850 does not mention the *Staatsrat*.<sup>19</sup>

However, as mentioned, the third type of advisory council – which paralleled the cabinet in the constitution – not only occurred in Brazil, Japan, Hawai'i, and others, but also in a very different central European context. The Council of State (*Conseil d'État*) of the French *ancien régime* was inherited by the Napoleonic *Conseil d'État*, founded in 1799 with the so-called *Constitution of 22 Frimaire, Year VIII*. In articles 52 and 53, the charter instituted the new *Conseil d'État* as part of the government, tasking it with devising draft laws and resolving administrative difficulties. Articles 54 and 57 set down the role of ministers, including their responsibility. The legislative power, on the other hand, was fragmented into three assemblies (Conservative Senate, Tribunal, and Legislative Corps). In the post-Napoleonic restoration, the *Conseil d'État* was sidelined, but it regained its importance in the July Monarchy installed in 1830 and was again constitutionally regulated in the Constitution of the 1848 Republic.

The text of the French Constitution of 1799 was not a perfect blueprint for subsequent constitutions. The attributions of the council of state varied, as, e.g., it was not necessarily tasked with administrative adjudication, and the 1799 stipulation that three orators be chosen from the *Conseil d'État* to represent the government in the *Corps Législatif* remained very specific to Consulate France.<sup>20</sup> However, the strong position of the postrevolutionary French *Conseil d'État* next to the Ministers of State – who were not necessarily yet united in a cabinet – was key in inspiring similar constitutional architectures in Euro-America and beyond.<sup>21</sup> As will be shown, it also figured as a significant element in the considerations that led to the adoption of the Japanese Privy Council.

Furthermore, the constitutional theory which came to underpin the constitutional architecture of a Council of State alongside the State Ministers directly in Brazil and, in a more fuzzy way, in Japan, was also of French origin. Basing himself on Stanislas de Clermont-Tonnerre (1757–1792), the liberal French philosopher Benjamin Constant (1767–1830) had conceived of the royal power as of a separate branch of government next to the executive branch of government, even though the monarch was at the head of both:

One will be astonished that I distinguish the royal power from the executive power. This distinction, still unknown, is very important. It is, perhaps, the key of every political organization. There are, says he (Clermont-Tonnerre),

two distinct powers within monarchic power: executive power, vested with positive prerogatives, and royal power, which is supported by memories and religious traditions.<sup>22</sup>

Although Benjamin Constant did not comment about the Council of State, this consultative council attached to the person of the monarch was soon conceived as the epitome of royal power itself. The Brazilian (1824) and Portuguese (1826) Constitutions expressly conceived the Council of State as being the instrument of the monarch's "moderating power" (*poder moderador*), which, as expressed in art. 98 of the Brazilian Constitution,

is the key of the whole Political organization, and is delegated exclusively to the Emperor, as Supreme Chief of the Nation, and its First Representative, that he incessantly watch over the maintenance of independence, equilibrium, and harmony of the further Political Powers.<sup>23</sup>

Hence, although privy councils had become at most ceremonial institutions in the Germanic-speaking parts of the world, it was far from an anachronistic rudimentary institution on a global level. In the form of councils of state, advisory bodies to heads of state continued to flourish and be productive in new constitutional formations, especially in cases where they were deemed necessary for the constitutional equilibrium between the several branches of government.

### **Japan: "The Cabinet executes, the *Conseil d'État* deliberates"**

When, more than half a century later, Japanese leaders devised a constitution as a basis for the government of Japan, they encountered a situation which was in a way the opposite of the one to be found in many Euro-American polities. Real political power had laid with the Tokugawa family in Edo (present-day Tokyo) until the second half of the nineteenth century, while the Emperor had merely had a powerless symbolic function in Kyoto.<sup>24</sup> The so-called Meiji Restoration abolished the power of the Tokugawa and at the same time nominally "restored" the position of the Emperor, who would thenceforth be the "head of the Empire, combining in Himself the rights of sovereignty," and exercise "them according to the provisions of the present Constitution" (art. IV of the 1890 Constitution).<sup>25</sup>

However, the combination of sovereignty in the hands of the Emperor did not necessarily mean that he would be the main political operator of the Empire. The oligarchy which had just seized power from the Tokugawa government would not want to give up its position, and it deemed that entrusting too much power on the single person of the Emperor would be dangerous. Furthermore, constitutionally attributing the exercise of sovereignty to the Emperor was also a risky move for the stability of the constitution itself, for it made the Emperor highly vulnerable in case he became involved in political struggles. Again, the Emperor had to be elevated above daily politics and put into a role less prone to controversies. Regular constitutional organs would take political responsibility and thus shield the Emperor from blame.<sup>26</sup>

It is well-known that the creators of the Meiji Constitution opted to adapt German models to address these constitutional challenges.<sup>27</sup> Yet, the question of the Privy Council shows that constitutional law adopted by the Japanese government by suggestion of German advisors was not exclusively of German extraction, but drew from a broader pool of European statecraft. Although the Meiji Constitution did not expressly recognize the “moderating power” such as the Brazilian one did, the position of the Emperor under the Constitution came quite close to it. Albeit far from identic to it, the Japanese Privy Council came much closer to a Napoleonic Council of State than to the contemporary British or Prussian Privy Councils.

But what exactly gave the impulse for the creation of a Privy Council in Japan? Scholarship on the matter is divided.<sup>28</sup> The first instinct of observers would be to see in it a vastly modified adaptation of the British Privy Council.<sup>29</sup> Takii Kazuhiro 瀧井一博 attributes the idea to Itō’s “study of European statecraft, especially under (Lorenz von) Stein.”<sup>30</sup> Takii’s footnotes refer to Sakamoto Kazuto 坂本一登, who describes the Privy Council as the result of a debate between Itō – who favored a strong institution, supported by the German constitutional advisor Hermann Roesler (1834–1894) – and another pivotal figure in the constitutional drafting process, Inoue Kowashi, who favored a weaker council.<sup>31</sup> Ernst Lokowandt contends that it was “broadly modelled” on the Bavarian *Staatsrat*.<sup>32</sup> Junko Ando’s detailed study of the German origins of the Japanese Constitution reports stark differences of opinion between the various advisors of the Japanese government, including Stein, Roesler, Rudolf von Gneist (1816–1895), and Gneist’s student Albert Mosse (1846–1925).<sup>33</sup> According to Ando, Stein rejected the idea of a Privy Council as not compatible with a constitutional state (*Verfassungsstaat*) in which responsible ministers would counsel the Emperor, and at most approve of a Privy Council as a ceremonial body.<sup>34</sup> Instead, she writes, the Japanese Privy Council largely conformed to the suggestions of Rudolf von Gneist, which she interprets as stemming from an “anachronistic” ideal image of the English political system.<sup>35</sup> According to Ando, the Gneistian position was reluctantly supported by Roesler, who was favorable of a limited Privy Council to deliberate on draft laws and ordinances.<sup>36</sup>

The divergences between Stein, Gneist, Roesler, Itō, and Inoue are supported by the primary sources. Gneist – a professor in Berlin – and Stein – a professor in Vienna – had advised a large number of Japanese statesmen on their trips to Europe, most notably Itō Hirobumi in 1882–1883.<sup>37</sup> They were thus instrumental in forming the constitutional worldviews of the Meiji elites, and the trip to Vienna undertaken but many a leading Japanese statesman came to be known as the “Stein pilgrimage.”<sup>38</sup> The concrete constitutional drafting process, however, began in 1886 and involved a small circle of Japanese drafters – apart from Itō and Inoue, Itō Miyoji 伊東巳代治 (1857–1934) and Kaneko Kentarō 金子賢太郎 (1853–1942) – who would pose questions to Mosse and Roesler and deliberate about their answers, choosing what model to follow.<sup>39</sup>

Itō’s conception of the monarch as an arbiter between the powers was Steinian, but the vision of a strong Privy Council which he introduced into the drafting

process was not. The Constantian idea of the Emperor as a neutral power had quickly become popular in German liberal political philosophy, including with Lorenz von Stein.<sup>40</sup> Von Stein devoted a large part of his scholarly attention to the legal, political, and social history of France and exclaimed “that nowhere the world knows a more profound and inexhaustible source of greater truths about constitution and society.”<sup>41</sup> Next to several works on French social movements, he also published a three-volume history of the French state and French law. Von Stein deemed that a purely democratic solution would exacerbate social tensions and that only a class-independent monarch standing above the other powers would be able to create a “kingdom of social reforms” (*Königthum der socialen Reform*).<sup>42</sup>

Stein’s conception of the monarch as a neutral, mediating power transpires in the lectures he gave to his Japanese guests in Vienna. On 15 February 1887, he told Prince Komatsu-no-miya Akihito 小松宮彰仁 (1846–1903) that the monarch should “thoroughly consider the positions of both sides and decide on the possibility of determining which of them is right.” The monarch, Stein maintained, should “stand above the legislative and executive branches and oversee all affairs of the state.” On that occasion, Stein also told Prince Komatsu that the Emperor would permanently need “people personally loyal to His Majesty” to act as advisors. Prince Komatsu noted that the advisors should be united in two consultative bodies: one for military matters (*junji naikyoku* 軍事内局) and one for political matters (*seiji naikyoku* 政事内局).<sup>43</sup>

But Stein’s conception of monarchy required a much less prominent monarch than Benjamin Constant’s, and he did not see the Constitution of the Year VIII as a realization of the monarch’s neutral power. When he spoke about the neutral power in his books about France, he did so to argue that it had been but halfway introduced in France with the July Monarchy installed in 1830.<sup>44</sup> Stein’s words to Prince Komatsu about the monarch needing capable advisors did not refer to a privy council but rather to the cabinet, for the task of giving counsel to the monarch would behoove his ministers. In his conversations with Japanese statesmen, Stein consistently cautioned against a separate privy council to advise the Emperor aside the cabinet. In a lecture to the Elder Statesman (*Genrō* 元老) Kaieda Nobuyoshi 海江田信義 (1832–1906), he warned that such a constellation would “give rise to conflicts between the ministers and the privy council.”<sup>45</sup> To Itō Hirobumi and his entourage, he declared even more adamantly:

A council of state<sup>46</sup> is not the office to respond to consultations by the king. The right to take up consultations from and give advice to the king shall necessarily reside with the government, i.e. with the *ministry*. When the ministry is staffed by its members and able to be a pillar (of the governmental structure), the Council of State will be an entirely superfluous institution. The Council of State shall only be established while it is provisorily needed and shall serve the function of memorializing in necessary matters to the monarch while the ministry is exchanged. ... This is also the result of the historical development. Therefore, when the constitutional system shall once be fixed,

the Council of State shall lose fixed functions and become a merely honorary office.<sup>47</sup>

Rather, Itō's ideas about the Privy Council stemmed from Rudolf von Gneist, which he then defended in the drafting process. Detailed records of Gneist's conversations with Itō himself are not extant, but they seem to coincide with what Gneist told another Japanese visitor, Prince Fushimi-no-miya Sadanaru 伏見宮貞愛 (1858–1923), three years later.<sup>48</sup> Some other sources also give a glimpse of what Gneist told Itō. In a letter to the German minister in Japan, Karl Eisendecker (1834–1934), Gneist narrated that he had put his emphasis on “constructing a strong municipal constitution from below and installing a Council of State and Upper House from above.”<sup>49</sup> In one point, however, Gneist differed markedly from European models with strong Councils of State: although generally favorable of including administrative judication into its responsibilities, he deemed it too early for Japan to do so.<sup>50</sup>

*Prima vista*, it would be natural to understand Gneist's conception as an “anachronistic” understanding of England. If Stein concentrated his energies on the study of France, Gneist devoted much of his academic attention to English history, publishing several books on English constitutional law and constitutional history.<sup>51</sup> Gneist is known to have created an “English utopia,” writing about the Victorian United Kingdom as if it was still governed the same way as Elizabethan England.<sup>52</sup> Yet, neither were his recommendations to Japanese politicians an entirely “anachronistic” reverberation of Elizabethan England nor did the Japanese drafting process build on such a limited understanding of England.

For one, Gneist used a historically based comparative approach.<sup>53</sup> Thus, he shows awareness that the Privy Council had lost much of its real importance in England, but retained it elsewhere, e.g., when he speaks of the Prussian *Generaldirektorium* (1723–1808) as a “collegially organized Council of State, in which the conduction of the highest affairs of state is connected with the decision about complaints by the subjects, similarly to the older English Privy Council and as in the French *Conseil d'État*.”<sup>54</sup> Furthermore, when giving recommendations to Prince Fushimi, it seems that his reference is not so much the English Privy Council but the French *Conseil d'État*, for he defines the institution with a sentence attributed to none other than Napoleon Bonaparte (1769–1821): “The Cabinet executes; the *Conseil d'État* deliberates” (*Naikaku wa kore o okonai; Sanjiin wa kore o gisu* 内閣ハ之ヲ行ヒ參事院ハ之ヲ議ス).<sup>55</sup> It also seems that at least Prince Fushimi understood the proposed organ to be closest to the French model, for his records constantly use the common Japanese translation for the *Conseil d'État*, *Sanjiin* 參事院.

When drafting the final constitution, Itō's Gneistian view clashed with Inoue's and Roesler's. Roesler's written statement on the question did “not support the establishment a Council of State with the status of a constitutional organ,” for it would be a source of conflict with the Cabinet.<sup>56</sup> However, Roesler conceded that Cabinet ministers might not have the time and specialized knowledge for their decisions on laws and that legislative drafts were often “rough and imperfect.”<sup>57</sup>



Hence, he still could imagine a Privy Council limited to give counsel on laws and ordinance, even if he did not deem it to be necessary.<sup>58</sup>

Accordingly, Roesler's draft Constitution of 1887 included no mention of the Privy Council.<sup>59</sup> However, commissioned by Itō, he also drafted an organic law for the Privy Council, dated 6 April 1888, which gave the institution far-reaching powers. These included not only the power to interpret laws, but also to decide on budget and accounting conflicts between parliament and government.<sup>60</sup> Inoue protested against this accumulation of powers, essentially arguing against the position of the Emperor as a separated branch of government, i.e., implicitly rejecting the Constantian model:

In political matters, it is not possible to make a difference between Cabinet and Imperial House. ... Should the Emperor now decide about divergences between the government and the parliament with the further assistance of the Privy Council, this will distinguish clearly between the government and the Emperor, and will serve as a proof to distinguish their characteristic intentions. This will not be confined merely to the matters were they conflict with each other, but all actions of the government will be able to be explained as coming into existence outside of the Emperor's pleasure.<sup>61</sup>

However, Inoue's alternative proposal also explicitly adduced the French *Conseil d'État* as its model, for that institution, too, had no direct bearing with the parliament. In other words, Inoue did not see the Council of State as an instrument of the neutral power, but as a provider of services for the executive branch of government:

In sum, the Privy Council should not have this power and be put on top of the Cabinet and the Parliament. Therefore, the Privy Council's legal interpretations should be restricted to answering questions from within the executive (including about the constitution). I reckon that it should not have a connection with the Parliament (i.e., the same as the French *Conseil d'État*).<sup>62</sup>

Itō's letter to Inoue, which serves as an epigraph to this chapter, was a reaction to Inoue's criticism. Therein, he defended his conception of the monarch as an arbiter in constitutional crises and of the Privy Council as the monarch's helper in this task, which he claimed to be of his own devising. The new organ created after this exchange of opinions was a compromise between the two positions. The especially controversial responsibility in budgeting matters was withdrawn, as was the mention to resolving conflicts with the parliament, making it close to Inoue's proposed *Conseil d'État* structure. Yet, in other ways, the new organ was also palpably Itōesque.

Itō's hand can not only be seen in the name of the organ. Rather than *Sanjiin*, the organ was called "Agency for the Important and Confidential" (*Sūmitsuin* 樞密院). At the same time as this was the name used to translate the English and constitutionally invisible German institutions and came close in meaning to the

English term “Privy Council,” it was also a reference to East Asian tradition of statecraft. In AD 765, the Tang Empire had created an “Agency for the Important and Confidential” to coordinate and supervise the Emperor’s paperwork. Now, more than a millennium later, the agency became a constitutional organ on the same level as the Cabinet, being thus separated from the administrative branch of government.

According to the Constitution, the Emperor would be relieved of daily political business to be conducted through responsible ministers of state. While the Privy Council served for the Emperor not to potentially give away all his powers to the Cabinet, it also provided additional checks on Imperial power. First, it took away his decision-making from the intransparent workings of the Inner Palace and institutionalized it.<sup>63</sup> Second, the fact that the Privy Council would give recommendations by majority decision could reduce the Emperor to a “state notary public.”<sup>64</sup> The Cabinet and the Privy Council were closely intertwined, for the members of the former were always also members of the latter (but not vice versa). In a “division of labor,” however, the Privy Councillors would be tasked with “planning far-sighted schemes of statecraft and of effectuating new enactments, after a careful deliberation and calm reflection, by instituting thorough investigations into ancient and modern history, and by consulting scientific principles.”<sup>65</sup>

The provisions concerning the Privy Council were so flexible that it could accommodate for a strong Emperor, but that it could also function as an organ of its own even with an absent monarch.<sup>66</sup> Thereby, the organ itself, rather than the Emperor personally, came close to being a fourth branch of the state, for, in the words of Itō’s commentary, it would be “the palladium of the Constitution and of the law.”<sup>67</sup> Constitutional reality went beyond what the maxim “The Cabinet executes; the *Conseil d’État* deliberates” suggested. The Cabinet would ask the Privy Council for “counsel” on new draft laws twice: first before passing them to the legislative branch – which the fathers of the Meiji Constitution did not want to be too strong – and then again at the end of the legislative process. Hence, the Privy Council could *de facto* decide on draft laws. In spite of their close entanglement, the “third chamber,” as it came to be known, developed a tense relationship with the Cabinet and clashed with it several times before it was dissolved after the Second World War.<sup>68</sup>

### **Qing Empire: An “Academy of Worthies” as “retirement home”?**

While literature often stresses the strong position of the Japanese Privy Council as a “third chamber,” the Qing Privy Council has been commonly described as an “honorable, but powerless” organ.<sup>69</sup> How can this be if the Qing Privy Council was widely thought to follow the model of the *Sūmitsuin*?

The imperial Privy Council, instated in 1911, only existed for a few months before the fall of the Qing Empire, and for a few days in 1917 during a short attempt at imperial restoration. Given this short period of existence, the conclusion that the Qing Privy Council was an unimportant part of late Qing constitutional

architecture is somewhat premature. It certainly stood in the shadow of both the legislative Political Consultative Council (*Zizhengyuan* 資政院) and the executive Cabinet (*Neige* 內閣): while the *Zizhengyuan* was being a catalyst of political opposition from provincial elites and the Cabinet was the object of sharp criticism for consisting mainly of imperial kinsmen, the Privy Council did not enjoy much independent protagonism. Qing mainstream position was concerned about creating a dignified organ which would be a home to high officials in the transition from absolute to constitutional government. However, while debates on the institution showed some Qing specificities and emphasized different aspects than Japanese Constitution-making had, there was no shortage of voices calling for the Council to have a strong position independent of the Cabinet, and its structure closely resembled that of the Japanese *Sūmitsuin*. The council, thus bore the seeds of becoming an institution comparable in significance to the Japanese *Sūmitsuin*.

By the turn of the twentieth century, when a large-scale movement to demand constitutional reforms in China was taking shape, the encyclopedias of modern knowledge and textbooks of international law based on Japanese sources defined privy councils as bodies that “replied to consultations by the Emperor” and debated “important affairs of the nation.”<sup>70</sup> Although such descriptions were often limited to monarchies and did not accordingly include France’s *Conseil d’État*, the equivalence of these institutions irrespective of the form of state was not completely lost in China either. This can be seen from the very imperial ordinance establishing the Privy Council in 1911, which declared that the institution would be equivalent to the privy councils and councils of state of the various countries of East and West.<sup>71</sup>

Late Qing literature unanimously stated the practical irrelevance of the English Privy Council, but reflected different assessments of the importance of the Japanese Privy Council. One of the more cautious assessments was offered by Wang Rongbao 汪榮寶 (1878–1933), who later became one of the members of the drafting team for the final constitution of the Qing Empire. The *New Erya* (*Xin Erya* 新爾雅), a seminal encyclopedia coedited by him in 1902, stressed that the Japanese Privy Council was not an administrative organ and that it was “only the highest consulting organ of the Tennō.”<sup>72</sup> However, Wang Hongnian 王鴻年 (1860–1911), who later became an assistant to the Chinese constitutional commission in Tokyo, gave a stronger assessment of the institution. In the first systematic Chinese textbook of constitutional law, published in 1902 and based on lectures given by Hozumi Yatsuka 穗積八束 (1860–1912), he stressed that the Japanese constitutional charter differed from European Constitutions by expressly mentioning the Privy Council, and that its powers competed with those of the Cabinet ministers.<sup>73</sup> It is quite possible that such descriptions later created the misunderstanding that the cabinet and the privy council were strictly separated organs, which was not the case.

From the earliest proposals to establish a constitutional Privy Council in 1906, the central aim associated with it was creating a dignified space to accommodate the old élites who would otherwise have no place in the new constitutional system. This concern eclipsed the possible rivalry of the Privy Council with the

Cabinet and created the impression still prevalent in scholarship that the privy council would be a powerless organ. In 1906, Prince Duanfang 端方 (1861–1911) submitted a proposal for a provisional reorganization of central administration, which would precede the eventual constitution. His suggestion for the creation of a *Shumiyuan* (the same term as Japanese *sūmitsuin* 樞密院) actually gave it a more active position than the Japanese model, for it postulated that it actively convene every ten days to provide counsel for the Emperor.<sup>74</sup> However, his plan also could be understood as mainly aimed at the accommodation of those members of the Qing Grand Council (*Junjichu* 軍機處) and Grand Secretariat (*Neige* 內閣) who would not make it as prime ministers or ministers of the new government. For Duanfang, the original Grand Council had performed advisory functions such as those of a privy council,<sup>75</sup> but should be integrated into the Grand Secretariat to form a powerful executive office. The supernumerary officials, in turn, would receive “a sense of dignity” (*youchong zhi yi* 優崇之意)<sup>76</sup> from the “good method and beautiful meaning” (*fa liang yi mei* 法良意美)<sup>77</sup> of the new Privy Council (*Shumiyuan*).

Prince Yikuang 奕劻 (1838–1917) submitted a similar proposal, which figured in the first official plan for political reforms in 1906 and remained influential throughout the period of late Qing constitutional preparation.<sup>78</sup> Although it was not included in the reforms announced on the basis of this plan, it contained the only draft of an organic law for the organ and served in constitutional scholarship as a blueprint for the design of the Privy Council as late as 1910.<sup>79</sup> Yikuang’s proposal differed in two main points from Duanfang’s. First, it did not foresee regular meetings of the Council. In itself, this did not necessarily mean much, for the passiveness of consultations just followed the Japanese model.<sup>80</sup> However, the second difference indeed indicates that Yikuang saw the accommodation of no longer needed officials as the main function of the Privy Council. It also showed another important concern of late Qing constitutionalists: the Privy Council was justified with Chinese traditions and thought to be a traditional element in the *nouveau régime*. Although *shumiyuan/sūmitsuin* also had a Tang precedent, it had now become the official name of the Japanese council and the standard translation for privy council. Instead, Yikuang sought to give it a distinctively Chinese flavor by “using the name ‘Academy of Worthies’ (*Jixianyuan* 集賢院) of the Tang era and adopting the content of the Japanese Privy Council (*Shumiyuan*).”<sup>81</sup> While the name chosen by Yikuang, “Academy of Worthies,” referred to an institution of “court-patronized litterateurs who engaged in compiling imperially sponsored scholarly works,”<sup>82</sup> he described its function as being that of the “temple salary” (*cilu* 祠祿) system of the Song era, whereby retiring high officials were appointed to service at religious institutions.<sup>83</sup>

If the function of the Privy Council was really that of giving some “temple salary”-like position to retiring officials, it would not necessarily be an isolated element within constitutional architecture, but was possibly a significant factor in the constitutional balance. Allocating this function to the Privy Council could strengthen the other constitutional institutions by enabling them to fulfill their substantial functions. This was at least the argument of the pro-constitutional activist

Meng Sen 孟森 (1868–1938), who ran a column in the widely read magazine *Eastern Miscellany* (*Dongfang zazhi* 東方雜誌). In 1909, the constitutional commissioner to Japan, Li Jiaju 李家駒 (1871–1938), submitted a report about the Japanese institutions to the throne, wherein the recommendations about the Privy Council conformed to the other examples discussed above. At the same time as he wrote that it should “roughly follow the example” of the Japanese *Sūmitsuin*, Li discussed it in the light of several sinecure positions in China’s administrative history, making clear that the body’s main function would be to “distinguish former high officials” and to provide counsel to the court.<sup>84</sup> Meng’s comment on Li’s report painted one of the most vivid pictures of what Qing élites hoped the Privy Council to be. According to Meng, Li’s proposed Privy Council was a “retirement home” similar to “posts such as that of postal director” in other countries.<sup>85</sup> Was that a bad thing, however? No. Meng pointed out that the projected proto-parliament, the *Zizhengyuan*, could otherwise be misused for the same purpose, and argued that Li’s suggestion was apparently designed to “remove this function from the *Zizhengyuan* to the Privy Council in order to rescue the *Zizhengyuan*’s actual purpose.”<sup>86</sup>

Nonetheless, on the other side of the spectrum, there were also various calls to make the Privy Council strong and truly cabinet-rivaling. In 1910, when the call of the day was the “speedy introduction of a national assembly,” a censor called Qingfu 慶福 (dates unknown) submitted a memorial to the court, urging to speedily introduce the Privy Council instead of the National Assembly and even before the Cabinet.<sup>87</sup> He argued for a four-branch government system in the Constantian sense, with a “ruling branch” (*tongzhi quan* 統治權) being located above the three other branches. To this effect, he envisioned a Privy Council similar to the line defended by Rudolf von Gneist and Itō Hirobumi, composed of close aides and confidants who would be responsible to the Emperor in the same manner as the Cabinet would be to the parliament. In sum, the Council would serve to solidify the Emperor’s power as constitutional organ.

What policy did the court pursue in view of these recommendations and pressures on both sides? When the government unveiled its concrete plans for constitutional transformation in the summer of 1908, the Privy Council was not included in the hastily prepared *Outline of a Constitution by Imperial Decree* (*Qinding xianfa dagang* 欽定憲法大綱),<sup>88</sup> indicating that the government did not see the Privy Council as an organ of the same level of significance as the Cabinet. However, the nine-year roadmap published at the same time foresaw the establishment of a Privy Council in the last year of “constitutional preparation” (1916), together with the promulgation of the constitution and the convening of a parliament.<sup>89</sup> The document did not go into any details, but gave the institution a different name. It was not named “Agency for the Important and Confidential” as its Japanese counterpart, nor “Academy of Worthies” like Yikuang had proposed, but “Council to Assist (the Ruler’s) Virtue” (*Bideyuan*, an abbreviation for the expression *fubi junde* 輔弼君德). Gao Fang 高放 suggests that the new name reveals a different concern of the Court in creating the Privy Council, this time aimed at specifically Qing political circumstances. The Guangxu Emperor had

been held captive since a botched attempt at radical political reforms in 1898, whereas real power was residing with the Empress Dowager Cixi. Hence, Gao argues that the term “assist the (ruler’s) virtue” was aimed at Guangxu, for Cixi had come to understand the Privy Council as a way to restrict the Emperor, particularly in case she died and he came to power again.<sup>90</sup>

This concern became well-nigh immediately obsolete, for both Cixi and the Emperor died three months after. Nonetheless, the government did not abandon the idea. Following strong pressures to accelerate the constitution-building process, it established the Privy Council the same day as the Cabinet, on May 8, 1911. Both the organic law and the detailed regulations issued in July were closely modeled on the Japanese equivalents.<sup>91</sup> Besides deliberating on and interpreting the Constitution and related laws, the Council would have to deliberate on international treaties and on imperial orders and decrees issued in cases of emergency. Given these attributions, the Privy Council could well have evolved to take a strong position as the Japanese model.

The Privy Council would consist of 34 members, including the president and the vice president, and additionally count on ten consultants with “political knowledge and experience,” a provision not contained in the Japanese model. All the 13 ministers of the new Cabinet, as well as the heads of the Court of the Imperial Clan (*Zongrenfu* 宗人府) and of the Imperial Household Department (*Neiwufu* 內務府) would become Privy Councillors (art. 4 of the organic law). Possibly due to an incomplete understanding of the Japanese model as provided by Wang Rongbao in his *Xin Erya*, this point turned out to be especially controversial and drew immediate criticism that the Privy Council could not perform its constitutional duties because it was not independent enough from the Cabinet. The censor Fan Zhijie 范之杰 (1872–1957) categorically wrote that both institutions were supposed to be “independent organs, not having jurisdiction over nor interfering with each other,” arguing that the 16 Privy Councillors hailing from the Cabinet, the Imperial Household Department, and the Court of the Imperial Clan would impossibilite any independent majority in the Privy Council.<sup>92</sup> He claimed that

now, although the establishment of the Privy Council in our country allegedly adopts Japan’s new institution, the Cabinet ministers are allowed to concomitantly serve as Privy Councillors, which seems to be drawing from the English system.<sup>93</sup>

His colleague Chen Shantong 陳善同 (1876–1942) was better aware of the Japanese laws. He tried to argue that the Japanese organic law actually did not design the Cabinet ministers as full members of the Privy Council, but only stipulated that they should participate within the bounds of their respective areas.<sup>94</sup> However, Chen’s argument was not much more convincing than Fan’s: in Japanese constitutional practice, all Cabinet ministers were also created Privy Council members. While the number of Privy Councillors expanded over time, the proportion was not much lower than in China (in 1890, 10 out of 25; in 1911, 10 out of 28).

The few months of its existence were too short to show how the Privy Council would really have fared in constitutional practice, and it is impossible to say how the final constitution would have treated the Privy Council, for its draft has been lost. The extant private constitutional drafts do not foresee any Privy Council, charging the Cabinet with the task of counseling the Emperor.<sup>95</sup> Cao Rulin 曹汝霖 (1877–1966), a member of the Constitutional Office, although not one of the officially designed main drafters of the final constitution, writes in his memoirs that the (no longer extant) constitutional draft established a Privy Council (*Shumiyuan*).<sup>96</sup> However, the diary of Wang Rongbao, which is the main source on the aborted drafting process of the final constitution, does not record the inclusion of a Privy Council, neither under the name *Shumiyuan* nor under the name *Bideyuan*.<sup>97</sup> In 1911, the question does not seem to have attracted much attention from the group devising the final constitution.

Nevertheless, since the *Bideyuan* was established together with the Cabinet and as its organization closely followed the Japanese model, it could also well have lived up to a role of “third chamber” with the power to veto legal drafts coming from the Cabinet and demand alterations to them. Perhaps the most realistic assessment of the upcoming Privy Council was given in 1911 the *Journal of Introductions to Law and Administration* (*Fazheng qianshuo bao* 法政淺說報). In a detailed commentary on the new organic law, it explained that although privy councils were nominally the most important constitutional organ, they were in practice less significant than the cabinet. The significance of the emergent Privy Council in China, however, would largely depend on the clout of its members. If some figure of utmost importance came to preside over the Privy Council, the Privy Council would naturally take center stage in Chinese politics.<sup>98</sup>

### **Republic of China: the *Consejo de Estado* and the “fortune of the Republic of China”**

As the *Bideyuan* disappeared with the fall of the monarchy, one could suppose that the institution of an advisory council to the head of state became obsolete. Indeed, neither the “Organizational Charter” (*Zuzhi dagang* 組織大綱) of the Provisional Government of the Republic of China, issued in November 1911, nor the Provisional Constitution (*Linshi yuefa* 臨時約法) of the Republic of China, issued in March 1912, contained anything else than provisions for a legislative body and the ministers of state.<sup>99</sup> However, early Republican constitutional scholarship was divided on whether the newly founded Republic of China should adopt such a body. Of 18 private and party-sponsored constitutional drafts presented in the first years of the Republic, 5 included provisions for an advisory Council of State, while the 13 others did not.<sup>100</sup>

Whereas the transition from autocracy to constitutional rule within the Qing prompted many to think about how to accommodate the old élites, this was much less of a concern in the Republic. The Nationalist Party’s (*Kuomintang* 國民黨) constitutional position paper (*Zhuzhang quan’an* 主張全案) of July 1913 at first supported the establishment of an Advisory Council (*Guwenyuan* 顧問院)

Table 5.1 Early Republican constitutional drafts containing proposals for Councils of State

<i>Draft</i>	<i>Norms</i>	<i>Name</i>	<i>Model (according to draft)</i>
Kuomintang position paper (before revision) ( <i>Zhuzhang quan'an</i> 主張全案) <sup>101</sup>	Suggestions n° 3 and 4	Advisory Council ( <i>Guwenyuan</i> 顧問院)	<i>Conseil d'État</i> and <i>Sūmitsuin</i>
Progressive Party ( <i>Jinbudang</i> 進步黨)/ Liang Qichao 梁啟超 1873–1929) <sup>102</sup>	Chapter 7 (art. 68–72)	Advisory Council of State ( <i>Guojia guwenyuan</i> 國家顧問院)	<i>Consejo de Estado</i> of Chile
Kang Youwei 康有為 (1858–1927) <sup>103</sup>	Chapter 7 (art. 59–61)	Consultative Council of State ( <i>Guoxunyuan</i> 國詢院) (alternatively: Political Participatory Council ( <i>Canzhengyuan</i> 參政院)	N/A
Wang Dengyi 王登乂 (1876–1955) <sup>104</sup>	Chapter 6 (art. 61–67)	Political Participatory Council ( <i>Canzhengyuan</i> 參政院)	<i>Conseil d'État</i> ; refers to Liang Qichao's draft
Li Chao 李超 (?–?) “Constitutional draft by an overseas Chinese” ( <i>Huaqiao xiancao</i> 華僑憲草) <sup>105</sup>	Art. 68	Advisory Council ( <i>Guwenyuan</i> 顧問院)	N/A

modeled after the French *Conseil d'État* and the Japanese *Sūmitsuin*.<sup>106</sup> The revision of the position paper issued in August, however, rejected this proposal, for two reasons:

Suggestion no. 4 supported the establishment of an Advisory Council. This is extraordinarily unimportant. As deliberative institutions and a responsible government are already established, all important matters have to undergo deliberation before they are executed, without leading to rash decisions. If yet another Advisory Council is established, it will excessively delay things, and only increase the number of superfluous officials. Hence, (suggestion no. 4) shall be struck.<sup>107</sup>

More than the problems of government efficiency and of creating possible sinecures, however, the fault line of the debate lay in the position of the head of state. Of the remaining four drafts, it is remarkable that two were drafted by the paramount figures of the late Qing constitutional movement: Kang Youwei and



Liang Qichao. Now that there was no longer an Emperor, it was the President of the Republic who would be the head of state acting above the other branches of government.

In order to be able to perform such a role as a moderating power, the head of state would need a council of his own, just as Napoleon had needed in postrevolutionary France and Itō Hirobumi had needed in Japan. In the most thoroughly worked out example of this kind of constitutional architecture, Liang Qichao drew from a wide knowledge about global constitutionalism and tapped a hitherto unused source of constitutional inspiration. Although a great number of translations of foreign constitutions had been published in late Qing times, it was only in 1912 and 1913 that the *Political Science Magazine* (*Fazheng zazhi* 法政雜誌) began publishing translations of various South American constitutions.<sup>108</sup> These included the 1833 *Political Constitution of the Republic of Chile*, based on an English translation by Charles Wesley Tooke (1870–1943), which Liang chose as the model for his draft.<sup>109</sup> The well-read Liang aptly connected the dots and understood that both the Japanese *Sūmitsuin* and the Chilean *Consejo de Estado* were phenomena of the same global constitutional element, choosing the latter as his model. His words make clear that the purpose of such a council had nothing to do with the form of state as a monarchy or a republic:

France had a Council of State in the past, and Japan has an Advisory Privy Council, both of which are constitutional organs. Many of the various states of Germany and the various states of the United States also have similar organs. Their functions are to restrict part of the executive power and to be able to carry on the attributions of the National Assembly when it is not in session. Its purpose is utterly good! The constitution of Chile is the most complete one as to the organization of this institution, which is why we now roughly follow the model of that institution.<sup>110</sup>

Through Chilean intermediation, Liang's draft, such as Kang's and Wang Dengyi's, followed the structure rooted in the *Constitution of 22 Frimaire, Year VIII*: it had one chapter devoted to the Ministers of State (*Guowuyuan* 國務員) and another one dedicated to the Advisory Council of State.<sup>111</sup> The three drafts – Li Chao's differed by only having a short article on the Council of State – shared other similarities. Perhaps responding to the criticisms of the *Bideyuan*, they did not commingle the Council with the Cabinet, expressly forbidding the Councillors of State to concomitantly be Ministers or Members of Parliament (Liang, art. 71; Kang, art. 59; Wang, art. 63). They also strengthened the republican over the monarchic element, for the President would only appoint five of the thirteen (Liang, art. 68, and Wang, art. 61) or fifteen (Kang, art. 59) members of the Council. Yet, the President had to hear it when taking a number of measures roughly comparable to those ere enumerated in the organic law of the *Bideyuan*. These included the appointment of the Prime Minister, the dissolution of the National Assembly, the promulgation of emergency measures, declarations of war and peace treaties, as well as proposals for constitutional amendments. In

sum, the Council would still basically be the advisory body to the President in a similar way as the *Sūmitsuin* was in Japan and as the *Bideyuan* had been thought to become in the Qing Empire.

Even though the idea of such an advisory council to the President only occurred in a minority of the constitutional drafts presented at the time, it had considerable appeal in midst of the chaotic parliamentary politics of the early Republic, and was particularly attractive to one person – namely, the ambitious President himself, Yuan Shikai. In midst of the political struggles of the inchoate Republic, Yuan Shikai had dissolved the National Assembly by the turn of 1913–1914, and installed two provisional assemblies instead: a Political Assembly (*Zhengzhi huiyi* 政治會議) dealing with legislative matters, and a Constituent Assembly (*Yuefa huiyi* 約法會議).<sup>112</sup> New institutions had to be created for a new constitution.

In this situation, Yuan not only promoted the idea of an advisory council, but also applied it to a greater extent than any of the five constitutional drafts. Yuan's immediate basis was none of these, but rather an idea suggested by one of his foreign constitutional advisors, namely, the Japanese Ariga Nagao 有賀長雄 (1860–1921). Ariga had undertaken a trip to Europe from 1886 to 1888, where he studied in Berlin and in Vienna. In his 1889 *System der Staatswissenschaft* (*Kokkagaku* 國家學), he based his comments about advisory councils on Lorenz von Stein's lectures, including the doctrine of the monarch as a “moderating” (*chōwa* 調和) power as one of the rationales for the Council of State (*kokuji komon* 國事顧問, glossed as *Sutātsurāto* スターツラート).<sup>113</sup> His own opinion on the institution, which he added after his comparative exposition of the various types of advisory councils, was that “one should definitely institute it before it happens that either the legislature or the executive hold excessive powers.”<sup>114</sup>

When a constitutional government became an option for the Qing Empire, Ariga devoted great attention to the movement, an interest which persisted after the proclamation of the Republic.<sup>115</sup> The change from monarchy to republic did not matter much for him, for what China needed was a virtuous man at the helm, no matter whether that man was an emperor or a president.<sup>116</sup> After Yuan Shikai made him his constitutional advisor in 1913, he worked out a memorandum calling for a Republican Advisory Council (*Gonghe guwenyuan* 共和顧問院). The Council was modeled after the *Sūmitsuin* and should be tasked with counseling and giving suggestions to the President, drafting the final constitution, interpreting the constitution, and resolving problems between the legislative and executive branches.<sup>117</sup>

Yuan Shikai's execution of the idea went much further than this. In May 1914, he promulgated another provisional constitution, which gave him far-reaching powers.<sup>118</sup> The basis had been a constitutional draft by another foreign advisor of Yuan's, the US American Frank Johnson Goodnow (1859–1939).<sup>119</sup> Goodnow's draft had not included an advisory council, but it favored a strong position of the president, and Goodnow himself wanted the Constitution to “adopt more fully the French system of government.”<sup>120</sup> An advisory council to the President was a fitting addition to his draft. Besides the legislative branch (the *Lifayuan* 立法院), art. 49 of the resulting Constitutional Compact determined the establishment of a

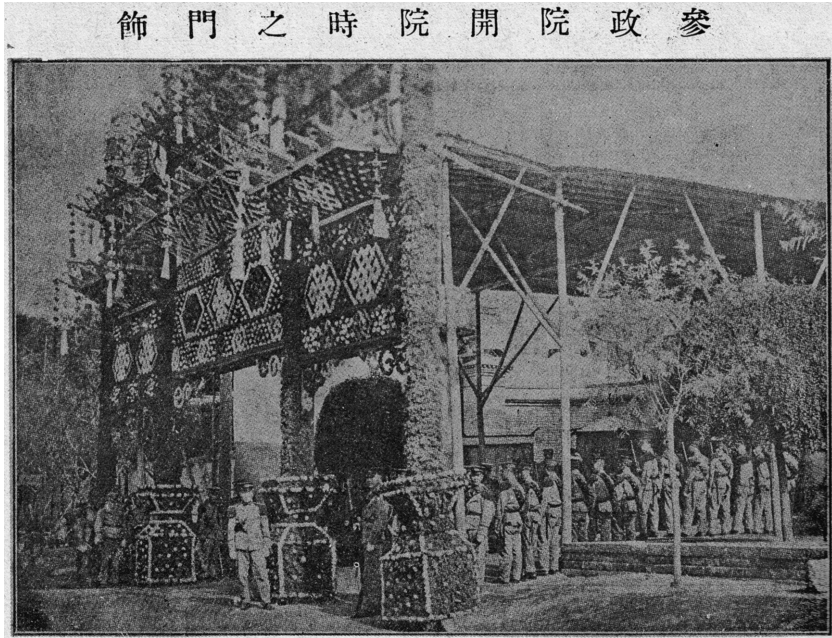


Figure 5.1 Canzhengyuan kaiyuan shi zhi menshi [Decorated gate at the opening of the Political Participatory Council]. *Dongfang zazhi* 東方雜誌 11, no. 2 (Minguo 3 [1914]).

Political Participatory Council (*Canzhengyuan*, see Figures 5.1 and 5.2), which replaced the Political Assembly.

According to art. 49, the Council should “respond to consultation by the President and deliberate on important political matters.”<sup>121</sup> Its organic law, promulgated by the Constituent Assembly in May 1914, i.e., nearly 10 months before the organic law of the National Assembly, gave it the right of constitutional interpretation and extensive advisory rights in important areas of politics (articles 2 and 3 of the organic law).<sup>122</sup> The most far-reaching powers of the Council, however, were scattered through the Constitutional Compact: with the consent of the Political Participatory Council, the President would be able to pass emergency ordinances (art. 20), overrule parliamentary legislation (art. 34), and close the National Assembly (art. 17).

Taken in isolation, these rights were not necessarily uncommon; but their elaboration in the Constitutional Compact made for quasi-dictatorial powers of the President. For example, other drafts, such as Liang Qichao’s, also contained the President’s right to dissolve the National Assembly (art. 50).<sup>123</sup> However, the Constitutional Compact contained two aggravating factors, which strengthened the President even more. In contrast to Liang’s proposal, all of the Political Participatory Council’s 50–70 members (see Figure 5.3) should be selected by the

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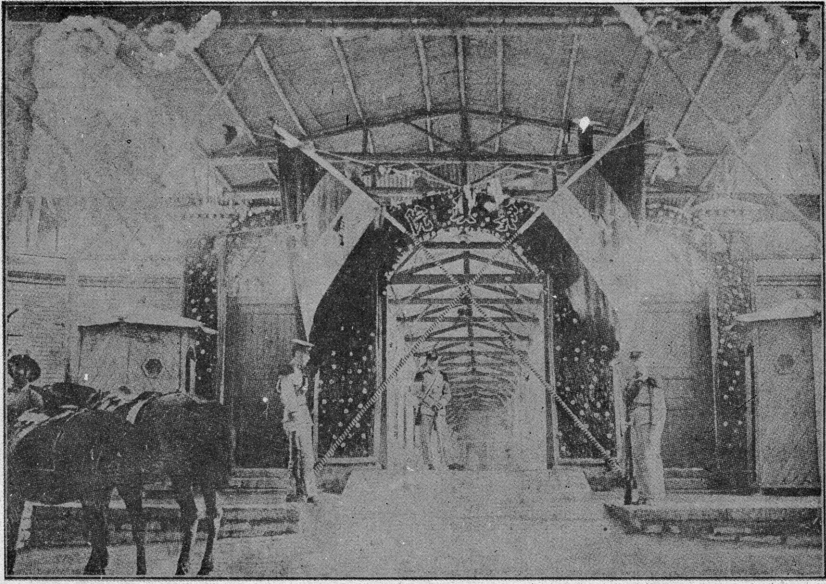


Figure 5.2 Canzhengyuan mennei zhi yongdao [Corridor within the premises of the Political Participatory Council]. *Dongfang zazhi* 東方雜誌 11, no. 2 (Minguo 3 [1914]).

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Figure 5.3 Canzhengyuan quanti sheying [Group photo of the Political Participatory Council]. *Dongfang zazhi* 東方雜誌 11, no. 2 (Minguo 3 [1914]).

President personally, and after the dissolution of the parliament he would have an extraordinarily long time (six months vs. one in Liang's draft) to call new elections.

The consent of the Political Participatory Council for such presidential measures was such a matter of course that Frank Goodnow did not even mention that it was required when commenting on the new constitutional document two weeks later in the *Peking Gazette*. In Goodnow's words, "a real controlling power of legislation is vested in the President and the legislature is regarded ... almost to the position of an advisory body." Not mentioning the *Sūmitsuin* either, Goodnow explained that the powers of the President were the same as those of the Japanese Emperor, as was the relationship to the legislature. Such a status befitted China's status of development, for "Chinese traditions" were "executive rather than legislative." Just as in Japan, however, Goodnow saw room for constitutional change toward the legislative following the political maturing of the Chinese people.<sup>124</sup>

Although the *Peking Daily News*, the unofficial mouthpiece of the government, found the idea "useful," because "the trial" of parliamentary government "in the past has proved a failure,"<sup>125</sup> a large part of Chinese public opinion quickly denounced the Political Participatory Council. For them, the Council was a "museum of antiquities and a collection of old paintings"<sup>126</sup>; it was Yuan's personal instrument to further his dictatorial ambitions and to deprive the National Assembly of its rights.<sup>127</sup> One Shanghai magazine published a particularly scathing pseudonymous article on this institution filled with "drunkards, gluttons, alphabets, punks, and living clay puppets."<sup>128</sup> Whereas the Qing had operated the *Zizhengyuan*, it was "utterly weird, utterly odd, and truly unimaginable" that a "republic claiming to be democratic" also had such a thing.<sup>129</sup> The article ended with the ironic remark:

Hurray! How blessed it is, the Political Participatory Council of the Republic of China! Hurray! How blessed they are, the Political Participatory Councillors of the Republic of China! Having the such an organ and having such people is a characteristic of the Republic of China, and it is the fortune of the Republic of China! Now that I've finished writing I can't help but laughing out loud.<sup>130</sup>

The *Canzhengyuan* was disbanded after the failure of Yuan Shikai's monarchic experiment and his subsequent death. In 1916–1917, the Peking government still proposed a State Council of Elders (*Guolaoyuan* 國老院), which did not take off because of fierce opposition to the idea particularly in southern China.<sup>131</sup> Sun Yat-sen 孫逸仙 (1866–1925), for example, addressed a telegram to President Li Yuanhong 黎元洪 (1864–1928), arguing that a third chamber was superfluous in China's republican context.<sup>132</sup> Later, the institution of a Privy Council (Council of State) was reenacted in monarchic contexts – first as a short revival of the old *Bideyuan* for a few days during an attempt at imperial restoration in 1917,<sup>133</sup> and second from 1932 to 1945 in the Japanese-backed Empire of Manchuria.<sup>134</sup>

Although Republican China saw several other consultative organs at the level of the central government, these occupied a different place in the constitutional architecture than the monarchic and presidential privy councils of yore. When

the Republic reutilized the term “political participation” in the 1930s, it did so in the form of a National Political Participatory Assembly (*Guomin canzhenghui* 國民參政會). As China was officially in an era of “political tutelage” by the ruling *Kuomintang* and there was no regular national assembly, such participatory assemblies should provide a modicum of popular representation and consultation.<sup>135</sup> The Napoleonic idea of an advisory council to the head of state, however, survived in rudimentary form. Since 1948, the Law on the Office of the President of the Republic of China provides for a body of up to 30 “senior advisors” (*zongtongfu zizheng* 總統府資政). As a constitutional organ on the level of the cabinet and the parliament, the Privy Council had become too strongly connected to Yuan Shikai’s strongmanship to survive.

## Conclusion

Advisory councils to the head of state have been a common element of modern constitution-building across the world. They have developed in different forms across time and space. Whereas in some places they have become merely ceremonial or disappeared altogether, they have proved to have considerable appeal in others. Both their loss of importance and their continuing appeal were due to their position outside of the three-branch scheme of government. Being subordinated to the monarch, they tended to lose their importance where the monarch’s powers waned in favor of legislative parliaments and executive ministers of state. In some constitutional orders, however, the institution served as a counterbalance to precisely these emerging powers, and in particular as an instrument of the monarch’s “neutral” or “moderating” power on top of the other branches of government.

In Central Europe, this model of a strong privy council persisted most notably in the Napoleonic reinterpretation of the old *curia regis*, the *Conseil d’État*, but it also became very popular in non-European constitution-building. In Japan, the Privy Council – *Sūmitsuin* – was a central element in ensuring the influence of the Meiji oligarchy. It served as a supplement to a deliberately weak parliament and as a balance to the Cabinet, to which it was at the same time intimately connected. While it strengthened the monarch vis-à-vis other powers, it also provided a check to the monarch’s absolute autocracy, and could even accommodate a politically absent Emperor.

As in many other aspects of constitution-building, Japan’s *Sūmitsuin* served a model for constitution-building in China – both for the Qing Empire and for the Republic of China. This particular Japanese element is not often recognized: the late Qing Privy Council – the *Bideyuan* – did not exist for long enough to be politically active, and was readily classified as “honorable, but powerless.” Indeed, accommodating old élites who would otherwise find no place in the *nouveau régime* was a significant element in Qing debates, but as the system was laid out in the same way as in Japan, it bore the seeds for a more powerful role of the Privy Council. Such a powerful council emerged in the Republic of China. Several of the early constitutional drafts espoused the idea, and Yuan Shikai ended up using it in order to further his personal ambitions.

In both Japan and China, the institution became obsolete because it became associated with obsolete political systems. In Japan, the *Sūmitsuin* was abolished after the cataclysm of the Second World War and the adoption of a new Constitution in 1947. In China, Yuan Shikai's ambitions, which culminated in his attempt to secure emperorship for himself, ended the constitutional trajectory of the institution, relegating the presidential advisors to a secondary nonconstitutional role. Yet, the fate of East Asian privy councils shows that the *Sūmitsuin* was far from being a mere Japanese idiosyncrasy. The concept was a global element of constitutionalism, which, locally adapted, played a significant role in modern East Asian constitution-building.

## Notes

- 1 The author is grateful to Joachim Kurtz, Orion Klautau, David Mervart, Ian Neary, Xu Guoqi 徐國琦, Stanley Ong Gieshen Setiawan, Asanuma Chie 淺沼千恵, Chou Pei-chih 周培之, Lucas Eduardo Maldonado, Ann-Sophie Schöpfel, Lee Kyonghee 李京憲, David Malitz, Kōno Yūri 河野有理, Clemens Büttner, Lena Foljanty, Zülâl Muslu, Sofya Lobataya, and Ian Hillesheim for their helpful comments and suggestions.
- 2 “Foi com efeito uma grande concepção política, que mesmo a Inglaterra nos podia invejar, êsse Conselho de Estado, ouvido sôbre tôdas as grandes questões, conservado das grandes tradições políticas do Império, . . . Essa admirável criação do espírito brasileiro, que completava a outra, não menos admirável, tomada a Benjamin Constant, o Poder Moderador, reunia, assim, em tórno do Imperador as sumidade políticas de um e outro lado, tôda a sua consumada experiência, sempre que era preciso consultar sôbre um grave interesse público. . .” Joaquim Nabuco, *Um Estadista no Império: Nabuco de Araujo*, 4 vols. (São Paulo: Instituto Progresso Editorial, 1949), 4:114. All translations are by the author, unless otherwise noted.
- 3 Inoue Kowashi denki hensan iinkai 井上毅傳記編纂委員會, *Inoue Kowashi den: shiryō hen* 井上毅傳: 史料篇, 6 vols. (Tokyo: Kokugakuin Daigaku toshokan, 1969–1977), 5:37 (N° 58, Letter of April 20, Meiji 21 [1888] from Itō Hirobumi to Inoue Kowashi). Translation by Takii Kazuhiro, *The Meiji Constitution: The Japanese Experience of the West and the Shaping of the Modern State*, tr. David Noble (Tokyo: International House of Japan, 2007), 93.
- 4 Kenneth Colegrove, “The Japanese Privy Council,” *American Political Science Review* 25, no. 3 (1931): 593.
- 5 See Octaciano Nogueira, ed., *A Constituição de 1824* (Brasília: Escopo Editora, 1987), 75–77, with commentary in pp. 23–28. On the Brazilian Council of State, see further José Murilo de Carvalho, *A construção da ordem: a elite política imperial. Teatro de sombras: a política imperial* (Rio de Janeiro: Civilização Brasileira, 2008), 357–390, and Maria Fernanda Vieira Martins, “A velha arte de governar: o Conselho de Estado no Brasil Imperial,” *Topoi* VII, no. 12 (2016): 178–221. The Brazilian Council of State was abolished by constitutional amendment of 1834, but reinstated by law of 1842.
- 6 Itō Hirobumi 伊藤博文, *Teikoku kenpō gige, Kōshitsu tenpan gige* 帝國憲法義解. 皇室典範義解 (Tokyo: Kokka gakkai, Meiji 22 [1889]), 82, 91. Translated as *Commentaries on the Constitution of the Empire of Japan*, tr. Itō Miyoji 伊東巳代治. 2nd ed. (Tokyo: Chū-ō Daigaku [Central University], Meiji 39 [1906]), 93, 107–108.
- 7 João Camilo de Oliveira Tôrres, *A democracia coroada: teoria política do Império do Brasil* (Rio de Janeiro: Livraria José Olympio Editôra, 1957), 188.
- 8 Itō, *Teikoku kenpō gige*, 92. Translated in *Commentaries on the Constitution of the Empire of Japan*, tr. Itō, 109.

- 9 Nabuco, *Um Estadista no Império*, 4:114. However, Nabuco showed elsewhere that he was well-aware of the origins of the Council of State, which “for a long time conserved the flavor and prestige of an old aulic council within the new democratic structure, ... a precious inheritance of the colonial regime.” *Ibid.*, 3:8–9.
- 10 Inoue Kowashi denki hensan iinkai, *Inoue Kowashi den*, 5:37 (Letter of Meiji 21/04/20 from Itō Hirobumi to Inoue Kowashi). Itō’s remark was made in the private context of a dialogue with Inoue Kowashi 井上毅 (1844–1895), in which he rejects a suggestion by Inoue and counterposes his own idea.
- 11 On the Portuguese Council of State, see Pedro Tavares de Almeida, “O Conselho de Estado na Monarquia Constitucional: uma reflexão preliminar,” *Cultura: Revista de História e Teoria das Ideias* 22 (2006): 1–16.
- 12 See Tomás de la Quadra-Salcedo, “El Consejo de Estado en las Constituciones de Cádiz y Bayona,” *Documentación Administrativa*, no. 244–245 (1996): 13–88.
- 13 On the constitutional history of Tonga, see Laki M. Niu, “The Constitution and Traditional Political System in Tonga,” in *Law, Politics and Government in the Pacific Island States*, ed. Yash H. Ghai (Suva: University of the South Pacific, 1988), 304–309.
- 14 The Siamese Council of State, founded in 1874, was inspired on the French *Conseil d’État* as well. However, it was established long before the adoption of a written constitution, which happened in 1932. The Siamese Constitution of December 1932 drew heavily from the Meiji Constitution, but departed from its model in not giving the Cabinet and the Council of State parallel textual treatment. On the Siamese Council of State, see Kullada Kesboonchoo Mead, *The Rise and Decline of Thai Absolutism* (London: Routledge, 2012), 54–58. On the Siamese Constitution of 1932, see Eugénie Méricau, “The 1932 Compromise Constitution: Matrix of Thailand’s Permanent Constitutional Instability,” in *Constitutional Foundings in Southeast Asia*, ed. Kevin Y. L. Tan and Bui Ngoc Son (Oxford: Hart Publishing, 2019), 297–318. On the relations between Japan and Siam, see David Michael Malitz, *Japanese-Siamese Relations from the Meiji Restoration to the End of World War II: Relations and Representations* (Bochum, Freiburg: Projektverlag, [2016]).
- 15 See the explanations given by Stein to Kaieda Nobuyoshi in Kaieda Nobuyoshi 海江田信義, *Sutain-shi kōgi* 須多因氏講議 (Tokyo: Kunaishō, Meiji 22 [1889]), 147, 452. On Kaieda’s interpretations and adaptations of Stein, see Kim T’aejin 金泰鎮, “Kukkaranün sinch’eesō chōnt’onggwa kūndaenün öttök’e mannanün’ga? Kaieda Nobuyosūi inch’e kūrīmūl chungsimūro” 국가라는 신체에서 전통과 근대는 어떻게 만나는가? 가이에다 노부요시의 인체 그림을 중심으로. *Ilbon pip’yōng* 일본비평 19 (2018): 96–127.
- 16 Indeed, forms and institutions too closely associated with monarchy tend to be eschewed in republics. See, e.g., on the presidential title, Kathleen Bartoloni-Tuazon, *For Fear of an Elective King: George Washington and the Presidential Title Controversy of 1789* (Ithaca, NY: Cornell University Press, 2014).
- 17 On the Bavarian *Staatsrat*, see Max von Seydel, *Bayerisches Staatsrecht*, 7 vols. (Freiburg i. B. and Leipzig: J. C. B. Mohr, 1896), vol. 1, 499–504.
- 18 On the Hannoveran *Geheimrathscollegium*, see Michael Wrage, *Der Staatsrat im Königreich Hannover 1839–1866* (Hamburg: Lit, 2001).
- 19 On the Prussian *Staatsrat*, see Hans Schneider, *Der preussische Staatsrat 1817–1918: Ein Beitrag zur Verfassungs- und Rechtsgeschichte Preußens* (Munich: C. H. Beck, 1952).
- 20 For a synopsis of constitutional provisions on the matter, see “Privilege of the Floor to Cabinet Officers: Reports Made to the Congress of the United States Relative to Measures Providing that Heads of the Executive Departments Occupy Seats on the Floor of the Two Houses of Congress,” in *63rd Congress: Special Session of Senate (March 4–17, 1913)*, *Senate Documents*, vol. 1. US Congressional Series Set, vol. 6507 (Washington, DC: Government Printing Office, 1913), 23–25.



- 21 See Wagner Silveira Feloniuk, *A Constituição de Cádiz: Análise da Constituição Política da Monarquia Espanhola de 1812* (Porto Alegre: DM Editora, 2014), 121; who also attributes a secondary influence of the Spanish Constitution of 1812 on the Brazilian Council of State. Some Brazilian literature, however, attributes the Council of State generally to the medieval royal councils, without mentioning Napoleon, e.g., Vieira Martins, “A velha arte de governar,” 179.
- 22 Benjamin Constant, *Cours de Politique Constitutionnelle*, 2 vols. New edition (Paris: Didier, 1836), 1:1–2.
- 23 See Nogueira, ed., *A Constituição de 1824*, 71. Nogueira assumes that the moderating power only was only ever instituted in Brazil. *Ibid.*, 24.
- 24 See Yuri Kono’s chapter in the present volume.
- 25 Translation adapted from *Commentaries on the Constitution of the Empire of Japan*, tr. Itō, 7.
- 26 On these problems, see Ernst Lokowandt, “Die Stellung des Tennō in der Staatsführung: Die rechtliche Regelung der Herrschaftsbefugnisse des Kaisers unter der Meiji-Verfassung,” *Oriens Extremus* 33, no. 1 (1990): 49–64. See also Asakawa Kan’ichi, “The New Regime in China,” *Proceedings of the American Political Science Association* 6 (1909): 145.
- 27 See Ando Junko, *Die Entstehung der Meiji-Verfassung: Zur Rolle des deutschen Konstitutionalismus im modernen japanischen Staatswesen* (Munich: Iudicium, 2000), 47–57.
- 28 Besides the authors discussed infra, see from the perspective of constitutional adjudication also Shishido Jōji 穴戸常寿, “Nihon kenpōshi ni okeru kenpō saibanken: ‘Kenpō saibanken no dōtai—Doitsu kenpō kenkyū nōto’ horon” 日本憲法史における憲法裁判権: 「憲法裁判権の動態——ドイツ憲法研究ノート——」補論, *Tōkyō Toritsu Daigaku hōgaku gakkai zasshi* 東京都立大学法学会雑誌 45, no. 2 (2005): 17–36.
- 29 *The Japan Times Year Book* (Tokyo: Japan Times & Mail, 1933), 28.
- 30 Takii, *The Meiji Constitution*, 94.
- 31 Sakamoto Kazuto 坂本一登, *Itō Hirobumi to Meiji kokka keisei: “Kyūchū” no seidoka to rikensei no dōnyū* 伊藤博文と明治国家形成: 「宮中」の制度化と立憲制の導入 (Tokyo: Yoshikawa kōbunkan, Heisei 4 [1992]), 247–248.
- 32 Ernst Lokowandt, “The Imperial House Law of 1889 and Its Meaning for the Position of the Tennō in the Meiji State,” in *Leaders and Leadership in Japan*, ed. Ian Neary (Richmond: Japan Library, 1996), 137.
- 33 No comments by Mosse about the Privy Council are extant, but judging from the rest of his constitutional thinking, it seems that he rejected such an institution. See Ando, *Die Entstehung der Meiji-Verfassung*, 160.
- 34 *Ibid.*, 72.
- 35 *Ibid.*, 62, 191.
- 36 *Ibid.*, 124–125.
- 37 *Ibid.*, 59–75.
- 38 See Takii, *The Meiji Constitution*, 107–108, and Takii Kazuhiro 滝井一博, *Doitsu kokkagaku to Meiji kokusei: Shutain kokkagaku no kiseki* ドイツ国家学と明治国制: シュタイン国家学の軌跡 (Kyoto: Mineruva shobō, 1999), 134–136.
- 39 See *ibid.*, 78–79.
- 40 See Lothar Gall, *Benjamin Constant: Seine politische Ideenwelt und der deutsche Vormärz* (Wiesbaden: Franz Steiner, 1963).
- 41 Lorenz von Stein, *Geschichte der sozialen Bewegung in Frankreich von 1789 bis auf unsere Tage*, 3 vols. (Leipzig: Verlag von Otto Wigand, 1850), 1:340.
- 42 *Ibid.*, 3:49. On Stein and Benjamin Constant’s neutral power, see Dirk Blasius, “Lorenz von Steins Lehre vom Königtum der sozialen Reform und ihre verfassungspolitischen

- Grundlagen,” *Der Staat* 10, no. 1 (1971): 43–45 (also discussing the significant differences between Constant’s and Stein’s conceptions). See also Markus Prutsch, *Caesarism in the Post-Revolutionary Age: Crisis, Populace and Leadership* (London: Bloomsbury Academic, 2020), 39–43, 71–73, and Norbert Waszek, “Aux sources de l’État social à l’allemande: Lorenz von Stein – et Hegel,” *Revue Germanique Internationale* 15 (2001): 211–238.
- 43 Horiguchi Osamu 堀口修, “Komatsu-no-miya Akihito shinnō to Shutain oyobi Gunaisuto kōgi” 小松宮彰仁親王とシュタイン及びグナイスト講義, *Shoryōbu kiyō* 書陵部紀要 54 (Heisei 14 [2003]): 42. See also Takii, *The Meiji Constitution*, 94.
- 44 Stein, *Geschichte der sozialen Bewegung in Frankreich*, vol. 2, 53.
- 45 Kaieda, *Sutain-shi kōgi*, 451.
- 46 The records here use the word *sanjiin* 參事院, which was already (and still is) the standard translation for the French *Conseil d’État*, not the word *sūmitsuin* 樞密院, which was the word used to translate the British Privy Council and became the name of the Japanese Privy Council. Stein’s conversations with Kaieda Nobuyoshi show that these were thought of as structural equivalents. *Ibid.*, 147, 452.
- 47 Itō Miyoji 伊東巳代治, *Daihakase Sutain-shi kōgi hikki* 大博士斯丁氏講義筆記, in *Meiji kenpō seiteishi* 明治憲法制定史, ed. Shimizu Shin 清水伸, 3 vols. (Tokyo: Hara shobō, 1971–1974), 1:355.
- 48 See Ando, *Die Entstehung der Meiji-Verfassung*, 61.
- 49 Archives of the German Foreign Ministry, Berlin, AA/PA, Nachlaß Eisendecker 3/5, 1.10 (Bl. 181), apud Ando, *Die Entstehung der Meiji-Verfassung*, 60.
- 50 On Gneist’s position on administrative justice in Germany, where he proposed a middle way between the English and the French models, see Stephan Gerstner, *Die Drittschutzdogmatik im Spiegel des französischen und britischen Verwaltungsgerichtsverfahrens: eine vergleichende Untersuchung zur öffentlich-rechtlichen Klagebefugnis am Beispiel des Umweltschutzes* (Berlin: Duncker & Humblot, 1995), 130, and Marina Künnecke, *Tradition and Change in Administrative Law: An Anglo-German Comparison* (Berlin, Heidelberg: Springer, 2007), 23.
- 51 See, among others, Rudolf von Gneist, *Englische Verfassungsgeschichte* (Berlin, Heidelberg: Springer, 1882).
- 52 Frank Lorenz Müller, “Before the West: Rudolf von Gneist’s English Utopia,” in *Germany and ‘The West’: The History of a Modern Concept*, eds. Riccardo Bavaj and Martina Steber (New York: Berghahn, 2015), 152–166. See also Heinrich Heffter, *Die deutsche Selbstverwaltung im 19. Jahrhundert: Geschichte der Ideen und Institutionen*, 2nd ed. (Stuttgart: Koehler, 1969), 372–403; Reinhard Lamer, *Der englische Parlamentarismus in der deutschen Theorie im Zeitalter Bismarcks (1857–1890)* (Lübeck: Matthiesen, 1963).
- 53 Erich Hahn, *Rudolf von Gneist 1816–1895: Ein politischer Jurist in der Bismarckzeit* (Frankfurt: Klostermann, 1995), 59; Jakob Zollmann, “German Colonial Law and Comparative Law, 1884–1919,” in *Entanglements in Legal History: Conceptual Approaches*, ed. Thomas Duve (Frankfurt am Main: Max Planck Institute for European Legal History, 2014), 253–294, 258.
- 54 Rudolf von Gneist, *Der Rechtsstaat und die Verwaltungsgerichte in Deutschland* (Berlin: Julius Springer, 1872), 65.
- 55 *Seitetsu Yumemonogatari* 西哲夢物語 (N.p.: Meiji 20 [1887]), 26–27. Another version of the sentence is given on p. 71. Also recorded in *Meiji bunka zenshū* 明治文化全集, ed. Henshū Meiji bunka kenkyūkai 編集明治文化研究会, 31 vols. (Tokyo: Nihon hyōronsha, 1992–93), 4:244; 265. The version in *Meiji bunka zenshū* provides an unreferenced French version of the sentence: *Le Ministère, c’est l’état en action; le Conseil d’État, c’est l’état en délibération* (The Ministry is the state in action; the Council of State is the state in deliberation). This version, however, seems to be an imprecise back-translation from the Japanese. The sentence goes back to Napoleon’s diaries from his

- exile in St. Helena as compiled by Emmanuel, Count of Las Cases (1766–1842). There, the Count comments on a diary entry from November 4, 1815: *L'Empereur employait individuellement les conseillers d'État à tout, disait-il, et avec avantage. En masse, c'était son véritable conseil, sa pensée en délibération, comme les ministres étaient sa pensée en exécution.* (The Emperor employed the councillors of state individually in every case, and with advantage. As a whole, they were his real council – his mind in deliberation, as the ministers were his mind in execution.) See Emmanuel Comte de las Cases, Barry Edward O'Méara, and François Antomarchi, *Mémorial de Sainte-Hélène; suivi de Napoléon dans l'exil et de l'historique de la translation des restes mortels de l'empereur Napoléon aux invalides* [Memorial of Saint Helena; followed by Napoleon in exile and the history of the translation of the mortal remains of the Emperor Napoleon to the Invalides], 2 vols. (Paris: Ernest Bourdin, 1842), 1:153. The English translation follows Emmanuel Comte de De las Cases, *Memoirs of the Life, Exile, and Conversations, of the Emperor Napoleon*, 4 vols. (London: Henry Colburn, 1836), 1:177. The author would like to thank Clemens Büttner for his help in tracing the origins of this sentence.
- 56 Kokugakuin Daigaku Nihon bunka kenkyūsho 國學院大學日本文化研究所, ed. *Kindai Nihon hōsei shiryōshū* 近代日本法制史料集, 20 vols. (Tokyo: Tōkyō Daigaku shuppankai, 1977–1999), 2:23.
- 57 *Ibid.*, 23.
- 58 *Ibid.*, 23–24.
- 59 The German original is reproduced in Ando, *Die Entstehung der Meiji-Verfassung*, 227–239. For the Japanese version, see Hermann Roesler, *Rōsureru-shi kian Nippon teikoku kenpō sōan* ロエスレル氏起案日本帝國憲法草案 (Meiji 20 [1887]), Itō Miyoji kankei monjo shorui no bu 2 伊東巳代治關係文書書類の部 2, Modern Japanese Political History Materials Room, National Diet Library of Japan.
- 60 See Shishido, “Nihon kenpōshi ni okeru kenpō saibanken,” 19–20.
- 61 Inoue Kowashi denki hensan iinkai, *Inoue Kowashi den*, vol. 2, 14–17.
- 62 *Ibid.*
- 63 Takii, *The Meiji Constitution*, 94.
- 64 Lokowandt, “Die Stellung des Tennō in der Staatsführung,” 53–54.
- 65 Itō, *Teikoku kenpō gige*, 91. Translation in *Commentaries on the Constitution of the Empire of Japan*, 108.
- 66 Lokowandt, “Die Stellung des Tennō in der Staatsführung,” 64.
- 67 Itō, *Teikoku kenpō gige*, 92. Translation in *Commentaries on the Constitution of the Empire of Japan*, 109.
- 68 The characterization of the Privy Council as a “third chamber” played a significant role in one of the cases dealt with at the Tokyo Tribunal, i.e., that of the Council’s president Hiranuma Kiichirō 平沼騏一郎 (1867–1952). See David Cohen and Yuma Otani, *The Tokyo War Crimes Tribunal: Law, History, and Jurisprudence* (Cambridge: Cambridge University Press, 2018), 114–115.
- 69 Gao Fang 高放, *Qingmo lixian shi* 清末立憲史 (Beijing: Huawen chubanshe, 2012), 419; Xia Xinhua 夏新華 et al., eds., *Jindai Zhongguo xianzheng licheng: shiliao huicui* 近代中國憲政歷程：史料薈萃 (Beijing: Zhongguo Zhengfa Daxue chubanshe, 2004), 143. Considerations on the *Bideyuan* can be found in Gao, *Qingmo lixian shi*, 419–430.
- 70 Wang Rongbao 汪榮寶 and Ye Lan 葉瀾, *Xin Erya* 新爾雅, 3rd ed. (Shanghai: Wenming shuju, Guangxu 32 [1906]), 12, 15. See also Wang Hongnian 王鴻年, *Xianfa falu yaoyi* 憲法法理要義 (Tokyo: Wang Tizhai, Meiji 35 [1902]), cap. V.5, fasc. xia 下, 21b, with nearly identical wording. For a Korean version with nearly identical wording, based on Hozumi as well, see Yu Ch’i-hyōng 俞致衡, *Hōnbōp* 憲法, ed. Han’gukhak Munhōn Yōn’guso 韓國學文獻研究所 (Seoul: Asea Munhwasa, 1981), 74–75.

- 71 Gugong Bowuyuan Ming-Qing dang'anbu 故宮博物院明清檔案部, ed., *Qingmo choubei lixian dang'an shiliao* 清末籌備立憲檔案史料, 2 vols. (Beijing: Zhonghua shuju, 1979), 1:567.
- 72 Wang and Ye, *Xin Erya*, 15.
- 73 Wang, *Xianfa falì yaoyi*, cap. V.5, fasc. xia 下, 21b-22a. See also Zhang Bolie's 張伯烈 (1872-1934) constitutional draft, which stressed that the privy council was only really important in Japan, and deemed the institution not to be needed in China. Zhang Bolie 張伯烈. *Jiading Zhongguo xianfa cao'an* 假定中國憲法草案 (Tokyo: Dokusō bessho, 1909), 54.
- 74 Duanfang 端方, *Duan Zhongmin gong zougao* 端忠敏公奏稿, 4 vols. ([Taipei]: Wenhai chubanshe, [1967]), 2:738-739.
- 75 *Ibid.*, 2:723.
- 76 *Ibid.*, 2:724.
- 77 *Ibid.*, 2:738.
- 78 "Jixianyuan guanzhi cao'an (xianlie shuotie jin bu she)" 集賢院官制草案 (先列說帖今不設), *Dongfang zazhi* 東方雜誌 3, linshi zengkan xianzheng chugang 臨時增刊憲政初綱 (Guangxu 32 [1906]): *Guanzhi cao'an* 官制草案, 53-56. See also Gugong Bowuyuan Ming-Qing dang'anbu, ed., *Qingmo choubei lixian dang'an shiliao*, 1:470 (mentioned within Yikuang's proposal for reorganization of the central government).
- 79 Bao Tingliang 保廷樑, *Daqing xianfa lun* 大清憲法論 (Tokyo: Shūkōsha, Xuantong 2 [1910]), 308-313.
- 80 Gao, *Qingmo lixian shi*, 421, writes that the ambitious Yikuang wanted to deliberately weaken the institution, for he was the natural choice for becoming prime minister and was not interested in a different deliberative organ undermining the position of the cabinet presided by him. This speculation is not backed up by the sources, as Yikuang's omission simply reflects the Japanese model.
- 81 "Jixianyuan guanzhi cao'an," 54.
- 82 *Ibid.*; Hucker, Charles, *A Dictionary of Official Titles in Imperial China* (Taipei: Southern Materials Center, Minguo 77 [1988]), 131.
- 83 On the "temple salary" system see Hou Tijian 侯體健, "Nan Song cilu guanzhi yu diyu shiren qunti: yi Fujian wei zhongxin de kaocha" 南宋祠祿官制與地域詩人羣體: 以福建為中心的考察, *Fudan xuebao (shehui kexue ban)* 復旦學報 (社會科學版), no. 3 (2015): 40-47.
- 84 Gugong Bowuyuan Ming-Qing dang'anbu, ed., *Qingmo choubei lixian dang'an shiliao*, vol. 1, 536.
- 85 Meng Sen 孟森, "Xianzheng pian" 憲政篇, *Dongfang zazhi* 東方雜誌 6, no. 7 (Xuantong 1 [1909]), *jizai* 1 記載一, 377 (Speaking about the Political Consultative Council, of which this function could however be taken over by the Privy Council).
- 86 *Ibid.*, 376-377.
- 87 Gugong Bowuyuan Ming-Qing dang'anbu, ed., *Qingmo choubei lixian dang'an shiliao*, 1:544-545.
- 88 *Ibid.*, 1:58-59.
- 89 *Ibid.*, 1:67.
- 90 Gao, *Qingmo lixian shi*, 421-422.
- 91 For the organic law see Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 143-144 and Gugong Bowuyuan Ming-Qing dang'anbu, ed., *Qingmo choubei lixian dang'an shiliao*, 1:567-571. For the detailed regulations, see *ibid.*, 1:580-584.
- 92 Gugong Bowuyuan Ming-Qing dang'anbu, ed., *Qingmo choubei lixian dang'an shiliao*, 1:584-586.
- 93 *Ibid.*, 1:584.
- 94 *Ibid.*, 1:588-590.

- 95 Kitaoni Saburō 北鬼三郎, *Daishin kenpōan* 大清憲法案 (Tokyo: Keisei shoin, Meiji 42 [1909]), 283–284 and 310–311 (Art. 51); Zhang, *Jiading Zhongguo xianfa cao'an*, 54 (Art. 65). On the third draft, which was noncommercial and is only extant in the First Historical Archives of China, see Cui Xuesen 崔學森, “Qingting zhixian yu Mingzhi Riben” 清廷制憲與明治日本 (Ph.D. diss., Peking University, 2015), 204–205.
- 96 Cao Rulin 曹汝霖, *Yi sheng zhi huiyi* 一生之回憶 (Beijing: Zhongguo dabaikē quan-shu chubanshe, 2009), 62.
- 97 Wang Rongbao 汪榮寶, *Wang Rongbao riji* 汪榮寶日記, eds. Han Ce 韓策, Cui Xuesen 崔學森, and Wang Xiaoqi 王曉秋 (Beijing: Zhonghua shuju, 2013). See also Cui, “Qingting zhixian yu Mingzhi Riben,” 140.
- 98 “Sheshuo: Shuo Bideyuan” 社說: 說弼德院, *Fazheng qianshuo bao* 法政淺說報, no. 5 (Xuantang 3 [1911]): 1–6 (see here p. 6 in particular).
- 99 Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 153–155; 156–159. Art. 10 of the Provisional Constitution, however, provided for an Administrative Court (*Pingzhengyuan* 平政院).
- 100 In Addition to the 15 early republican drafts, this number includes a position paper by the Kuomintang 國民黨, which contained detailed suggestions for a constitution, and a revision of the paper. Furthermore, it includes the only monarchic constitutional draft written in Yuan Shikai’s time. Sixteen of the seventeen republican documents are recorded in Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, except for the draft by Li Chao, for which see Li Chao 李超, “Huaqiao ni xianfa cao’an” 華僑擬憲法草案, *Xianfa xinwen* 憲法新聞 22 (Minguo 2 [1913]): (II) *xianshi* (乙) 憲史, no. 5: 1–14. For the monarchic draft by Ma Jifu 馬吉符 (1876–1919), see Ma Jifu 馬吉符, “Xianfa guanjian” 憲法管見, in *Huizu dianzang quanshu* 回族典藏全書, ed. Wu Haiying 吳海鷹, 235 vols. (Lanzhou, Yinchuan: Gansu wenhua chubanshe; Ningxia renmin chubanshe, 2008), 119:413–437. On the republican constitutional drafts, see Xia Xinhua 夏新華 and Liu E 劉鄂, “Minchu sini xiancao yanjiu” 民初私擬憲草研究, *Zhongwai faxue* 中外法學 19, no. 3 (2007): 318–338.
- 101 [Guomindang 國民黨], “Zhenghai xianchao: Guomindang xianfa zhuzhang quan’an” 政海憲潮: 國民黨憲法主張全案, *Xianfa xinwen* 憲法新聞, no. 13 (Minguo 2 [1913]): (II) *xianshi* (乙) 憲史, no. 3: 1–13. The relevant part is contained in pp. 7–8; the draft is continued in the next edition of the journal. See also Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 230–245, in particular pp. 232–233.
- 102 [Jinbudang 進步黨], “Xianfa ni’an huilu: Jinbudang xianfa taolunhui huiyuan ni xianfa cao’an” 憲法擬案彙錄: 進步黨憲法討論會會員擬憲法草案, *Xianfa xinwen* 憲法新聞, no. 18 (Minguo 2 [1913]): (II) *xianshi* (乙) 憲史, no. 5: 1–36. Also recorded in Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 251–264.
- 103 Several versions with varying commentaries circulated in the Republic. For a consolidated version, see Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 318–327.
- 104 Wang Dengyi 王登義, “Xianfa ni’an huilu: Wang Dengyi ni Zhonghua Minguo xianfa cao’an” 憲法擬案彙錄: 王登義擬中華民國憲法草案, *Xianfa xinwen* 憲法新聞, no. 19 (Minguo 2 [1913]): (II) *xianshi* (乙) 憲史, no. 5: 1–19. Also recorded in Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 354–362.
- 105 Li, “Huaqiao ni xianfa cao’an.” A commented version began to be published in Li Chao 李超, “Huaqiao Li Chao yuni Zhonghua Minguo xianfa cao’an” 華僑李超預擬中華民國憲法草案, *Jilin jingcha zazhi* 吉林警察雜誌 1, no. 1 (Minguo 2 [1913]): 1–20. This second version contains extensive commentaries, but only comprises articles 1–30 of the draft. The part on the Advisory Council never appeared.
- 106 “Guomindang xianfa zhuzhang quan’an,” (II) *xianshi* (乙) 憲史, 7–8; Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 232–233.
- 107 [Guomindang 國民黨], “Zhenghai xianchao: Guomindang xianfa taolunhui duiyu qi xianfa zhuzhang quan’an zhi xiuzheng” 政海憲潮: 國民黨憲法

- 討論會對於其憲法主張全案之修正, *Xianfa xinwen* 憲法新聞, no. 15 (Minguo 2 [1913]): (II) *xianshi* (乙) 憲史, no. 3: 1–5 (in particular p. 2); Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 246.
- 108 See Egas Moniz Bandeira, “China and the Globalisation of Constitutions: Constitutional Thought in the Qing Empire (1838–1911)” (Ph.D. diss.: Heidelberg University/Tohoku University, 2019), 463–482, in particular p. 476.
- 109 “Zhuanjian: Zhili Minzhuguo xianfa La Cnstitution [sic!] de Chile (1833 nian 5 yue 25 hao zhiding ju Tuoke M.C.W. tooke [sic!] 1899 nian chuban zhi yiben chongyi)” 專件: 智利民主國憲法 La Cnstitution de Chile (一千八百三十三年五月二十五號制定據託克 M.C.W. tooke 一千八百九十九年出版之譯本重譯), tr. Qian Zhixiu 錢智修, *Fazheng zazhi* 法政雜誌 2, no. 8 (1913): 157–183. The English intermediary is Charles Wesley Tooke, ed. *Political Constitution of the Republic of Chile: Promulgated May 25, 1833, with the Amendments down to May 1, 1899* (Urbana: Press of the Herald, 1899).
- 110 [Jinbudang], “Xianfa ni’an huilu: Jinbudang xianfa taolunhui huiyuan ni xianfa cao’an,” 27–28; Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 260–261.
- 111 [Jinbudang], “Xianfa ni’an huilu: Jinbudang xianfa taolunhui huiyuan ni xianfa cao’an,” 27–31; Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 260–262.
- 112 See the chapter “Duma, yuan, and beyond: Conceptualizing parliaments and parliamentarism in and after the Russian and Qing Empires, 1900s–1920s” in the present volume.
- 113 Ariga Nagao 有賀長雄, *Kokkagaku* 國家學 (Tokyo: Makino shobō, Meiji 22 [1889]), 257–271 (in particular pp. 261–266).
- 114 *Ibid.*, 271.
- 115 Matsui Naoyuki 松井直之, “Shinmatsu-Minsho-ki no Chūgoku ni okeru rikkenshugi no keiju: Ariga Nagao no Tennō-kikansetsu ni chakumokushite” 清末民初期の中国における立憲主義の継受: 有賀長雄の天皇機関説に着目して, in *Nitchū ni okeru Seiō rikkenshugi no keiju to henyō* 日中における西欧立憲主義の継受と変容, ed. Takahashi Kazuyuki 高橋和之 (Tokyo: Iwanami shoten, 2014), 93–122.
- 116 See *ibid.*, 115, and Akiyama Hisa 秋山ひさ, “Ariga Nagao no Chūgokukan” 有賀長雄の中国観, *Lotus: Nihon Fenorosa gakkai kikan shi* Lotus : 日本フェノロサ学会機関誌 14 (1994): 1–19.
- 117 “Guanyu yuefa huiyi zhi xin jishi: Youhe Changxiong zhi tiaochen” 關於約法會議之新紀事: 有賀長雄之條陳, *Shenbao* 申報, 9<sup>th</sup> April 1914: 3; “Gonghe guwenyuan zhi zuzhi shuo” 共和顧問院之組織說, *Shenbao* 申報, 11<sup>th</sup> April 1914: 3. See also Zhang Xueji 張學繼, “Youhe Changxiong, Gudenuo yu Minguo chunian xianzheng tizhi de yanbian” 有賀長雄、古德諾與民國初年憲政體制的演變, *Dang’an yu shixue* 檔案與史學 4, no. 4 (1997): 44–52, 50.
- 118 Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 471–476.
- 119 On Frank Goodnow and his role in China, see Xu Guoqi, *Chinese and Americans: A Shared History* (Cambridge, MA: Harvard University Press, 2014), 139–203; Noel Pugach, “Embarrassed Monarchist: Frank J. Goodnow and Constitutional Development in China, 1913–1915,” *Pacific Historical Review* 42, no. 4 (1973): 499–517; Patrick Fuliang Shan, *Yuan Shikai: A Reappraisal* (Vancouver: UBC Press, 2018), 212–213; Jedidiah Kroncke, “An Early Tragedy of Comparative Constitutionalism: Frank Goodnow and the Chinese Republic,” *Washington International Law Journal* 21, no. 3 (2012): 535–590.
- 120 The Chinese version is to be found in Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 390. The English original is from “China’s Constitution: Dr. Goodnow’s Draft with His Explanatory Note,” JHU Archives: Frank Johnson Goodnow Papers, box 25, as quoted in Xu, *Chinese and Americans*, 179.
- 121 Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 474.
- 122 *Ibid.*, 479–480.

- 123 [Jinbudang], “Xianfa ni’an huilu: Jinbudang xianfa taolunhui huiyuan ni xianfa cao’an,” 19–22; Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 257–259 (including long commentaries on the norm).
- 124 Frank Goodnow, “The Amended Provisional Constitution,” *Peking Daily News*, May 14, 1914: 5–6.
- 125 “Republican Advisory Council,” *Peking Daily News*, 24<sup>th</sup> February 1914: 4.
- 126 As summarized by the French Embassy in Peking, “M. A. R. Conty Ministre de France à Pékin à S. E. M. Doumergue Président du Conseil, Ministre des Affaires Étrangères,” report n° 214, 1<sup>st</sup> June 1914, Pékin Série A 227 bis, 42-V (Constitution), Archive du Ministère des Affaires Étrangères, Nantes.
- 127 See the standard interpretation in both Republican and People’s Republican China, given in Chen Ruxuan 陳茹玄, *Zengding Zhongguo xianfashi* 增訂中國憲法史 (Shanghai: Shijie shuju, Minguo 36 [1947]), 69–77. The text is reproduced in Xia et al., eds., *Jindai Zhongguo xianzheng licheng*, 476–479.
- 128 Gu Jian 孤劍 [“lonely sword”; pseudonym], *Bukesiyi zhi Canzhengyuan* 不可思議之參政院, *Huanghua xunbao* 黃華旬報, no. 2 (1914): 11–15. This sentence is to be found twice in pp. 14–15 and is attributed to Wang Kaiyun 王闔運 (styled Wang Renqiu 王壬秋, 1833–1916), a conservative scholar who was a member of the Political Participatory Council between 1914 and 1915, but critical of Yuan Shikai’s ambitions. On Wang and Yuan, see Stephen Platt, *The Hunanese and Modern China* (Cambridge, MA: Harvard University Press, 2007), 169–171.
- 129 Gu Jian, *Bukesiyi zhi Canzhengyuan*, 12.
- 130 *Ibid.*, 15.
- 131 Guojian 國鑑 [pseud.; “Mirror of the country”], “Shiwen linzhua: Guolaoyuan nanwang chengli” 時間麟爪：國老院難望成立, *Wanhang Zhoubao* 萬航周報 1 (1916), *zazu* 雜俎 27.
- 132 Sun Wen 孫文, *Guofu quanji* 國父全集, eds. Qin Xiaoyi 秦孝儀 and Guofu quanji bianji weiyuanhui 國父全集編輯委員會, 12 vols. (Taipei: Jindai Zhongguo chubanshe, Minguo 78 [1989]), 4:459.
- 133 It is noteworthy that the only extant monarchic constitutional draft written when Yuan Shikai tried to make himself Emperor did not contain a Privy Council. See Ma, “Xianfa guanjian.”
- 134 See George Ephraim Sokolsky, *The Tinder Box of Asia* (London: Allen & Unwin, 1933), 275.
- 135 For the National Political Participatory Assembly (*Guomin canzhenghui*) see Henrike Rudolph’s chapter in the present volume.

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## 6 *A rada* for the empire

### Inventing the tradition of Cossack self-governance during the 1905 Revolution<sup>1</sup>

*Oleksandr Polianichev*

#### Introduction

In September 1906, Petr Opochinin, the editor-in-chief of the newspaper *Kavkaz*, a semi-official media outlet of the Caucasus Viceroyalty, shared his thoughts on the significance of what he believed was the culmination of the revolutionary transformation experienced by the Russian Empire.

That was a great moment of the first encounter between the Russian people and the Russian Tsar after a long separation. They had been silently and lovingly looking into each other's eyes and, in the end, they understood one another, so that now their progressive union can be broken neither by a right-wing extremist [*chernosotenets*], nor by a stubborn and insane bureaucrat, nor by a frenzied Social Democrat, nor by a mad anarchist.<sup>2</sup>

The moment he referred to was the Tsar's October Manifesto of 1905, by which Nicholas II granted basic civil liberties to the population of the Russian Empire and announced the establishment of the imperial legislative body, the State Duma.<sup>3</sup> The metaphor of a "first encounter" in its own way captured the mood that was reigning all over the empire in the midst of the Revolution: people, with their demands and aspirations, became as visible for the regime as never before, they gained the right to speak out and a chance to be heard. Opochinin's metaphor, however, also implied that this new, more "progressive" form of political order could exist autonomously from the newly born sphere of mass politics, secured merely by the people's loyalty to the throne and the Emperor's patronizing love.<sup>4</sup> It goes without saying that the fanciful images of mutual love had little to do with the turbulent revolutionary reality of the day. Yet, the language that heralded the birth of the new bonds of intimacy between the Tsar and his subjects, exemplified by Opochinin's wording, in a very tangible way opened up an opportunity for new forms of popular engagement in the revolutionary reordering of intra-imperial relations.

Among the great diversity of the imperial population no other social category, according to the long-standing political mythology of the state, enjoyed such a close and direct patronage and benevolent care from the Tsar as the Cossacks,

with their image as pillars of the throne and the Orthodox faith firmly entrenched in the imperial imagination.<sup>5</sup> Whereas the first communities of Cossack freebooters appeared as early as the sixteenth century along such rivers as the Dnieper, Don, Terek, and Yaik, in the eighteenth century, the Cossack hosts refashioned themselves as military communities in the service of the empire, dependent on the Tsars' will. By the end of the Tsarist regime, 11 Cossack hosts populated the imperial fringes from the Black Sea steppes to the Pacific coast.<sup>6</sup> These late imperial Cossack communities shared almost no similarities with the original adventurers of the early modern era (part of them were created by the state from scratch, from people of different social backgrounds, to maintain the Tsarist rule in the empire's Asian possessions). Rather than being an archaic rudiment of a distant past, the late imperial Cossack estate was, to a considerable extent, a surprisingly modern phenomenon that owed much to imperial social creativity. In the early twentieth century, the authorities reinvented the Cossacks as guardians of the domestic order, fulfilling police functions to fight social unrest. In 1905–1906, Cossacks gained notorious fame as the nemeses of the Revolution. However, their actual experiences of the Revolution went far beyond the superficial image of suppressors of popular will.

One particular aspect of discussions about the ideas and practices of parliamentarism, representative democracy, or self-governance in the Russian Empire brought about by the Revolution of 1905–1906 is a tradition to consider them as essentially linked to the agenda of the liberationist movement or the tasks of the nationalist mobilization. The aim of this study is to challenge this vision by looking at how such ideas played out in an assertively conservative, imperial-loyal context. The article deals with a largely neglected and short-lived experiment in self-governance attempted by the Cossacks in the North Caucasus in 1906. It had as much to do with a revolutionary search for new possibilities of popular participation in political life as with a belief that this search was a return to primordial traditions that existed in the past.

Nowadays, the term *rada* is mostly known as the name of the modern-day Ukrainian parliament. It echoes the name of the representative political body that emerged in revolutionary Kyiv/Kiev in March 1917, *Tsentral'na Rada*, the Central Council. In turn, its name referred to a historical practice of general Cossack assemblies in the Zaporozhian Sich, one of the oldest and most remarkable early modern Cossack communities, which existed on the lower Dnieper River from the late sixteenth to the late eighteenth centuries.<sup>7</sup> For the newly emerged Ukrainian polity in 1917, the Zaporozhian Sich was a precedent of Ukrainian statehood, while the historical phenomenon of Cossack *rada* served as proof of an intrinsic propensity of Ukrainian people to democratic self-organization.<sup>8</sup>

The myth of historical continuity of Ukraine from the Zaporozhian Sich, however, has a major disruption. Disbanded in 1775, tens of thousands of the Zaporozhian Cossacks ended up in the territory that was at that time the southernmost borderland of the Russian Empire, the steppe lands to the north of the Caucasus mountains, bounded by the Kuban River to the south and the Sea of Azov and the Black Sea to the west. The territory, granted to the Cossacks by



Empress Catherine II “for eternal ownership,” turned into a large Ukrainian settler colony known as *Chernomoriia*, or the Land of the Black Sea Cossacks. In 1860, it was renamed to Kuban oblast (province; a type of administrative unit in the Russian Empire), which also included a part of the so-called Caucasus Fortified Line (or simply *Linia*), populated by largely Russian-speaking Cossacks. In the following years, as the government launched a large-scale colonization of the Caucasus highlands with the simultaneous expulsion of the native Adyghe/Circassian people to the Ottoman Empire, Kuban oblast expanded far into the mountainous area. This region, hitherto known as Circassia, came to be called *Zakuban’e*, literally – the land beyond the Kuban.<sup>9</sup>

At the turn of the twentieth century, the Kuban Cossack conservative elites, dissatisfied with dramatic transformations of the social, economic, and cultural life in the Kuban countryside, increasingly appealed to the mythologized image of the Zaporozhian Sich as a means to navigate uncertainties of the present and secure the Cossacks’ privileged status. In what was a classic example of an invented tradition, they relied on purported “Zaporozhian” legacies to advance their claims, and the Revolution of 1905 gave impetus to one such initiative.<sup>10</sup> More than ten years before the Rada emerged in Kyiv, another *rada* convoked in the administrative center of Kuban oblast, Ekaterinodar, in December 1906. It was the first and only assembly with such a name that existed not after but within the empire; not against, but thanks to it, sanctioned by the Emperor and spearheaded by local authorities. That is all the more striking given that the Rada of 1906 was itself a product of the Revolution, an extraordinary phenomenon inherently at odds with the imperial system of rule. Even more ironically, the Rada was a profoundly conservative initiative brought about by the State Duma debates on the role of the Cossacks in suppressing protests all across the empire. In essence, it was a local response to these debates – a forum convened to assert the Cossacks’ loyalty to the throne and their readiness to safeguard the monarchy from the revolutionary turmoil.

### **The Cossack land**

The revolutionary crisis that swept the Kuban region in 1905 did not affect Cossack *stanitsas* (settlements) as profoundly as urban centers with masses of non-Cossack laborers. Yet, local authorities were fearful to see the symptoms of a potentially much more dangerous phenomenon. The so-called agricultural movement – peasants’ grievances over land shortages, which spread across the Russian Empire – was seen as an imminent threat that was about to reach the Kuban countryside.<sup>11</sup> Indeed, in December 1905, one of the military units of the Kuban Cossack Host, the 2nd Urupskii regiment, joined the revolutionary movement by taking up arms against the command. In early January 1906, the head of Kuban oblast introduced martial law in the whole region. The official newspaper attributed it to “the first symptoms of the agrarian movement.”<sup>12</sup>

There were many social and political reasons for the Cossack insubordination. And yet the economic factor did serve as a fertile ground that made the growth of

the discontent among the Cossacks formerly unaccustomed to any sort of political action possible. One of the leaders of the mutiny, Aleksei Kurganov, recalled that the unfair distribution of lands in the mountain area of Transkubania was one of the reasons that prompted the whole regiment to rebel against its commanders. While Cossacks in the lowlands, wrote Kurganov, had 30 *desiatinas* of land (1 *desiatina* is equivalent to approximately 1.1 hectares), there were such stanitsas in Maikop district that did not even have three *desiatinas* at their disposal. Even worse, while rank-and-file Cossacks suffered from the lack of land, generals and officers possessed the best arable lands in the region. Kurganov demanded to enlarge land allotments and to take measures for relieving the plight of his fellow Cossacks.<sup>13</sup>

The crisis in Transkubania did not come as a surprise to the authorities or the public. Rather, it was a long-lasting effect of the poorly engineered governmental settler colonial project, the failure of which became evident soon after it began. The project, implemented in the early 1860s with an eye to consolidate the imperial grip over the new territorial acquisition, conquered after decades of protracted struggle against the Adyghe people, was also an attempt to showcase the Russians' colonizing potential and their ability to successfully adapt to any geographic circumstances. Visions of Cossack colonizers bringing civilization to the "savage" and "virgin" Caucasus valleys galvanized bureaucrats and members of educated public alike. However, much to their chagrin, the Cossacks proved unable to fit in the new environment, and their economies remained largely unsustainable for decades.<sup>14</sup>

The pressing calls for solving the land problem in Transkubania remained the most recurrent theme of local discussions on the pages of Kuban periodicals, both conservative and liberal. By the end of 1906, the Kuban Cossack elites resolved the issue in quite an inventive way. They saw the way for solving the land problem in what the Cossacks believed to have been the experience of their own past. The Kuban Host employed the Zaporozhian myth, as a way out of the revolutionary situation, to alleviate the land problem and to organize important segments of its life according to the principles of self-governance and representative democracy.

On December 1, 1906, a large Cossack assembly convened in Ekaterinodar to distribute the lands in possession of the Kuban Host among different Cossack communities in the most equitable way possible. A total of 506 delegates, all belonging to the Cossack estate and representing every Cossack settlement of the oblast, came together for a 16-day-long session.<sup>15</sup> Their task was to jointly, through detailed discussions, redraw the map of the Kuban Host's landholdings and to supply the most destitute communities with additional plots of land. The assembly adopted the name *rada*, which referred to the ancient tradition of Zaporozhian self-rule, when the Cossacks of the Sich convened general gatherings to tackle a wide variety of issues concerning political questions and their everyday life. Indeed, the Rada of 1906 became an unparalleled phenomenon in terms of its representative, egalitarian mechanisms and aspirations. Even more curious, however, was the fact the Rada owed its existence to a profoundly illiberal, conservative initiative launched by the semi-official regional newspaper *Kubanskie oblastnye*

*vedomosti* (hereinafter, KOV), being closely intertwined with and echoing events that took place at another, all-imperial assembly, first convened the same year – the State Duma.

### **Metropolitan Russia encounters the Cossacks**

The elections to this legislative organ, announced by the October Manifesto of 1905, in Kuban oblast were held in a rather calm manner, as opposed to heated competition in other, industrially developed and politically variegated, areas of the Russian Empire.<sup>16</sup> The population of Kuban, divided into two separate curiae – of the Cossacks and of the non-Cossack estates – voted for electors in their settlements, and the chosen representatives, in their turn, selected the deputies for the Duma among themselves in a ballot in Ekaterinodar. Three deputies, elected from the Cossack curia, Nikifor Kochevskii, Kondrat Bardizh, and Petr Grishai, had a considerable administrative experience of running economic and military affairs of their respective stanitsas (Dolzanskaia, Batalpashinskaia, and Zelenchukskaia) during their tenure as stanitsa atamans.<sup>17</sup>

All of them were rather liberal-minded and, eventually, during the Duma sessions, sided with the Constitutional Democrats, while Bardizh joined the party as its member. At the same time, the election of their candidatures went unopposed by the Cossack conservatives. An editorial of *KOV* characterized the deputies positively, listing everyone's merits as those of distinguished administrators. Even the lack of education, as was the case of Grishai, was touted as a virtue: although he could not express his thoughts "stylistically correctly," he did it in a clear and competent way.<sup>18</sup>

On the day of the deputies' departure for St. Petersburg, the Host organized the farewell at a high level, with a public prayer in the Ekaterinodar cathedral, attended by the Host's leadership. Both the authorities and the conservative supporters of the Cossack traditional values believed that the deputies would uphold the broadly defined, common interests of the Kuban Cossacks and, most likely, hoped that they would counterbalance the non-Cossack deputies with their explicit liberationist agenda.<sup>19</sup>

The actual political discussions that took place at the Tauride Palace, the seat of the State Duma, elucidated profound discrepancies among the Cossack representatives and made it clear that the notion of Cossack interests was far too meaningless to suggest any concrete program of legislative action. Deputies from the Duma's Cossack caucus, who had different political leanings and were elected from different hosts, failed to elaborate the common agenda and expressed opposing points of view on basic matters pertaining to Cossack life. One major discussion – and the only one in which the Kuban Cossack deputies took part – became a landmark moment for both the participants of the debates and the Kuban public that kept an eye on reports about sessions of the parliament.

On June 13, the Duma raised a question that was relevant to the Cossack hosts and to the population of the empire at large. Cossacks' notorious participation in dissolving mass rallies throughout the Russian Empire, from its core to its

most remote corners, and the police service that the Cossacks carried out in great variety of towns and cities, became the first – and frightening if not painful – encounter of the imperial metropole with the real, not mythologized Cossacks, and the Cossacks' role in fighting the Revolution naturally became a subject of the parliament's proceedings. The parliamentary hearings of the Duma's request to the War Minister, in which a special commission accused him of violating a range of laws and rules in view of the supposedly illegitimate mobilization of the Cossacks on police service, spectacularly turned into an emotional drama as soon as the Cossack representatives took the floor. The parliament, composed mostly of liberal-minded deputies who claimed to represent the people that were affected by the Cossack actions, became a stage for a performed court hearing.<sup>20</sup> It brought together two "warring sides": the representatives of those who beat the people appeared before the representatives of those who were beaten. Following the scenario of the political performance, the Cossack deputies were making excuses for the actions of their electors. For instance, one deputy from the Oblast of the Don Host depicted a truly apocalyptic vision of the Cossacks' role in the Revolution: "It was like a slaughter. It was as if the Tatars or other ancient enemies marched through Rus' with the whistle of whips [*nagaiki*], leaving behind nothing but tears, tears, tears!" Lavishly exaggerating Cossack brutality, most of the deputies at the same time put all the blame on the imperial government, the military authorities, and the arbitrary exercise of power in general. The same deputy assured the Duma that it was the "lawlessness" that "moved the Cossacks to Rus' and made them hated by it."<sup>21</sup> Another Don representative condemned the Tsarist military upbringing for turning the once free Cossacks into "living, artificially bestialized [*ozverennye*] machines."<sup>22</sup> Several deputies from other regions emphasized the fundamental and striking discrepancy between the myth of the Cossacks they had been taught about and the personally experienced reality. A deputy from Simbirsk *gubernia* (governorate; the main type of administrative division in the Russian Empire) expressed his disappointment that throughout his youth, from primary school to university, the figure of the Cossack epitomized for him "all the best and free that the Russian people had." This image, he bewailed, was endlessly distant from the actual Cossack behavior he had an unfortunate chance to observe.<sup>23</sup>

For a deputy from Kiev *gubernia*, the encounter with the Cossacks came as a shock that made him disenchanted with the image of Cossackdom altogether. He went as far as to speculate that the Cossacks stationed in his native region were not Cossacks at all as long as they shared no similarities with the brave Zaporozhian Cossacks he knew about from literature and Ukrainian folklore: "they do not look like Cossacks, they are something vague, not ours at all, because a Cossack is Little Russian [Ukrainian] by origin." After everyone gained first-hand knowledge of those Cossacks, the deputy rhetorically asked, "would [they] sing about the Cossacks all over Ukraine as before?"<sup>24</sup>

Naturally, the liberationist stance in this discussion was not the only one. A few deputies opposed the very idea of challenging the necessity of the Cossack mobilization. Their arguments ranged from the insistence on unquestioned subordination to the will of the Tsar and the government, whatever it might be, to the

more nuanced and tactical support for the Cossack participation in suppressing the Revolution as the justification of the Cossack existence as a privileged estate. As one deputy wondered, “if the Emperor did not need the Cossacks, then, I think, he would have dissolved them altogether.”<sup>25</sup>

Both groups claimed to act on behalf of the ordinary Cossacks and to be the real exponents of people’s opinion and aspirations. To substantiate their arguments, most of the deputies referred to letters at their disposal, handed to them by rank-and-file Cossacks before they departed for St. Petersburg, *nakazy* (“mandates”). These mandates, one of the most salient features of the emergent mass politics in the Russian Empire of 1905–1906, were demands to the Duma deputies on the part of their electors to act on their behalf and in their interests.<sup>26</sup> Whereas monarchists read aloud the letters, whose compilers expressed loyalist feelings and their unconditional readiness to obey orders and to fight with the rioters as long as necessary, liberationists demonstrated letters of complaint, whose authors lamented about unbearable hardships of mobilization. In his turn, Kochevskii, speaking in support of the request to the war minister, asserted that his fellow Kuban Cossacks had given him a mandate, in which they commissioned him “not to ask but to demand the immediate disbandment” of the Cossack regiments and battalions taking part in suppressing the popular protests.<sup>27</sup>

The discussion of the Cossacks’ role in the Revolution, which bore resemblance to an orchestrated, performative tribunal before an imperial-wide audience, provoked an angry reaction among the Kuban official circles and in the semi-official press. One author of *KOV*, condemning the speeches by Bardizh and Kochevskii, warned that the need to fight the Revolution was self-evident for all the Cossacks, because otherwise the Cossacks risked “to lose everything that our ancestors acquired with the help of arms and what we now possess.”<sup>28</sup> The implication was clear: the loyal service was the guarantee of the Cossack estate’s well-being, secured by the state. Another correspondent went as far as to invite stanitsas assemblies to pass resolutions denouncing the speeches by Bardizh and Kochevskii and even to exclude them from the Cossack estate.<sup>29</sup>

Moreover, the appeal to the voices of ordinary Cossacks, to the instruction they had ostensibly given to Kochevskii and his fellow deputies, the reference to a certain mandate, prompted a counter-initiative on the part of the Kuban conservatives. The official newspaper, denying that any sort of instructions had actually been given to the deputies, put forward the idea to elaborate a real mandate to the deputies, “so that they would not dare, in front of the whole Russia, to present their thoughts, opinions, and convictions as the thoughts, opinions, and convictions of all the Cossacks.”<sup>30</sup>

After Nicholas II, with his increasingly negative attitude toward the Duma, dissolved it in July 1906 and announced the elections to the second convocation of the parliament, *KOV* once again raised the question of the elaboration of the mandate for next cohort of Duma representatives. An anonymous author of a newspaper article outlined his view of how to proceed with this matter. To determine the principal needs of the Cossacks, he proposed to convene a common council, which would consist of five representatives from every settlement (three

from Cossacks and two from non-Cossacks), and of one high rank officer from every military unit on actual service or administrative institution of the Host.<sup>31</sup>

If conservatives proposed the idea of the mandate elaboration as a means to accuse Bardizh and Kochevskii of not having the right to speak on behalf of the Kuban Cossacks, liberationist press, too, adhered to the initiative, inverting at the same time its accusatory implication. Kirill Zhivilo, who responded with an article in the left-wing local newspaper *Svoboda*, argued that in view of the absence of any instruction that the deputies were to follow, they could not bear responsibility to the Host for the presumed breach of obligations. Instead, it was the Host's fault for not having entrusted the deputies with a precise mandate.<sup>32</sup>

Meanwhile, the initiative developed rapidly. In early September, *KOV* urged stanitsas not to defer with composing resolutions concerning the council.<sup>33</sup> Even before this call was published, the question of the council had already been discussed and well received at the grassroots level in at least one stanitsa. A resolution, passed by the assembly of stanitsa Blagoveshchenskaia, expressed its full support for the idea of the council. In the meantime, the planned convention received its own, remarkable title. It is not clear who and when decided to name it *rada*, but the name was already in use in early September 1906. Whereas the assembly used the word "council" (*sovet*), *KOV* used the word *rada* in the title of its article, referring to the Zaporozhian tradition of regular mass assemblies.<sup>34</sup>

At the same time, the initiative took a completely new turn. Instead of becoming a council for elaborating instruction for the future deputies, it turned into a consultative body, which was entrusted with the mission of solving the long-pending land question by means of more equitable reallocation of land to the benefit of the Cossack settlements in Transkubania.

### **The tradition restored**

In early November, the head of the oblast and the acting ataman (*nakaznoi ataman*; the leader of the host), Nikolai Mikhailov, proudly informed the Host that the Emperor approved the convocation of the Rada – the name that became official from that time on and was confirmed by the Emperor's signature. Mikhailov's order proclaimed: "Let the Cossacks come together to the general gatherings and select two representatives each, and the latter would come together into a single Cossack 'rada.'"<sup>35</sup>

That is how the Zaporozhian tradition, ostensibly restored, was utilized to serve as an ideological underpinning of the new organ. Although its declared task was narrow, the overtly revolutionary and subversive rhetoric easily found its way into the Rada's rostrum. The famous statistician Fedor Shcherbina, authorized as the spokesman of the Rada and subsequently elected as its chair for his expert knowledge of the local land situation, publicly expressed his gratitude to Mikhailov for the restoration of the ancient Cossack custom. His opening speech presented the Rada's convocation as the turning point in the history of the Kuban Cossacks, whose administrative organization from that moment on was supposed to go back to its Zaporozhian roots. Shcherbina denounced the imperial encroachment on the

rights and privileges of the Kuban Cossacks and decried the losses for the local economy caused by the imperial centralization:

The Cossack self-rule, land needs, economic issues, domestic life, in short – the whole ancient Cossack governance [*uriad*] was being changed, rebuilt, and abolished without any participation of stanitsas, of the working rank-and-file Cossacks and, as the impartial Cossack history states, not to our advantage.

A century of obscurity ended with the recreation of the Rada. “And now, after one hundred years,” said Shcherbina,

thanks to the care of our *Koshevoi Bat'ko* [father of the *Kish/Kosh*; an archaic, Zaporozhian term for the Cossack community], we are elected by all the Cossack population from the stanitsas, which have been in oblivion for over a century, to the Host's Rada in order to solve the single most important of our issues.

Addressing Mikhailov with the Zaporozhian title complemented the whole picture – not merely the Rada was restored, but the Zaporozhian chief stood in charge of it.<sup>36</sup> What is more, as Shcherbina told Mikhailov at another occasion, the ataman was “twice as *bat'ko* to the Kuban Cossacks – the *koshevoi bat'ko* of the Kuban Cossack Host and the *bat'ko* of the Host's Rada.”<sup>37</sup> It is not clear whether Shcherbina invented this “fatherly” Zaporozhian metaphor or just popularized it during this major event, but the metaphor firmly entered the official use.

Just as semi-officially, and at the same time in the same informal manner, Mikhailov was praised in even more flattering terms. At a deputies' dinner in Ekaterinodar's garden, an amateur Cossack poet from Eisk district performed a song in public, calling Mikhailov the *hetman* (the title used by heads of the Ukrainian Cossack polity) of the Black Sea Cossacks:

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Our Cossack <i>rada</i>	Kozats'kaia rada nasha
Used to convene for centuries;	Sbyralas' vikamy;
If Mikhailov were not here	Ne bulo b u nas Mykhailova
We would not have the <i>rada</i> .	Ne bulo b i rady.
You, Mikhailov, the ataman of ours	Ty, Mykhailov, otaman nash
The Hetman of the Kish	Koshovyi het'mane
Do not forget the Black Sea Cossacks	Ne zabud' zhe chornomortsiv
And their good fame.	I ikh dobroii slavy. <sup>43</sup>

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*The Cossack Rada*, a debut poem by Oleksandr/Aleksandr Piven', one of the most prolific local writers who authored a vast number of best-selling collections of humorous stories, folk tales, and poetry, published on the occasion of the assembly, repeatedly portrayed it as a restored tradition that was meant to bring harmony and prosperity to the lives of Black Sea, Line, and Transkubania Cossacks (a difference he consistently laid stress on). Piven' characterized the *rada* as a custom practiced by the Zaporozhian Cossacks, discontinued for a century and renewed again as soon as the right moment came:

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Many things [The Cossacks] were doing there At the host's <i>rada</i> Because they learned to follow That tradition Already in the Sich...	Vsiake dilo Tut robyly Na vois'kovii radi, Bo toi zvychai Shche u Sichi Navchylus' spravliaty...
One hundred years have passed After that And the tradition was gone Dead for an age! And only now It has returned to us again!	Sto lit proishlo, Yak te bulo, Ta zvychai mynuvsia... Na vik umer! Til'ke teper Znov do nas vernuvsia! <sup>44</sup>

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Piven' depicted the hundred years that passed after the dissolution of the Sich – that is, the whole historical experience of the Black Sea Host from its emergence and up to the Revolution – as a wasted time marked by nothing but miseries. It was only the Rada that put an end to the Cossacks' hardships:

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The Cossack has lived Not so much One hundred years in Kuban These years had nothing To be praised for Because they were bad	Prozhyv kozak Ne tak, ne siak Sto lit na Kubani; Nichym tikh lit Yomu khvalyt', Bo buly pohani!
This bad life Has passed The old tradition is back So for the <i>rada</i> For the meeting We, Cossacks, are being called	Mynulos' te Zhyttia plokhe, Vernuvs' staryi zvychai: Vzhe na radu, Na poradu Nas kozakiv klychut'. <sup>45</sup>

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In Piven's poem, the restoration of the Rada was not only the revival of the ancient custom – it rendered insignificant the last 100 years that separated the Cossacks from their ancestors, diminishing the temporal distance and bringing them closer to the bygone era of the Sich. Even such a gesture as Mikhailov's bow to the delegates, which evoked an image of Zaporozhian atamans' symbolic submission to the Cossacks' will, lumped together the present and the past:

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When at the Rada, He bowed down To the whole public It appeared again, It seemed That the olden times are close ...	Yak vin radi, Vsii hromadi, Poklonyvsia nyz'ko, Znov zdavalos' Pokazalos' Mov, staryna blyz'ko ... <sup>46</sup>
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The Zaporozhian rhetorics, engendered by the Rada and endorsed officially, was entrenched even in locales that had little connection with Chernomoria. A



resolution passed in early 1907 by the Cossack assembly of stanitsa Yaroslavskaia in Transkubania expressed gratitude to Mikhailov for his patronage over the Kuban Cossacks. Calling him “our Chieftain *Koshevoi Bat’ka*” (a Russian rendition of the Ukrainian title), the authors of the resolution thanked Mikhailov for the establishment of the *rada*, “which has almost been blurred out from our memory.”<sup>38</sup>

The invented character of the tradition did not go unnoticed. The historian Petr Korolenko authored an article for *KOV*, dedicated to the history of *rada* as a political practice. Recognizing its importance for both Zaporozhia and Ukraine, he pointed out that it lost its significance after Ukraine fell under the rule of Russia. The Black Sea Cossacks did not and could not know this practice in its original meaning. The Rada of 1906, Korolenko argued, resembled a sort of assembly that was indeed practiced in Chernomoria in the late eighteenth century, but its competence was limited to solving a rather narrow range of issues.<sup>39</sup>

At the same time, Korolenko celebrated the Rada in another article in a liberal newspaper, devoted to the history of the land of the Kuban Cossacks. In a similar vein to Shcherbina, he offered quite a critical reassessment of the imperial treatment of the Kuban Cossacks and their Zaporozhian ancestors, which contravened the officially established view of the benevolent autocracy and the unconditionally loyal Cossacks. Korolenko, hardly an overt and ardent Ukrainophile, gave a perspective that one could easily confuse with that of Ukrainian national activists. The land of the Cossacks was known as *Ukraine* (the term he italicized) already in the twelfth century, and its population, which he practically interchangeably called “Russes,” “Ukrainian Cossacks,” and “Ukrainians,” organized themselves as early as the thirteenth century to defend Ukraine from the nomadic tribes. The independent and heroic era of the Ukrainian Cossacks lasted, as the reader could conclude, for nearly half a millennium and came to a close due to the reforms initiated by Peter I. Just as he broke the state order of Russia, Peter “did not leave Zaporozhia in peace, too.” Zaporozhians, on whose land the Tsar began building fortresses and stationing garrisons, “finally lost their temper” (*etogo uzhe ne sterpeli*) and, during the war with Sweden, joined forces with Charles XII, who promised to restore their former rights and privileges – a voluntary and reasonable choice, which Korolenko did not call a treason.

The description of the Zaporozhian life in the mid-eighteenth century, after the reemergence of the Sich under the control of St. Petersburg, portrayed an almost idyllic picture of Zaporozhia, fully restored in its rights. Korolenko italicized the word *rada* throughout the text, attracting attention to the term that so remarkably entered into the local official discourse, referring to it as an example for the Kuban Host to follow, albeit a hardly achievable one:

The *rada* of the host managed all the host’s affairs. The Cossacks were complete masters and owners of their land. Newcomer settlers used land allotments on conditions of the Cossacks and were still considered subjects of the Zaporozhian Host, obliged to fulfill all the military and rural obligations.

Korolenko drew poorly covered analogies with the contemporaneous situation of the Kuban Host's most acute social problem – the presence in the region of hundreds of thousands of non-Cossack immigrants from the empire's internal provinces, *inogorodnie* (outlanders; literally, people from other towns), who, many Cossacks believed, challenged their right over the land. Besides, he emphasized that similarly to the ancient history of the Sich, the more recent history of the Kuban Cossacks demonstrated that the risk of losing the land still remained. It was the project to resettle the Black Sea Cossacks to Transkubania *en masse* in the early 1860s. The realization of the plan, he argued, did not materialize only because of the charter of Catherine II, by which she granted the Cossacks the land for “eternal ownership.” The powerful document, which the Black Sea Cossacks “put forward in front of themselves” for their protection, like a magical shield, defended the Cossacks from the imperial encroachments – the task that from that time on the pompous monument of Catherine II in Ekaterinodar with its bronze replica of the charter was designed to carry out.<sup>40</sup>

Korolenko's article was just one among the texts by local intellectuals, for whom the Rada became a good occasion to reflect upon the question of the Kuban and – more particularly – Black Sea Cossack land as the Zaporozhian legacy and Cossacks' rights on it as opposed to rights of the empire. Were the Black Sea/Kuban Cossacks the sole proprietors of the fertile lands, granted by Catherine II for eternal ownership? How inviolable was that right? How “eternal” was the “eternal ownership” in fact? The historian and cartographer Nikolai Ivanenkov responded rather negatively, stating that it was not once that the state violated the rights of the Cossacks to the land, bestowed by Catherine II, as was demonstrated by the resettlement projects of the 1860s.<sup>41</sup>

The Rada successfully completed its task. Several commissions that were formed to elaborate the project of land readjustment reached a mutually satisfactory agreement. The most important stipulation of it implied that largely impoverished and land-hungry settlements beyond the Kuban received 32,000 *desiatinas* of arable reserve land in former Chernomoria and 20,000 *desiatinas* of the land of similar quality in former Linia. In return, former Line and Black Sea Cossack *stanitsas* obtained forest areas in Transkubania. The successful outcome of the work of the commissions, which suited every negotiating side, caused a surge of overall satisfaction, conceptualized on the official level in terms of mutual solidarity and Cossack kinship. On the wave of enthusiasm, Rada members even determined to send a telegram to the Emperor that expressed the idea of the Cossack unity, achieved and perceived as a result of bargaining.<sup>42</sup>

## Mapping the Host

Ja-Jeong Koo attached great importance to the rhetoric of brotherhood, so manifested at the days of the Rada's closure. He argued that the convocation of the Rada was a moment of revolutionary significance in the process of fundamental transformation of the Kuban Cossacks' self-image, which asserted “the new

organic Cossack identity” and led to “the evolution from *soslovie* to *ethnos*,” accomplished during the time of the Revolution of 1917 and the Civil War.<sup>47</sup> I suggest looking at this rhetoric from a different angle. I argue that, instead of being a starting point of convergence of several previously dissociated “sub-hosts,” as Koo pointed out, the discussions of the land question waged at the Rada and local press were quite a radical departure from the official image of the uniform Kuban Host, established in the 1860s.

The deputies of the Rada divided themselves into several groups not along the lines of Kuban oblast’s administrative division but according to geographic and historical criteria. Thus, the deputies found themselves not as the representatives of Maikop district or Eisk district but as the spokesmen of Chernomoria, Old Linia, New Linia, and Transkubania. The reason for it were different regulations that determined the amount of land per capita, since each territory initially possessed different legal status and was demarcated separately.<sup>48</sup> The invocation of these four regions was a technical matter, deriving from the size of land plots. And yet, from the very outset, the regional division was interpreted in social and cultural terms. The Cossacks of New and Old Linia were referred to simply as the Line Cossacks, as contrasted to the Black Sea Cossacks and the Cossacks of Transkubania. At the opening session of the Rada, Mikhailov appealed to the Cossacks as if they constituted three different groups: “Black Sea, Line, and Transkubanians Cossacks, exchange here your thoughts on the raised issue, talk ardently, tell the truth to each other even if it is unpleasant.”<sup>49</sup>

At the concluding session of the Rada, the chair of the Black Sea Cossack representatives proudly asserted that “the black cat that had crossed the paths of the Black Sea, Line, and Transkubania Cossacks a long time ago, no longer exists,” referring to the same three groups. As he added, thanks to the Rada, the Kuban Cossacks became “united into a single fraternal family of the Host.” But the Kuban Cossack fraternity, itself, was meant to be a fraternity of these precisely three groups.<sup>50</sup>

The framing of agrarian discontent in socio-historical terms was not an exclusive peculiarity of discussions within the walls of the Rada. Polemics, unleashed on pages of the press in the previous months, too, readily employed these very same divisions in order to seek equitable distribution of land (for some) or to defend their land against encroachments (for others). Authors boasted venerable origin of their respective communities to support their claims and, consequently, denied the right of others to be treated on equal footing. Several authors from Chernomoria, for example, went as far as to call the Cossacks of Transkubania “rabble” on the ground that they had come from various places, had been artificially included into the Cossack estate, and in view of this did not possess the honorable genealogy of a sort of the Black Sea or Line Cossacks. As one correspondent put it, the Cossacks beyond the Kuban “had nothing in common with the past of the glorious Kuban [*sic!*] or Black Sea Cossacks.”<sup>51</sup>

In the same way, another correspondent from Transkubania (who happened to be his namesake) noted that stanitsas of the mountain territories were populated partially

by the Cossacks of the glorious Don Host, partially by soldiers of the glorious Caucasus army that conquered the Caucasus, and partially by Little Russians from Kharkov, Poltava and other gubernias, who were kindred to the Black Sea Cossacks.

At the same time, he continued, “if we speak about rabble, then, Zaporozhia, from which the glorious Black Sea Host emerged, was rabble as well.” In view of this, the correspondent asked, “how could it be that they are the native sons, and we are the stepsons?”<sup>52</sup> This kind of rhetoric was echoed during Rada’s sessions. As reported by one of its members, a certain representative of Black Sea Cossack stanitsas called the Cossacks from Transkubania “adoptees,” referring to their inferior and nonnative status within the Kuban Host’s family.<sup>53</sup>

These discussions, which preceded the Rada, and which continued with new vigor at its meetings, brought seemingly obsolete appellations back into the official discourse. Historical communities of Chernomoria and Linia reemerged again as subjects of legal practice, and it was particularly true for the Black Sea Cossacks. On the one hand, deputies representing the inhabitants of Black Sea Cossack stanitsas eagerly appealed to historical rights of Chernomoria on its own territory, this time defending it not from *inogorodnie* settlers, but from their fellow Kuban Cossacks of non-Black Sea Cossack origin. Even the author of the semi-official brochure about the Rada characterized Chernomoria, as it was represented at the Rada, as “the restored Zaporozhian Host, which settled on its own lands within definite borders and formed a completely separate region.” On the other hand, speakers from other stanitsas no less eagerly portrayed the Black Sea Cossacks as a miserly collective owner of spare land and reproached them for their unwillingness to share it with their needy brethren.<sup>54</sup>

The Black Sea Cossacks’ eventual generosity was rewarded at the last day of the Rada. In the Host’s cathedral, the priest Arsenii Belanovskii turned it into a triumph of the Zaporozhian symbolism.

How many years have passed since Hetman Sahaidachnyi, fearsome to enemies but always dear and close to the Cossack heart, put all his energies and his life for the benefit of “his native children and Ukraine [*svoikh ridnykh ditok i Ukrainu*]”? How can the memory of this “eagle of Zaporozhia” ever die in the Cossack’s heart? How can anyone, who loves his motherland, forget that this gatherer of the shattered Ukraine freed the shrines of the Orthodox faith from defilement, let the enslaved Dnieper breathe freely, and ... went into battle with people’s darkness and ignorance, taking care of the Cossacks’ enlightenment?

The God, proclaimed the priest, would disown the Cossacks who would forget their ancestors. “And now I will say with particular solemn joy – and I am saying it here, in the Holy of Holies, at the throne of God – that you, the Kuban–Black Sea Cossacks did not forget your heroic ancestors.” Belanovskii praised the Host

as not merely the descendant of the Zaporozhian forefathers, but as a collective reincarnation of the spirit of chief Zaporozhian leaders. Coming together at the Rada “under the mace of the Zaporozhian unanimity,” the Cossacks, he proudly asserted, “resurrected” the spirits of their Zaporozhian ancestors.<sup>55</sup>

### **The Tsar’s loyal Cossacks**

The Rada had almost nothing in common with the initial idea conceived by Kuban Cossack conservatives. The only reminiscence of the Rada’s original task—to assert the Cossacks’ loyalty to the crown—were Mikhailov’s words, expressed at the assembly’s closure ceremony, in which he encouraged the deputy audience to send delegates to the new Duma who “would not be ashamed of their Cossack rank and for their service, so important for the Tsar.”<sup>56</sup> The administration did not allow the Cossack delegates to discuss other issues of political relevance. Given the potential perils of the Rada’s turning into a platform for seditious proclamations, authorities ensured that it would remain aloof from any discussions concerned with politics. According to Shcherbina’s memoirs, Mikhailov warned him in private that discussions at the Rada should not touch upon political matters – a condition, imposed by the Emperor himself. Otherwise, Mikhailov assured, he would be obliged to dissolve the Rada immediately.<sup>57</sup>

Shcherbina recalled that the Rada had an occasion to make sure how thoroughly the administration monitored the implementation of the directive. One time, a certain Rada member raised the issue of the 2nd Urupskii regiment’s mutiny, proposing to send a delegation to Nicholas II to express loyalist feelings and beg pardon for the Kuban Host’s guilt. Mikhailov’s senior assistant, Mikhail Babych, prevented the discussion, which all but broke out. He pardoned the Rada for the first time but threatened to shut it down if it happened again.<sup>58</sup>

The issue of the mutiny, though, made its way into the Rada’s floor as Mikhailov spoke on it at the concluding session. Evoking the plotline of Nikolai Gogol’s *Taras Bulba*, the ataman resorted to the famous Zaporozhian fiction as an allegorical reference point for the explanation of what had happened. When Bulba learned about the treason of his own son, Mikhailov said, he did not allow anyone to punish the son. Instead, Bulba killed him himself. The Kuban Cossacks that suppressed the mutiny, Mikhailov continued, are the Bulbas of the nowadays.

The Kuban Cossacks are not guilty of any crime and they do not have to apologize for anything. Those, who are ashamed to be Cossacks or for whom being a Cossack is disadvantageous, then – good riddance, let them go out from the Host.<sup>59</sup>

Beyond the assembly’s hall, however, the issues of the mutiny and of the Rada’s convocation often blended into a single whole – a question of the collective guilt and collective loyalty. The author of the song at the delegates’ dinner sang that

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The Black Sea Cossacks are loyal fellows,  
So loyal are their stanitsas,  
Nowadays the Tsarina's charter  
Will prove it. [...]

Chornomortsii virni khloptsi,  
Virni ikh stanytsi,  
Shcho dokazhe v nashi vremena  
Hramota Tsarytsi . . .

Nicholas, our Tsar and Father,  
Tell us just a word,  
Hey, you, Black Sea Cossacks, –  
So we are all ready.<sup>60</sup>

Nikolaiu Tsar' nash Bat'ko,  
Skazhy odno slovo,  
Hei nu khloptsi, chernomortsii, –  
Tak my vsi i hotovi.

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In another song, written by an unknown Cossack from a stanitsa in Transkubania, this question went more articulated:

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Tsar, do not be angry with us  
Not all are guilty  
That among us showed up  
Damned betrayers.

Ne hnivaisia na nas Tsariu  
Ne vsi vynuvali,  
Shcho mizh namy ob'iavyls'  
Zradnyki prokliati.

Upon the whole Host  
They put a black stigma  
And covered with shame  
The honest name of the Kuban Cossacks.<sup>61</sup>

Na vse viisko p'iatno cherne  
Vony polozhyly  
I kubantsiv chesne imnia  
Soromom pokryly.

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## A Cossack parliament?

The local administration was present at the Rada in full composition: the senior and junior assistants of the acting ataman, the chief of staff, the district atamans, generals on active service and those retired, councilors of the provincial board, etc.<sup>62</sup> Such supervision kept the Rada's discussions under control, but at the same time it authorized its work, giving an appearance of full legitimacy to everything that was happening at its sessions. The assembly's meetings went smoothly and, with the single exception of the case mentioned above, did not cause any complaints from the part of the officials. It gave its members room for hope. The Rada's gathering was not conceived to be a one-time event. Its organizers, participants, and the local public envisaged that it would become a long-lasting institutional instrument of tackling the most urgent social, economic, and administrative issues of the day. This conviction was reflected in the mere fact that it was often referred to as "the first *rada*," either by its deputies or in the press.<sup>63</sup>

Even before the closure of the Rada, the press published a proposal on the agenda of the Rada's next convention. Its author suggested raising the issue of improving the system of medical care in the oblast (since only a few settlements were lucky to have a doctor).<sup>64</sup> In his opening speech, Shcherbina expressed his hope that "the present Host's Rada will not be an exceptional case, but a general rule for solving all the most important military and rural questions, affairs and undertakings."<sup>65</sup> Likewise, at the concluding session, he once again addressed to the ataman his belief that due to the restoration of the *rada* many other issues

would be solved in the future. He suggested improved education, fishery development, construction of channels and irrigation, the connection of the Kuban River with the Black Sea, building lines of communication, and land that had been taken over by officers being given back to the owners. To this end, he even proposed to build a special building (*khata*) for the next Rada's conventions.<sup>66</sup> The Rada's deputies, as a local newspaper reported, voiced unanimous support for making the Rada a regular institution in charge of Cossack needs.<sup>67</sup>

Mikhailov believed that the Rada would raise the prestige of the Host in the eyes of the government. In January 1907, he went to personally report about its results first to Tbilisi/Tiflis, where, according to his companion, the Viceroy of the Caucasus Illarion Vorontsov-Dashkov and the chief of staff of the Caucasus military district expressed their full satisfaction and support, and then to the Emperor. Pleased with the outcome of the assembly, Mikhailov presented to Nicholas II an album, containing photos of the Rada's delegates. The Emperor, as the press proudly noted, looked through the photos and even recognized some of them as former guards of his Convoy.<sup>68</sup>

The resolutions of the Rada were approved in the capital and acquired the force of law.<sup>69</sup> But the seeming personal bonds between part of the Rada and the Tsar, however, did not result in its institutionalization as a consultative regional body. Despite the hopes of some and the firm beliefs of others, no second *rada* ever convened again. According to some vague information published in the press, in early 1907, an uncertain number of Kuban Cossack representatives elaborated a mandate for the newly elected deputies to the Second Duma, where they outlined a vision of the Host possessing a broader autonomy and self-governance, as well as broader electoral rights that would enable the Cossacks to elect representatives to the "supreme Cossack representative institution, the Rada." A number of reports in liberal newspapers rejoiced at the Cossacks' sudden political "maturity," characterizing their demands as "unexpected liberalism" and even a "betrayal of loyalty" to the oppressive regime on the part of Cossack electors.<sup>70</sup>

Later that year, the question of the second *rada* was overshadowed by – and to a large extent conflated with – the issue of the introduction of zemstvo to the Cossack provinces of the Caucasus, contemplated by the administration in Tiflis.<sup>71</sup> To this end, the head of the oblast organized a meeting in Ekaterinodar in October, mostly composed of members of local officialdom. Participants of the meeting stressed the need to transform the local administration along the lines of self-governance but disagreed over the form of zemstvo concerning diverging interests of Cossacks and *inogorodnie*. To further elaborate the foundations of the zemstvo functioning, the meeting decided to convoke two separate *radas* at once – apart from a Cossack *rada*, a special *rada* of *inogorodnie* was supposed to convoke at the same time.<sup>72</sup> In November, Mikhailov went to Tiflis to present the viceroy a petition about the convocation of the second *rada*, but the further fate of the petition remains unclear. Various newspaper reports expressed divergent statements, claiming that the second Rada did not meet sympathies on the part of the Caucasus administration or, alternatively, the administration left the question of the *rada* open.<sup>73</sup>

Still, the October meeting in Ekaterinodar in 1907 was followed by a convention in the administrative center of Labinskii district, Armavir, in February 1908. The latter was particularly reminiscent of yet another *rada*, although on a smaller scale, uniting up to 200 participants that included heads of stanitsas and representatives of local intelligentsia. The delegates met to discuss questions concerning education, roads, medicine, the spread of agricultural knowledge, forestry, and the development of cooperatives, but all those issues remained in the background as the most heated and protracted discussions revolved around the issue of zemstvo, which turned out a veritable stumbling block for all the participants involved. The question was whether to include *inogorodnie* or to make it an exclusive Cossack institution. It was not resolved and postponed for the future.<sup>74</sup>

The question of the zemstvo remained unsolved and the idea of the second *rada* never became a reality. Apparently, the central authorities, who experienced recurring troubles even with the State Duma, did not dare approve of establishing a separate organ that was not envisaged by the state legislation, due to suspicions of its potential ambition. In subsequent years, some of the state officials implicitly accused the Rada of institutional separatism. In 1913, a member of the State Council, Count Fedor Uvarov, while talking with Cossack representatives in Vladikavkaz about the issue of zemstvo, denounced this idea on the ground that it would “very much resemble the former Cossack Rada and, in the end, it would be a state within the state.” Remarkably, the case of the Rada was not a subject of the discussion, but served as an obvious, well-known example of what the empire should avoid while dealing with its periphery.<sup>75</sup>

### **How was it possible?**

At first glance, the Rada’s aims, be it the elaboration of parliament deputies’ instruction, as it was initially conceived, or the redistribution of lands, as it happened to be in the end, were quite moderate in their ambitions. Indeed, the Cossacks’ aspiration to make the Rada into an institution that would run Kuban Cossack affairs on a regular basis, a complete “restoration” of the Zaporozhian administrative practice, was far too bold to come true. And yet even the occasional, one-time implementation of this ostensible Zaporozhian tradition to solve the problem of land shortage was a radical move in and of itself, fraught with unwelcome repercussions for the imperial administration. Allowing to convene a local mini parliament of a sort, the government set a precedent for the mechanism of popular participation in self-government. Even more strikingly, the government allowed the assembly to adopt a name with strong seditious connotations, which directly referred to the experience of autonomy and statehood that the Sich and Ukraine once had.

How did it happen? How did the Rada, instead of elaborating the mandate, acquire a completely new function? Although the flow of documentation that would allow answering this question in full measure is yet to be found, a detailed summary of the correspondence conducted by authorities at various levels, anonymously published in a local liberal periodical, reveals the major steps of the



decision-making process. Whereas the Duma speeches raised controversies over the issue of the Kuban Host's public representation at the parliament, the Host's administration took pains to settle the issue of land shortage. According to the Kuban Host's prospective solution made in April 1906, vast amounts of spare land, which still was in common possession of the Kuban Host, was to be distributed among Cossack settlements according to the geohistorical principle. The reserve land, located on the territory of former Chernomoria, was supposed to be divided among former Black Sea Cossack stanitsas only. Correspondingly, the reserve land of the former Line Host was supposed to be reallocated exclusively among stanitsas within the territory of the former Line Host. The Cossack settlements of the mountainous territories beyond the Kuban River, in particular the neediest ones, were to receive vacant forest areas, formerly owned by the state and passed into the Host's possession in 1889.

This project, which reflected the Host's adherence to the notion of historical rights of the former hosts over their respective lands, met with objections from the Main Administration of the Cossack Hosts (GUKV), which determined to meet the needs of mountainous stanitsas in fertile soil by providing them with steppe areas of the Black Sea and Line Cossack lands. Thus, the Cossacks of Transkubania had to receive their own shares of lands, once constituting Chernomoria and Linia. The Host, refusing to fully carry out the directive of its superiors, only agreed to make minor concessions and to exempt as little land as possible from the possession of the stanitsas of Chernomoria (calculated 10 desiatinas per soul). It was only the Military Council that resolved the discussion by acknowledging that neither local nor central officials had complete information about the land situation. On October 19, it decreed to grant the acting ataman the right to convoke a "land commission" (*zemleustroitel'naia komissiiia*), which would consist of two deputies from every settlement of the oblast, to resolve the situation on the grassroots level.<sup>76</sup>

The idea of the commission was not the invention of the Military Council but the result of Mikhailov's endeavor. It can be assumed that at some point in August or September the head of the oblast or someone from the Host's administration seized the initiative of convening the assembly to elaborate the mandate and adapted it for another task. It was with this idea in mind that Mikhailov went to Tiflis and, after that, to St. Petersburg to seek permission from his superiors. On September 29, he had a talk with Nicholas II over the issue of the council, and the latter, as the further fate of the initiative suggests, sanctioned the proposition.<sup>77</sup> The Rada's case progressed promptly and just twelve days after the Military Council decreed to convene the "commission," the Emperor approved the decree officially.<sup>78</sup>

Although it is not possible to trace in detail how the authorities in Tiflis and St. Petersburg addressed the case of the Rada, or who played the pivotal part in permitting the assembly, a semi-official anonymous account, most probably written by Shcherbina, testifies that when Mikhailov requested permission from the Viceroy, the latter expressed his moral support, but did not give his written approval, as he was not willing to assume responsibility for such a risky initiative. Instead, he suggested that Mikhailov seek the Emperor's permission.<sup>79</sup>

The viceroy's endorsement and his apparent personal part in the whole initiative should not be underestimated, for the very idea of the Rada and the principles it was based on well corresponded to the model of rule he adopted during his tenure. Count Illarion Vorontsov-Dashkov's mission as the head of the Caucasus Viceroyalty, established in early 1905, was to ameliorate social and ethnic tensions that plagued the imperial order in South Caucasia. In striking contrast to the manner of rule practiced by his predecessors and provincial governors elsewhere in the empire, his patterns of governance turned out to be surprisingly liberal-looking and ran counter to the conservative ideologies of the regime.<sup>80</sup> Vorontsov-Dashkov's liberalism, however limited and moderate it was, was a major departure from the previous policy of steadfast Russification and implied considerable toleration of the local cultural diversity and, moreover, the encouragement of the local population's initiative. In his manifesto to the population of the Caucasus, which declared the principles of the viceroy's rule for the prospective years, Vorontsov-Dashkov announced his intention to rely on all public forces and, so as to learn more about the needs and aspirations of the local inhabitants, to convoke assemblies of representatives elected from social groups, including nobility, townsfolk, rural communities, and clergymen. Coming together, as the viceroy expected, they would be able to speak out about the most urgent measures they wished him to implement.<sup>81</sup>

The mechanism of consultative assemblies composed of people's representatives to solve pressing social and political problems that state functionaries felt unable to solve on their own was first tested in February 1906. The so-called Armenian-Tatar (Azeri) convention was an attempt by Vorontsov-Dashkov to put an end to the most dramatic conflict in the South Caucasus – massacres between Armenian and Muslim populations sparked during the Revolution – by bringing together representatives of warring parties who would address the issues that ignited the conflict.<sup>82</sup> As *Kavkaz* characterized the convention, it was the first time when the “principle of popular representation” was used in the Caucasus on a broad scale, unseen anywhere else in the empire. The “implementation of this principle in practice,” the newspaper declared, was “the main task of our time. One cannot solve pertinent matters of people's life without letting the people speak out, without listening to them.”<sup>83</sup>

The overall political enthusiasm throughout the Russian Empire, the emergence of political parties, the electoral process to the State Duma, and the proclamation of civil liberties made the notion of popular representation – and along with it the ideas of autonomism and federalism – the catchwords of the time, especially in the Caucasus.<sup>84</sup> Discussions about Georgian autonomy became a recurrent feature of local intellectual life, with speeches and roundtables on this topic gathering hundreds of listeners.<sup>85</sup> *Kavkaz*, where reports on these activities were actively published, saw the Armenian-Muslim convention as the model for a possible Georgian assembly drawn from the members of all social groups that would discuss and decide on the nature and extent of Georgian autonomy.<sup>86</sup> Others insisted on the necessity to organize a special Caucasus council, or a *seim*, composed of deputies from all over the Caucasus, functioning as the

parliament of the viceroyalty with legislative competence in matters of local significance.<sup>87</sup>

The Ukrainian public sphere was also swept by the same spirit. Urges to convoke “our own free *rada*” that would rule the Ukrainians of all classes and estates, permeated the pages of leading periodicals during the Revolution.<sup>88</sup> Yet it was Ekaterinodar, not Kiev/Kyiv, where an assembly called Rada opened its sessions in 1906. At the time of its convocation, commentators rightfully noticed that whereas no conventions of representatives of this kind were allowed throughout the empire, especially concerning such acute issues as the land question, Kuban oblast, despite being under martial law, presented a striking exception.<sup>89</sup> Fedor Shcherbina claimed credit for the eventual approval of the Rada. In his memoirs, he expressed his confidence that the Emperor was driven by his knowledge of the history of Zaporozhia. Shcherbina assured that Nicholas II had learned about the great “historical significance” of *rada* as early as his childhood from the book, written and presented to him by Shcherbina in 1888, during his and Alexander’s III visit to Ekaterinodar. But if this testimony reveals us much about the intentions behind the welcoming ceremony of Alexander III, it hardly can be taken for granted with regard to the events that took place 18 years later.<sup>90</sup>

Whether or not any historical knowledge guided the Tsar and the Military Council, they were doubtlessly guided by purely pragmatic reason – to improve the economic plight of the Cossacks, to relieve real or impeding social tensions that might have been caused by land shortage, and to prevent possible acts of disobedience of Cossack military units. The government, thus, forestalled the Revolution by making a modest, but highly significant revolutionary step toward the needs of the Cossack population. Naturally, it hardly could be possible elsewhere in the empire, while the Kuban region was seen as loyal enough to venture into such a risky experiment. As a result, the imperial government appreciated the Rada’s achievements in the issue of land demarcation. What is more, it allowed the Don Cossacks to solve their respective land question collectively, with the help of the same procedure. In Don, a “Host consultative assembly” convened in 1909 (although Nicholas II permitted its convocation as early as March 1907). As in the Kuban region, its participants and the local public styled it as the restoration of an old tradition, the *krug* (“circle”). In contrast to the Rada, however, it did not adopt the “historical” name officially, and the usage of the word “Krug” was rather limited to the unofficial sphere.<sup>91</sup>

The idea of the *rada* made a spectacular “return” after the Russian Empire ceased to exist, in the wake of the February Revolution of 1917, this time as a revolutionary government of the Kuban region. The recent experience of 1906 offered a ready-to-use template during a new crisis – and a well-remembered name to adopt. Even though debates followed among Black Sea and Line Cossack delegates as to whether the new organ should be called according to a Zaporozhian tradition, or in line with the old Don practice, the *krug*, the *rada* was the choice most of the Cossacks opted for.<sup>92</sup> In so doing, an invented tradition of 1906, the *rada*, served as an already established tradition to rely on for the Rada of 1917.

## Conclusion

Just as it was throughout the empire, the Revolution of 1905–1906 was a major turning point in social, political, and cultural developments in the Kuban region. One of the Cossacks' responses to the Revolution was the establishment of the Rada, conceived as an autonomous, quasi-parliamentary organ for running the local affairs. The initiators of the Rada designed it as a restoration of the ancient Zaporozhian custom. In the end, reference to the experience of the past made the convention of the Rada possible, but only as a one-off event. The Rada's task was to redistribute the spare lands of the Host. Yet, additionally, discussions at its sessions brought to the fore the collateral question of the enduring disunion of the Kuban historical territories. In a sense, the Rada objectified the ideas of Chernomoria and Linia and rendered the division between them fixed, tangible, and possible to be spoken about publicly. The idea of Chernomoria with all its cultural linkages to the "metropole" Ukraine and its Zaporozhian pride, which officially ceased to exist in 1860, came to the fore as a given reality.

## Notes

- 1 This chapter was made possible thanks to the financial support of the Canadian Institute for Ukrainian Studies (the Petro Czornyj Memorial Endowment Fund). The author is grateful to the participants of the workshop at Heidelberg University "Eurasian Parliamentary Practices and Political Mythologies: Imperial Legacies, Diversities, and Representations in the 20th and 21st Century" (June 17–18, 2019), as well as to Alexander Semyonov and Mark Bassin for their valuable comments and suggestions.
- 2 Goresmekhov [P. Opochinin], "S beregov Nevy," *Kavkaz*, September 3, 1906, 2.
- 3 Abraham Ascher, *The Revolution of 1905: Russia in Disarray* (Stanford, CA: Stanford University Press, 1988); Ascher, *The Revolution of 1905: Authority Restored* (Stanford, CA: Stanford University Press, 1992); Ascher, *The Revolution of 1905: A Short History* (Stanford, CA: Stanford University Press, 2004).
- 4 On the application of a similar trope of the encounter between the government and the people with regard to the 1861 Peasant Emancipation, see Mikhail Dolbilov, "Russification and the Bureaucratic Mind in the Russian Empire's Northwestern Region in the 1860s," *Kritika: Explorations in Russian and Eurasian History* 5, no. 2 (2004): 246–247; Dolbilov, "Russian Nationalism and the Nineteenth-Century Policy of Russification in the Russian Empire's Western Region," in *Imperiology: From Empirical Knowledge to Discussing the Russian Empire*, ed. Kimitaka Matsuzato (Sapporo: Slavic Research Center, 2007), 145–46. On the "scenario of love," see Richard S. Wortman, "Nicholas II and the Revolution of 1905," in *Russian Monarchy: Representation and Rule* (Boston, MA: Academic Studies Press, 2013), 199–218; Wortman, *Scenarios of Power: From Alexander II to the Abdication of Nicholas II*, vol. 2 (Princeton, NJ: Princeton University Press, 1995); Boris Kolonitskii, "*Tragicheskaiia erotika*": *obrazy imperatorskoi sem'i v gody pervoi mirovoi voiny* (Moscow: Novoe literaturnoe obozrenie, 2010). See also Andrew M. Verner, *The Crisis of Russian Autocracy: Nicholas II and the 1905 Revolution* (Princeton, NJ: Princeton University Press, 1990).
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- Plokyh, *The Cossack Myth: History and Nationhood in the Age of Empires* (New York: Cambridge University Press, 2012); Tomasz Hen-Konarski, "Cossacks and Gauchos: Myths of Masculinity in the Political Struggles of the River Plate and Ukraine, 1830s through 1840s" (Ph.D. diss., Florence: European University Institute, 2017).
- 6 Brian J. Boeck, *Imperial Boundaries: Cossack Communities and Empire-Building in the Age of Peter the Great* (Leiden: Cambridge University Press, 2009); Thomas M. Barrett, *At the Edge of Empire: The Terek Cossacks and the North Caucasus Frontier, 1700–1860* (Boulder, CO: Westview Press, 1999); Shane O'Rourke, *Warriors and Peasants: The Don Cossacks in Late Imperial Russia* (New York: St. Martin's Press, 2000); O'Rourke, "From Region to Nation: The Don Cossacks 1870–1920," in *Russian Empire: Space, People, Power, 1700–1930*, ed. Jane Burbank, Mark von Hagen, and A. V. Remnev (Bloomington, IN: Indiana University Press, 2007); Andriy Posunko, "The Ambiguities of Cossackdom: The Case of the Pontic Steppe, 1775–1830s" (Ph.D. diss., Budapest: Central European University, 2018).
  - 7 On the Zaporozhian Cossacks, see Serhii Plokyh, *The Cossacks and Religion in Early Modern Ukraine* (Oxford: Oxford University Press, 2001).
  - 8 O. W. Gerus, "Manifestations of the Cossack Idea in Modern Ukrainian History: The Cossack Legacy and Its Impact," *Ukrains'kyi istoryk* 1–2 (1986): 22–39; Frank Sysyn, "The Reemergence of the Ukrainian Nation and Cossack Mythology," *Social Research* 58, no. 4 (1991): 845–864; Plokyh, *The Cossack Myth*.
  - 9 For the sake of convenience, I romanize these names as Chernomorria, Liniia, and Transkubania.
  - 10 Oleksandr Polianichev, "Rediscovering Zaporozhians: Memory, Loyalties, and Politics in Late Imperial Kuban, 1880–1914" (Ph.D. diss., Florence: European University Institute, 2017); Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983).
  - 11 Ja-Jeong Koo, "Universalizing Cossack Particularism: 'The Cossack Revolution' in Early Twentieth-Century Kuban'," *Revolutionary Russia* 25, no. 1 (2012): 1–29. For further discussion about the agricultural movement, see Burton Richard Miller, *Rural Unrest during the First Russian Revolution Kursk Province, 1905–1906* (Budapest: Central European University Press, 2013). As David Darrow has argued, the crisis, inextricably linked to peasants' assumptions about the amount of land sufficient to maintain households, was rooted in the very category of the land allotment, elaborated for fiscal purposes in the pre-Emancipation era. See David W. Darrow, *Tsardom of Sufficiency, Empire of Norms: Statistics, Land Allotments, and Agrarian Reform in Russia, 1700–1921* (Montreal, QC: McGill-Queen's University Press, 2018).
  - 12 "Letopis' oblastnoi zhizni," *Kubanskii oblastnye vedomosti* [hereinafter, *KOV*], January 10, 1906, 1; "Prikaz po Kubanskoi oblasti № 3 ot 20 yanvaria 1906 g.," *KOV*, January 24, 1906, 1.
  - 13 *Revoliutsionnoe dvizhenie na Kubani v 1905–1907 gg.* (Krasnodar: Krasnodarskoe knizhnoe izdatel'stvo, 1956), 212. See also I. F. Muzhev, *Kazachestvo Dona, Kubana i Tereka v Revoliutsii 1905–1907 gg.* (Orzhonikidze: Severo-osetinskoe knizhnoe izdatel'stvo, 1963).
  - 14 Oleksandr Polianichev, "Fruits of Colonization: Cossack Settlers in the Western Caucasus, 1861–1870," *CAS Sofia Working Paper Series* 11 (2019): 1–42.
  - 15 *Voiskovaia rada* (Ekaterinodar: Tipografiia "Osnova," 1907), 3.
  - 16 On the electoral process, see Terence Emmons, *The Formation of Political Parties and the First National Elections in Russia* (Cambridge, MA: Harvard University Press, 1983).
  - 17 M. M. Boiovich, ed., *Chleny Gosudarstvennoi Dumy (Portrety i biografii). Pervyi sozyv. 1906–1911* (Moscow: Tipografiia Sytina, 1906), 457–462.
  - 18 "Chleny Gosudarstvennoi Dumy ot kazach'ego naseleniia Kubanskoi oblasti," *KOV*, June 1, 1906, 2.

- 19 “Provody deputatov v Gosudarstvennuiu Dumu,” *Kuban*, June 9, 1906, 3.
- 20 On the State Duma, see Alexander Semyonov, “‘The Real and Live Ethnographic Map of Russia’: The Russian Empire in the Mirror of the State Duma,” in *Empire Speaks Out: Languages of Rationalization and Self-Description in the Russian Empire*, eds. Ilya Gerasimov, Jan Kusber and Alexander Semyonov (Leiden: Brill, 2009), 191–228; Rustem Tsinchuk, “Peoples, Regions, and Electoral Politics: The State Dumas and the Constitution of New National Elites,” in *Russian Empire: Space, People, Power*, 366–97.
- 21 Gosudarstvennaia Duma, *Stenograficheskie otchety. 1906 g.*, vol. 2 (St. Petersburg: Gosudarstvennaia tipografiia, 1906), 1309.
- 22 *Ibid.*, 1312.
- 23 *Ibid.*, 1332.
- 24 *Ibid.*, 1321–1322.
- 25 *Ibid.*, 1319.
- 26 O. G. Bukhovets, “The Political Consciousness of the Russian Peasantry in the Revolution of 1905–1907: Sources, Methods, and Some Results,” *The Russian Review* 47, no. 4 (1988): 357–374; L. T. Senchakova, ed., *Prigovory i nakazy krest’ian Tsentral’noi Rossii 1905–1907 gg. Sbornik dokumentov* (Moscow: Editorial URSS, 2000).
- 27 *Gosudarstvennaia Duma*, 1330.
- 28 Stanichnik, “Neskol’ko slov po povodu rechei Bardizha i Kochevskogo, proiznesennykh imi 13 iunია s. g. v Gosudarstvennoi Dume,” *KOV*, September 21, 1906, 2.
- 29 Kubanskii kazak, “Vnimaniiu vseh istykh kazakov kubantsev,” *KOV*, September 7, 1906, 2. See also S. Yu. Kiriushin and D. V. Sen’, “‘Svoi sredi chuzhikh, chuzhoi sredi svoikh’: Sud’ba belogo komissara K. L. Bardizha,” *Gumanitarnaiia mysl’ Yuga Rossii* 1 (2005): 143–162.
- 30 “K rospusku Gosudarstvennoi Dumy,” *KOV*, July 13, 1906, 2.
- 31 P. Bash., “On the mandate for the Cossack deputies,” *KOV*, August 18, 1906, 1.
- 32 K. Zhivilo, “Kubanskomu kazaku,” *Svoboda*, September 26, 1906, 4.
- 33 Kubanskii kazak, “On the resolutions concerning the council,” *KOV*, September 6, 1906, 1.
- 34 “K voprosu o ‘voiskovoi rade’,” *KOV*, September 2, 1906, 1.
- 35 N. I. Mikhailov, “Prikaz po Kubanskomu kazach’emu voisku ot 4 noiabria 1906 goda №653,” *KOV*, November 5, 1906, 1.
- 36 “Kazach’ia rada,” *KOV*, December 3, 1906, 1.
- 37 “Zakrytie kazach’ei rady,” *KOV*, December 20, 1906, 2.
- 38 “Resolution of stanitsa Yaroslavskaia,” *KOV*, March 15, 1907, 1.
- 39 P. Korolenko, “Rada,” *KOV*, December 9, 1906, 2.
- 40 P. Korolenko, “Kazaki i ikh zemlia,” *Novaia zaria*, December 9, 1906, 2; December 10, 1906, 2–3. On the resettlement project and its consequences, see Polianichev, “Rediscovering Zaporozhians,” 62–76. On the monument to Catherine II in Ekaterinodar, see Aleksandr Polianichev, “Ekaterina II kak kazach’ia mat’: Pamiatnik imperatritse v Ekaterinodare i zaporozhskii mif Kubani,” in *400-letie doma Romanovykh: politika pamiati i monarkhicheskaiia ideia. 1613–2013*, eds. V. Lapin and Yu. Safronova (St. Petersburg: Izdatel’stvo Evropeiskogo universiteta v Sankt-Peterburge, 2016), 132–163.
- 41 N. Ivanenkov, “Prava na zemli Kubanskikh kazakov,” *KOV*, January 5, 1906, 2.
- 42 “Kazach’ia rada,” *KOV*, December 9, 1906, 1.
- 43 *KOV*, December 10, 1906, 2.
- 44 [Oleksandr Piven’], “*Kozacha rada*”. *Poema na ukrains’kii movi iz pobytu kozakiv Kubans’koho viis’ka* (Umanskaia: Tipografiia M. F. Bykova, 1907), 33.
- 45 *Ibid.*, 33–4. Piven’s poem was criticized by contemporaries for its lavish praise on the Rada’s achievements. A Ukrainian newspaper reproached him for depicting Kuban as

- an “earthly paradise” thanks to the activity of some “fantastical ‘Cossack rada.’” See Ye. Vinchenko, “Bibliohrafiia” [Bibliography], *Rada*, February 6, 1908, 4.
- 46 Piven’, “*Kozacha rada*,” 38.
- 47 Ja-Jeong Koo, “Universalizing Cossack Particularism: ‘The Cossack Revolution’ in Early Twentieth Century Kuban’,” *Revolutionary Russia* 25, no. 1 (2012): 20.
- 48 “Proizvodstvo mezhevykh rabot v Kubanskoi oblasti,” *KOV*, May 22, 1882, 1–2.
- 49 “Kazach’ia rada,” *KOV*, December 3, 1906, 1.
- 50 “Kazach’ia rada,” *KOV*, December 9, 1906, 1.
- 51 Kos’ma Shevyrev, “Neskol’ko slov pravdy ‘po voprosu o pozemel’nom ustroistve v Kubanskoi oblasti,’” *KOV*, September 1, 1906, 1–2.
- 52 Vasilii Shevyrev, “Korrespondentsiia. St. Dagestanskaia,” *KOV*, July 9, 1906, 2.
- 53 Chlen voiskovoi rady, “Po povodu utverzhdeniia postanovleniia pervoi voiskovoi rady o zemel’nom voprose,” *KOV*, March 14, 1907, 2.
- 54 *Voiskovaia rada*, 9–10.
- 55 “Zakrytie kazach’ei rady,” 2.
- 56 “Zasedaniia Kazach’ei Rady zakonchilis’,” *Novaia zaria*, December 21, 1906, 2.
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- 62 *Voiskovaia rada*, 4.
- 63 Chlen pervoi rady, “K predstoiashchim vyboram v Gosudarstvennuiu Dumu,” *KOV*, December 29, 1906, 1; Kasinenko, “Pisnia zakubantsia,” 2.
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- 67 “Zasedaniia Kazach’ei Rady zakonchilis’,” 2.
- 68 “Deputatsiia u Nachal’nika oblasti,” *KOV*, December 29, 1906, 1; “Letopis’ oblastnoi zhizni,” *KOV*, January 13, 1907, 1; D. K. Mikhailopulo, “Kazach’ia rada,” *KOV*, January 23, 1907, 1; *KOV*, February 20, 1907, 2.
- 69 *Polnoe sobranie zakonov Rossiiskoi imperii* 3, 28887.
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- 72 Kazak-roditel’, “Kazakam negde učit’ detei,” *KOV*, September 23, 1907, 2; Sotnik M. A. Karaulov 2-i, “Soveshchanie o zemstve na Kubani,” *KOV*, November 7, 1907, 2; “Z Kubani. Zavedennia zemstvo,” *Rada*, December 15, 1907, 3; “O zemstve u Kubantsev i Tertsev,” in *Severokavkazskii al’manakh*, ed. B. M. Gorodetskii (Ekaterinodar: Tipografiia “Osnova,” 1908): 243–47.
- 73 “Letopis’ oblastnoi zhizni,” *KOV*, November 28, 1907, 1; “Z Kubani. Zavedennia zemstva.”
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# 7 Ottoman parliamentary procedure in the Chamber of Deputies (*Meclis-i Mebusan*) and the Great National Assembly of Turkey (*Türkiye Büyük Millet Meclisi*), 1876–1923

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## Introduction

Sometime in the late 1980s, my mother and I were visiting a Turkish family in western Turkey. We were sitting with several women and small children in the living room, where, as was the custom, the TV was on, showing a parliamentary debate. Nobody was paying attention to the TV, until suddenly a fistfight involving at least a dozen deputies broke out on screen. Twice as many deputies rushed over, trying to separate the fighting ones. The women in the living room reacted with mildly amused disapproval: “Look what kind of deputies we have! This is what they call democracy and civilization! Don’t they know that foreigners are watching?!”

To this day, it is not uncommon for such brawls to break out in the Turkish National Assembly, as well as in many other (but, interestingly, not all) parliaments around the world.<sup>1</sup> Parliamentarians, like all other people, sometimes do not follow their own rules, the internal regulations (Turkish: *içtüzük*, Ottoman Turkish: *nizamname-i dahiliyesi*), which, across the globe, ban the use of physical violence in the house. Such rule-breaking by deputies, however, is of specific delicacy, as parliaments not only *have* laws, but also *make* them. To put it differently: internal regulations are laws that prescribe how laws ought to be made. Nonobservance or bending of internal rules (such as election fraud, manipulation of votes, threats or violence against political adversaries, nonobservance of quota rules) may happen in the very process of passing legislation, and may therefore jeopardize either the legitimacy of the laws enacted by such illegal means or, even worse, that of the parliamentary system as such.

From a historian’s point of view, internal regulations and their more or less faithful observance by deputies can be instructive for a better understanding of parliamentary systems and their change over time. To check regulations against their application means to study the relationship between parliaments and the other institutions in constitutional regimes. This is what the present chapter aims to do for the parliamentary experience of the late Ottoman Empire during its First

(1876–1878) and Second (1908–1920) Constitutional Periods, as well as for the years leading up to the establishment of the Republic of Turkey (1920–1923). During those three years, and in fact until 1927, the Great National Assembly (*Büyük Millet Meclisi*, from 1921 onward: *Türkiye Büyük Millet Meclisi*, henceforth: TBMM) officially followed the internal regulations of the last Ottoman Chamber of Deputies (*Heyet-i Mebusan*, from 1908 onward: *Meclis-i Mebusan*). However, faithfulness with the late Ottoman internal regulations decreased massively during the period of transformation from empire to nation-state. I will argue that these violations can be explained as results of two diverging yet parallel trends that had already been present in late Ottoman times: the first was a drive toward a strengthening of parliament vis-à-vis other constitutional institutions. The second may be described as the prevailing of an authoritarian spirit in the guise of parliamentarism.

### Historical context: the Tanzimat period

Compared to many other monarchies among its contemporaries, the Ottoman Empire was not particularly late at becoming a constitutional state: the first Ottoman Constitution was promulgated in 1876, roughly 5 years after that of the German Reich, 35 years after that of Belgium, and 18 years prior to that of Japan. This first experiment in representative government, however, was short-lived, starting in 1877 with the assembly and ending in 1878 with the dissolution of the lower chamber, which was followed by 30 years of autocratic rule under Sultan Abdülhamit II (r. 1876–1909).<sup>2</sup>

The Ottoman Constitution of 1876 was not the first modern text to lay down certain principles of government: the famous reform Edict of Gülhane, proclaimed in 1839, promised security of life, honor, and property, as well as regular and fair taxation and conscription systems for all Ottoman subjects.<sup>3</sup> The document, which promised a long list of reforms, is today considered the starting point of the modernization period known as Tanzimat.<sup>4</sup> Its text, however, makes frequent reference to Islamic divine law, the *Sharia*. The Edict was firmly grounded in a traditional Islamic, premodern understanding of governance, in which inequality before the law was considered normal and subjects, in return for just rule, were obliged to obey their ruler.<sup>5</sup> A second reform edict was issued as a result of massive Western diplomatic pressure in 1856. This document, which is known as Reform Edict (*Islahat Fermanı*), no longer mentions the *Sharia*. Instead, the Sultan declared that “my subjects, who in my sight are all equal, and equally dear to me”<sup>6</sup> would be taxed equally and would all be subject to military service (which they would be able to avoid by sending proxies or paying a fee). The text thus implicitly contradicted the conception of Islamic law, in which non-Muslims were considered as protected, yet inferior subjects who were not allowed to bear arms and who had to pay a special head tax, the *cizye*.<sup>7</sup> Apart from introducing the idea of equality, the document also contained a long list of rights and privileges granted to Christian communities, such as that to establish and renovate churches. It thus contained *in nuce* the contradiction



between the two modern principles of equality before the law on the one hand and minority rights on the other.

We know today that the Tanzimat reforms, despite and possibly because of their rhetoric of justice and reordering, were accompanied by a strong and increasing sense of injustice among the population.<sup>8</sup> Probably the most important reason for this was that the political project promising political equality contrasted sharply and coincided with increasing economic inequality.<sup>9</sup> Moreover, the era of reform provided the populace with a new set of concepts that they could use when expressing their grievances, of which there were many.<sup>10</sup> To name but a few: those living in the countryside suffered from arbitrary taxation, indebtedness, and rampant banditry, while city dwellers witnessed the twin effects of the Ottoman economy's integration into world markets: the Ottoman producing sector faltered in the face of cheap European imports, the very goods that the *nouveau riche*, in violation of traditional sensibilities, were displaying more and more openly.<sup>11</sup> Moreover, local conflicts in the provinces, which were usually triggered by economic conflict, came to be framed as inter-religious strife, facilitating interventions of the European Great Powers into Ottoman domestic affairs.<sup>12</sup>

By far the best-studied current of criticism of all these developments is that voiced by the so-called Young Ottomans, a group of bureaucrats and intellectuals who, from the 1860s onward, used the new medium of the newspaper, first at home and then from their European places of exile, to rally for the promulgation of an Ottoman constitution and the establishment of an Ottoman parliament.<sup>13</sup> The introduction of government accountability and public discussion of all matters pertaining to the state, they believed, would finally bring about the security of life, honor, and property that the 1839 Gülhane Edict had so utterly failed to bring about. They further believed that a parliament, by helping to redress their grievances, would satisfy those Christian populations within the Ottoman realm who were increasingly drawn toward nationalist ideas. The introduction of a constitution and a parliamentary system was, in other words, expected to do nothing short of saving the Ottoman state, and quite instantly so. Like political counselors in earlier Ottoman centuries, the Young Ottomans presented the idea of political consultation not as a new idea but as the reinstatement of an ancient principle of Islamic governance, thus trying to make it palatable to an inherently conservative society in which innovation was not considered a virtue, but rather a threat.<sup>14</sup>

By the 1860s, several territories that still – if only nominally – belonged to the Ottoman state already had constitutions and representative assemblies. This was true for Serbia (autonomous since 1830, constitutional since 1859), Bulgaria (1879), the Danube Principalities (1859), and Tunisia (1860).<sup>15</sup> Representative government was on the rise in those territories that were still under full Ottoman sovereignty as well. On the local level, forms of representation such as councils of elders and headmen in villages, as well as councils of notables and guild leaders in cities, had been around for a long time.<sup>16</sup> Over the course of the nineteenth century, these local institutions were reorganized by the central state and complemented by provincial councils. A Sultanic decree issued in 1840 stipulated

the formation of councils that would have at least some members elected among the population, usually from among the religious leaders and other notables in all provinces and sub-provinces of the empire.<sup>17</sup> Moreover, between 1862 and 1865, the Armenians, Orthodox Greeks, and Jews of the empire were allowed to draw up organic laws for their communities, establishing councils that resembled small parliaments insofar as their lay members were elected.<sup>18</sup> The Young Ottoman Namık Kemal pointed to these assemblies “as possible models for a chamber of deputies.”<sup>19</sup> The provincial law of 1864 foresaw the establishment of elected provincial councils not only in all Ottoman provinces, but also in the district centers, a principle extended to municipal councils in 1870. The implementation in cities and towns, however, appears to have taken some time. Only males had suffrage, and both (male) active and passive voting rights were tied to tax qualifications that excluded the poor. There were quotas for non-Muslims on the councils, who would be elected by their respective communities.<sup>20</sup>

### The Constitution of 1876

The promulgation of the Ottoman Constitution in 1876 can be attributed to a contingency of domestic and international factors. A serious financial and economic crisis during which the empire defaulted on its foreign debt led to a coup d'état led by reformist forces around Midhat Paşa. In the course of these events, Sultan Abdülaziz (r. 1861–1876) was first deposed and then died under suspicious circumstances. The putschists brought crown-prince Murat to the throne, who was known to be leaning toward a constitution but soon turned out to be mentally ill. After only six months, he was replaced by his brother Hamit (Abdülhamit II), who agreed to promulgate a constitution.<sup>21</sup>

The Constitution that was drafted in the following months was built on the existing structures and practices discussed above. It declared Ottoman territory to be inviolable and allocated sovereignty with the eldest prince of the house of Osman (art. 3). The Sultan could not be held accountable in any way, his person was declared sacred (art. 5). The Constitution introduced a parliament composed of two chambers: the Senate (*Heyet-i Ayan*), whose members would be named for life, and the Assembly of Deputies (*Heyet-i Mebusan*), who would be elected for a legislative period of four years (art. 69).<sup>22</sup> There would be one deputy for every 50,000 male inhabitants (art. 61) (in practice, however, the representation rate differed considerably between different parts of the empire).<sup>23</sup> All male Ottoman citizens above the age of 30 who could speak Turkish could run as candidates, unless they claimed to hold citizenship of another state, were domestic servants of another person,<sup>24</sup> were standing trial or had been sentenced in court, had gone bankrupt without rehabilitation, or “lay notoriously in disrepute for their conduct.”<sup>25</sup> After another four years, potential deputies would be required to also read Turkish and, “to the extent possible,” write it (art. 68). Unlike their peers in other countries, such as the German Reich,<sup>26</sup> the Ottoman deputies were salaried, being entitled to 20,000 *kuruş* (equalling 200 gold Lira) plus travel expenses per parliamentary year (art. 76).<sup>27</sup> Both chambers would sit four months per year,

from November until the beginning of March (art. 43). Deputies were not allowed to hold any other public office except a minister post (art. 76). They were free to express their opinions and to vote as they liked (art. 47). They could not be prosecuted for their opinions, unless a two-thirds majority of the chamber decided to strip them of their immunity (art. 48). The lower chamber had a quorum of half the deputies plus one (art. 51). Bills or changes to existing laws would usually be brought forward by the cabinet. Deputies could also ask for laws to be changed but had to send their proposals to the Grand Vizier, who would submit them to the Sultan, who would decide whether or not to charge the State Council (*Şura-yi Devlet*) with preparing such a bill (art. 53).<sup>28</sup>

The first and second elections of 1876 and 1877 were performed according to a provisional electoral law, stipulating that deputies would be elected by and from among the existing district and provincial councils, which were controlled by the respective local notables.<sup>29</sup> The candidacy age was set at 25 (5 years younger than prescribed in the Constitution).<sup>30</sup> Autonomous regions such as Mount Lebanon and de facto independent ones such as Egypt were not represented in the chamber. The number of deputies for each district and province was set by the central government, while the provincial governments decided about quotas for Muslims and non-Muslims.<sup>31</sup> Apart from allowing for a relatively quick election process, electing deputies from among the existing councils had the advantage that those who were sent “happened to be eminently conversant in imperial issues.”<sup>32</sup> As for the deputies’ social backgrounds, Kemal Karpat has noted that almost all deputies, regardless of the professions they named in the parliamentary statistics, were part of the “upper propertied class” in the provinces.<sup>33</sup> This was a social background very different from that of the Young Ottomans, who, as part of the new bureaucracy-intelligentsia, usually depended on salaries and hailed from Istanbul.<sup>34</sup> Since property in (still officially state-owned) agricultural land had only become fully tradeable since 1858, and land, now under increasingly capitalist conditions, continued to be the main means of production, we may well say that the chamber represented the interests of the economically dominant class (Karpat makes this point but, somewhat misleadingly, speaks of a “new middle class”).<sup>35</sup> Unlike the European bourgeoisie, however, this class was often identical with those urban elites of the ancien régime (higher *ulema*, guild leaders and merchant families) who had managed to acquire landed property. As property owners, the deputies were interested in reliable, accountable governance and liberal legislation, but their interests were far from adversary to those of the state. There was also no aristocracy standing in their way. With regard to their ethno-religious background, the deputies were quite diverse: the first *Heyet-i Mebusan* (HM) had 119 deputies, of which 71 were Muslims, 44 Christians of various denominations, and 4 Jews. The second had 113 deputies: 64 Muslims and 49 non-Muslims.<sup>36</sup>

The *Heyet-i Mebusan* was initially a relatively weak parliament (just like the contemporary ones in Prussia and Austria-Hungary).<sup>37</sup> Compared to the three other constitutional institutions that were involved in law-making (the Sultan, the State Council, and the Senate), the *Heyet-i Mebusan*’s rights were limited to grilling ministers and merely asking for investigations against them. Whether pertaining

to legislation or disciplinary action, all final decisions were taken by the Sultan, who possessed an absolute veto right and was not responsible before the law.<sup>38</sup>

The First Constitutional Period was rather short: the first Chamber of Deputies sat between March 19, 1877, and June 28, 1877. Following a second round of elections, the second legislative period started in December 1877, ending prematurely in February 1878, when Sultan Abdülhamit II, in the midst of the Russo–Ottoman War of 1877–1878, dissolved the chamber and abrogated the Constitution.

Within these five months, the chamber managed to discuss (among others) such important public matters as a major uprising in Montenegro,<sup>39</sup> the Russian declaration of war in April 1877,<sup>40</sup> the resulting further aggravation of the Ottoman state's financial situation,<sup>41</sup> and the budget law.<sup>42</sup> (Robert Devereux notes that “parliamentary control of financial matters was the one field in which both Palace and Porte appear to have scrupulously observed both the letter and the spirit of the Constitution”).<sup>43</sup> The HM also debated the question of military service for non-Muslims and notions of a shared Ottoman citizenship.<sup>44</sup> It refused to change the law for the proclamation of a state of emergency,<sup>45</sup> insisted on a liberalization of the press law,<sup>46</sup> passed a new provincial law,<sup>47</sup> and an electoral law. The last-mentioned, however, only came into effect during the Second Constitutional Period (1908 and onward) because it had not passed the Senate by February 1878.<sup>48</sup> The very first legal document to be passed by the chamber were the rules of conduct for its own work. They were discussed in the third, fourth, and fifth sessions, on March 23–25, 1877. Following the Sultan's approval, the *nizamname* was published and came into force on May 14, 1877.<sup>49</sup>

Researchers disagree about the models followed by the committee that was in charge of drafting the text of the *nizamname*. According to Servet Armağan, it was the Italian and Belgian regulations, according to Devereux, “contemporary European parliaments, especially the French and the British.”<sup>50</sup> Al-Barazi gives the names of the committee members as Ziya Bey, Namık Kemal, Chamich Ohannes, Ramiz Efendi, Sava Paşa, Abdin Bey, and Hayrullah Efendi.<sup>51</sup> Unfortunately, there are no minutes of this committee available. We only know that the draft was submitted to the State Council on February 17, 1877, and ready for discussion in the HM by March 23, 1877.<sup>52</sup>

The *nizamname* of 1877 was composed of 16 sections setting the rules for the following procedures: (1) the appointment of preliminary chairmen and preparation of election documents, (2) the election of chairmen and minute takers, (3) formation of branches and committees, (4) preparation of and voting on bills, (5) the interpellation of bills by ministers, (6) complaints about ministers, (7) discussion of bills, (8) petitions to the parliament, (9) declaration of urgency for bills, (10) voting, (11) minutes, (12) deputies' absence, (13) punishments for violations of the rules, (14) discipline in the chamber, (15) the relationship with the Senate (*Heyet-i Ayan*), and (16) miscellaneous articles dealing with protocol, deputies' resignation, and the coming into force of the *nizamname*.<sup>53</sup>

According to the *nizamname*, the Chamber President ought to have been elected by secret ballot, and the deputies' choice ought to have been sanctioned by the Sultan. Instead, Sultan Abdülhamit II, in a “flagrant violation of Article

77” of the Constitution, had already named Ahmet Vefik Efendi<sup>54</sup> (later Paşa, an experienced diplomat and respected intellectual) as President in February. Since the Istanbul elections had not taken place at this point, Ahmet Vefik was not even a deputy yet, and the electors later had no choice but to sanction the Sultan’s decision.<sup>55</sup> Although the document was technically not in force yet, this was also a violation of articles 9 and 10 of the *nizamname*. According to a British newspaper, Yusuf Ziya[eddin Al-Khalidi],<sup>56</sup> deputy for Jerusalem and former mayor of that city, delivered a 20-minute speech denouncing this action.<sup>57</sup> The speech appears to have been censored from the minutes, and it is likely that such censorship was also performed later on. This point limits the minutes’ source value considerably. Another caveat when dealing with the minutes is that only those of the public sessions were published. The public ones sometimes mention decisions taken in nonpublic sessions, such as the one taken during the third session that the HM, in addition to Fridays, would also not sit on Sundays.<sup>58</sup> There were also secret meetings, which are not discussed in the minutes at all.<sup>59</sup>

Ahmet Vefik Efendi, President of the first HM, assumed that the rules of procedure, such as those about leave of absence for deputies, were already to be observed even before the deputies were aware of them. This created some irritation.<sup>60</sup> Overall, however, the minutes of these three sessions convey the impression that the deputies, far from challenging the *nizamname*, simply asked questions: what exactly were the five branches (*şubeler*) that the assembly would often be divided into for, and how were they different from committees (art. 2)?<sup>61</sup> Why were bills that had been rejected by the assembly only to be brought back in after two months’ time? What exactly was an absolute majority? Why would budgetary laws be debated only once, and all others twice? This apparent tameness of the debate is probably partly due to the above-mentioned censorship. Another reason may be the deputies’ relative lack of experience, or their awareness of the quite authoritarian constitutional framework that they were operating in. That said, it is interesting to note that the deputies’ right to “grill” ministers was debated quite extensively.<sup>62</sup> It was exactly this practice that would turn out to be the most challenging for governments.

Overall, the *nizamname* prescribed a rather authoritarian framework. Attendance was mandatory, and a deputy who, without asking for permission, did not show up for more than five sessions (or committee/branch meetings) in a row would be counted as absent without leave, being punished by publication of his name in the official gazette (art. 88). The President had far-reaching competences, and Ahmet Vefik Paşa, who held that office during the first period, made ample use of them, enforcing attendance, observance of time limits, and thematic coherence of speeches. His successor during the second parliamentary period (1877–1878), Hasan Fehmi Paşa, is said to have maintained a less strict style. Both fulfilled their duties rather faithfully, only rarely letting the vice presidents chair sessions.<sup>63</sup>

A peculiarity of the *nizamname* are the five branches (*şubeler*) of the chamber. These were to exist parallel to thematic commissions (for defense, petitions, etc.) and to review bills one by one, so that all branches would have seen all documents

before they were debated in plenary sessions. Devereux speculates that this rule was deliberately designed to slow down the parliament's work.<sup>64</sup> Another reason may be that these branches, which were supposed to be reshuffled every two months by lot, were designed to provide substitutes for party groups, which did not exist in the first HM, in order to allow deputies to discuss matters in relatively small groups. Indeed, the branches seem to have been reshuffled every month, probably accomplishing relative familiarity of deputies among each other.<sup>65</sup>

Section 10 of the *nizamname* (articles 57–72) described in great detail how voting would be performed. There were three kinds of voting: open voting by raising hands, open voting by calling every single deputy and him shouting “yes” “no” or “abstention,” and finally, secret voting, either by name, with red and white pieces of paper, or without, with black and white balls.<sup>66</sup> The *nizamname* was not always followed to the letter, but usually in spirit, for instance, when secret ballots were cast not with black and white balls but only white ones.<sup>67</sup> Attendance was not as bad a problem as in Prussia and later the German Reich, where usually not more than a third of the (unremunerated) deputies cared to show up.<sup>68</sup> The parliamentary minutes were regularly published, not only in the official gazette, but also in the Istanbul papers, a fact that in itself must have transformed Ottoman political culture tremendously. There also existed some official provincial newspapers at this point, and the minutes may have been published in them as well.<sup>69</sup>

Judging from the (censored) minutes published in *Vakit* that contain only selected verbatim speeches, the first HM in the spring and summer of 1877 was a very orderly parliament (the second in winter 1877–1878 a little less so). The few deputies dominating the debates were experienced politicians and lawyers who, at times adamantly, insisted on proper observance of the constitutional framework. My observations fit Karpat's, who has noted that the deputies pressed the state for reliable and orderly taxation, a business-friendly legal framework, privatization of state land, and a rational, regularly paid bureaucracy.<sup>70</sup> The chamber also made use of its constitutional right to bring complaints against ministers and request their trial, even interpreting this to mean that former ministers could be held accountable as well.<sup>71</sup> As a result, the relations between the chamber and the other constitutional institutions deteriorated quickly, soon reaching the point of hostility. It is telling that the second HM no longer passed bills, instead addressing the myriad of grievances and problems all over the empire, and contributing to the fall of Grand Vizier Edhem Paşa.<sup>72</sup> On February 14, 1878, Abdülhamit II, making use of his constitutional right to do so, “temporarily” closed the chamber by simply having a declaration read out during its session. In it, he declared that “as a necessity of the present exceptional circumstances, the parliament be prorogued as of today.”<sup>73</sup>

These exceptional circumstances were the ongoing peace negotiations with Russia, during which the Porte was probably unwilling to be disturbed (or rather: embarrassed) by an assembly that had already before, in the Montenegrin crisis, adamantly opposed any ceding of Ottoman territory to the insurgents.<sup>74</sup> In early 1878, the Ottoman army was facing a humiliating defeat and the Ottoman state was soon, in the Treaty of San Stefano, forced to give up major Balkan territories

and the famous three districts (*elviya-yi selase*): Kars, Ardahan, and Batum in eastern Anatolia. Several contemporary observers speculated that neither the Sultan nor the government could be bothered with a patriotic parliament more royal than the king.<sup>75</sup> Following the closing of parliament, ten deputies who had been particularly outspoken government critics were exiled from Istanbul.<sup>76</sup>

In the following 30 years, the Constitution continued to be in force only on paper. It was printed in the annual provincial yearbooks, and members of the Senate continued to receive their salaries, maintaining their place in state protocol.<sup>77</sup> Abdülhamit II ruled autocratically, with the help of press censorship and a sophisticated spying system. The gravity center of power shifted back from the Grand Vizierate (known as the “Sublime Porte” in English), where it had been located during the Tanzimat period, to the Palace. After the territorial losses sanctioned by the Treaty of Berlin of 1878, Abdülhamit II managed to avoid another major war and further major territorial losses.<sup>78</sup> He continued to pursue the reforms of the previous decades, if with a more authoritarian note, establishing military and civilian high schools, building railways, telegraphs, and tightening the grip of the state in rural areas.<sup>79</sup> Ironically, the school system that was expanded during his rule produced the very movement that would eventually result in his downfall: his military high schools and middle schools offered social mobility and a western-style education to penniless Muslim boys from the provinces. In 1889, students of the medical military academy in Istanbul founded a secret society that came to be known as the Committee of Progress and Union (later: Committee of Union and Progress, henceforth: CUP) and quickly spread to other schools and beyond.<sup>80</sup> In the first years of the twentieth century, these unionists started to cooperate with other oppositional groups, such as liberals (who, unlike the CUP, favored decentralization of the Ottoman state) and socialist Armenians, their shared objective being the restoration of the Constitution and the reconvening of the parliament.<sup>81</sup> As Tarık Zafer Tunaya has observed, all these groups tended to regard constitutionalism “not as a tool, but as a goal in itself.”<sup>82</sup> Their revolutionary agenda was influenced by other parliamentary movements, especially those in Russia and Iran and the respective constitutional revolutions in 1905 and 1906.<sup>83</sup>

### **The 1908 Revolution**

In July 1908, the CUP took advantage of a general crisis in Ottoman Macedonia, forcing Abdülhamit II to restore the Constitution.<sup>84</sup> The reintroduction of the Constitution was met with enthusiasm and high expectations by all ethno-religious groups throughout the empire. Press censorship was lifted, and the Ottoman reading public experienced a press boom of unprecedented proportions.<sup>85</sup> The first international reactions to the Revolution were hostile: autonomous Bulgaria declared its full independence, and Austria-Hungary annexed Bosnia-Herzegovina, which had been under its military occupation since 1878. Moreover, many problems that had been repressed under Abdülhamit’s rule, now resurfaced, and there was a series of violent strikes.

## The Second Constitutional Period

The first general elections for a new lower chamber were held in November 1908, this time according to the two-stage system described in the election law of 1877 – which had in the meantime been approved by Sultan Abdülhamit II.<sup>86</sup> The new number of seats (between 240 and 288, there is no agreement on this point) indicates either considerable population growth since 1876 or closer observance of the rate of representation, or both.<sup>87</sup> There is disagreement concerning the ethnic composition, too. According to Feroz Ahmad, 147 deputies were Turks (including Kurds, Circassians, and other Muslims from Anatolia), 60 Arabs, 27 Albanians, 26 Greeks, 14 Armenians, 10 Slavs, and 4 Jews.<sup>88</sup> As for the professional and class backgrounds of deputies, a contemporary observed that the biggest group were the men of religion (“nearly forty”), followed by landowners and members of the liberal professions, and finally, “seven or eight” members of the CUP, who were deputies for Salonica, Edirne and Istanbul.<sup>89</sup> The last category is not a professional one, but we know that the CUP-deputies were journalists, government clerks and officers – products of the Hamidian public schools.<sup>90</sup>

The numbers given above indicate that the new parliament was dominated by members of the traditional elites, who, in this first election, were often supported by the CUP, but not necessarily in line with its program. With the exception of the Armenians, who already had two rivaling parties prior to 1908, a spectrum of political parties only started to truly unfold in the course of the first years of parliamentary practice.<sup>91</sup> Relations between the CUP and all other groups soon cooled considerably, and an opposition party, the Liberal Union, emerged.<sup>92</sup>

The new lower chamber, now called *Meclis-i Mebusan* (Chamber of Deputies, MM), was opened with a formal ceremony on December 17, 1908. Ahmet Rıza, a distinguished Young Turk intellectual who had spent almost 20 years in exile, was elected its first President. In his very first speech, he spoke of “national sovereignty,” and many deputies preferred to call their parliament “national chamber” (*millet meclisi*) rather than use the actual name.<sup>93</sup> This terminology indicates that the 1908 chamber, already during its first sessions, considered itself to be representing a nation that was not identical with the state.<sup>94</sup>

Before discussing the application of the rules of conduct, it seems necessary to at least briefly outline the general legal and political situation within which the Chamber of Deputies worked. The Revolution of 1908 had reintroduced the Constitution, but it had also ushered in a period of heightened conflict, extralegal measures, and violence. Following the Revolution, the state of emergency was declared and not lifted until 1918 (it is a matter of debate how much this mattered).<sup>95</sup> The year 1908 saw an explosion of strikes, and an attempted counter-putsch in Istanbul (April 1909) triggered an anti-Armenian and anti-Assyrian pogrom in Cilicia that killed between 10,000 and 30,000 people.<sup>96</sup> Political assassinations, such as that of journalist Hasan Fehmi (1909) and Mahmut Şevket Paşa (1913), became more frequent. There were uprisings in Yemen and Albania in 1910 and 1911, and Italy invaded Tripolitania in 1911. With the outbreak of the First Balkan War in October 1912, the empire entered its last – and final – decade



of war. In January 1913, the CUP put itself into full control of the executive. During these years, the *Meclis* was dissolved four times: in February 1912 (followed by new elections), in August 1912 (with new elections only taking place in 1914), in November 1918, and, for the last time, in April 1919.<sup>97</sup> In the course of the decade between 1908 and 1918, 1,061 “temporary” laws, i.e., laws that were not subject to parliamentary control, were issued by cabinets, the most famous one being the law of April 1915 ordering the deportation of all Ottoman Armenians.<sup>98</sup> This record of extralegality and violence has to be taken into account when assessing the workings of the Chamber of Deputies.

### **The constitutional revision of 1909**

The new MM initially operated within the rather tight framework set by the 1876 Constitution, which the deputies were determined to change. In January 1909, a parliamentary commission was formed and tasked with making suggestions for a constitutional revision. A failed coup attempt in April 1909 (known in Turkish as the March 31 Incident, the date according to the Julian calendar) provided the CUP with an opportunity to force Abdülhamit II to resign and replace him with his much more cooperative brother, Mehmet Reşat V. Following his enthronement, the MM revised the Constitution, deleting 1 paragraph, adding 3 new ones, and changing 21.<sup>99</sup> The revised text came into force on August 8, 1909.

In a nutshell, the revised Constitution accomplished a “transfer of sovereignty from the Sultan to the nation.”<sup>100</sup> The revised text reconfirmed such fundamental principles as personal liberty (art. 10), freedom of the press (art. 12), equality before the law for all Ottomans (art. 17), inviolability of the domicile (art. 22), protection of private property (art. 21), and the ban of torture (art. 26).<sup>101</sup> Additions to the 1876 text concerned the privacy of correspondence (art. 119) and the right of assembly for all Ottomans (art. 122). The revision also strengthened the MM considerably: according to the revised text of art. 3, sovereignty continued to rest with the Sultan. However,

(o)n his accession the Sultan shall swear before Parliament, or if Parliament is not sitting, at its first meeting, to respect the visions of the Şeriat (...) and the Constitution, and to be loyal to the country and the nation.<sup>102</sup>

The Sultan, whose expenditures, as well as those of the palace, became subject to parliamentary control (art. 6), only retained the right to name the *Şeyhülislam* (the grand *müfti*, issuer of legal opinions for Istanbul and cabinet member) and the Grand Vizier.<sup>103</sup> Such important decisions as the making of peace, the declaration of war, and the conclusion of international treaties could still be made by the Sultan and his Grand Vizier, but now required approval by the General Assembly (i.e., by both the Senate and the Chamber of Deputies) (art. 7). The Sultan’s absolute veto right was turned into a suspending one (art. 54), and it became possible for the Chamber of Deputies to insist on a bill (or its rejection) even against the

cabinet (art. 35).<sup>104</sup> Ministers became responsible to the Chamber of Deputies, both collectively and personally (art. 30). Both chambers could now propose bills, which would be sent to the respective other chamber, and, if approved, from there to the Sultan. The article describes his task merely as “confirming” the bill, the State Council is no longer mentioned at all (art. 53). The session period of the MM (previously November till the end of February) was extended to November – end of April every year (art. 43).

Changes to the articles dealing with changes to the Constitution (art. 116) and with the range of authority of courts were proposed, but not approved by the necessary two-thirds majority.<sup>105</sup> Some other changes, such as that to have some of the senators elected, were not approved by the Senate.<sup>106</sup> One lone deputy proposed that not only the male half of a district’s population should be represented by a deputy, and that the number of people represented per deputy should be raised to 100,000 accordingly. Such a change would not have introduced female suffrage (the election law clearly limited the vote to males)<sup>107</sup> but the other deputies reacted as if it did, refusing to consider such a change.<sup>108</sup>

### Adaptation of the internal regulations

The constitutional revision of 1909 made it necessary to adapt the internal regulations of the MM accordingly. A parliamentary commission that was formed to this end in 1910 submitted a draft regulation to the chamber in 1911, which in turn sent it to another committee. It is probably due to the political turmoil of 1912 that a new draft was prepared and approved by the chamber only after the 1914 elections. This text contained 20 instead of 16 sections and a total of 182 instead of 105 paragraphs.<sup>109</sup>

A comparison between the internal regulations of 1877 and 1909 reveals that most changes were adaptations to the new Constitution and the increased importance that the MM had within it: those six sections that cannot be found in the 1876 text deal with issues that were either far less important or not relevant at all in 1876: Section 5 discusses the proposition of bills by the *Meclis*.<sup>110</sup> Section 9 is devoted to the discussion of budget laws, which could now be rejected altogether. Section 10 regulates temporary laws, the new name for laws issued by the cabinet only – an old practice now supposed to become the exception. Section 18 regulates the internal administration of the parliament, including a library. Two other new sections seem to reflect previous parliamentary experience or insufficiency of previous rules, namely section 6, which details the conduction of sessions, and section 17 containing the duties of the parliamentary President, his vice presidents, and the minute keepers. Section 3, which discusses the examination of the deputies’ election documents, had previously been part of section 1.

Most changes, however, were additions of paragraphs to previously existing sections that reflect the increased importance of those procedures. Section 2 (previously section 3) discussing the forming and responsibilities of branches and commissions was extended from 13 to 20 paragraphs. The section about bills, which had only contained three paragraphs, now included seven. Questions and

Explanations, formerly comprised of five paragraphs, now contained 20. The section about relations to the Senate was extended from three to eight paragraphs. The stipulations concerning punishments for violations of the rules by parliamentarians (for such offenses as prolonged absence without leave, but also disruption of speeches or sessions) became more detailed.

### **Application of the *nizamname* in the *Meclis-i Mebusan*, 1908–1920**

As the new *nizamname* would only be passed in 1914, deliberations and debates up to that point should have been conducted according to the older rules issued in 1877. It may seem that the deputies, by amending the 1876 Constitution almost single-handedly, preemptively performed tasks that they officially only gained with the 1914 *nizamname*. This was not the case, as they followed art. 116 of the 1876 Constitution, which allowed the *Meclis* to suggest changes to articles of the Constitution by a two-thirds majority, send them off to the Senate, and if the Senate also passed them with the same majority, submit them to the Sultan for approval.<sup>111</sup> The elderly Mehmet V acquiesced in the changes.

In the 1908 parliament, there were several cases of deputies whose election was challenged by the *Meclis*. These included one deputy whose election credentials were (initially) found to be incomplete, several accused of corruption or notoriety, and one who was found not to be resident in his electoral district.<sup>112</sup> The rule that all deputies had to know Turkish was not always observed: the four Dashnak Armenian deputies did not speak Turkish, and in at least one instance, a deputy seems to have read his resignation letter out in Arabic.<sup>113</sup> Attendance, too, appears to have been unsatisfactory: two deputies from [Kut] al-Amara in present-day Iraq, whose election credentials had been accepted, never showed up in Istanbul. Their cases were discussed only in 1910, and it was decided to have new deputies elected from their districts. Such a procedure was not discussed in the *nizamname*, but the Senate had previously decided that 91 days of absence without leave would annul a deputy's mandate.<sup>114</sup> As for the conduct of sessions, observation of rules for speeches, questions, and so forth, it seems that the chamber was generally observant of those rules. There were at times hot debates, but overall, the deputies seem to have fought with words, not fists.<sup>115</sup> Outside of sessions, however, considerable violence was used against deputies. After losing its majority in the Istanbul by-elections of 1911, the CUP made use of violence, threats, and intimidation in order to win again in the early elections (known as "elections with the stick") of 1912.<sup>116</sup> In 1914, the CUP negotiated quotas with the Greek and Armenian leaders, and the resulting parliament was more representative of the different ethnic groups than any previous one, also containing more Arab deputies than before.<sup>117</sup> Prior to the empire's entry into the First World War, the new *Meclis* made four changes to the Constitution that can be read as strengthening the Chamber of Deputies: it became harder for the Sultan to dissolve the chamber, new elections had to be held quicker than previously (four instead of six months after a dissolution of parliament), and budget laws were specified to

be valid for only one year.<sup>118</sup> In February 1915, deputy salaries were more than doubled to 50,000 *куруş*.<sup>119</sup>

Things deteriorated quickly with the Ottoman entry into the First World War. In what is today considered the beginning of the Armenian Genocide, more than 200 Armenian intellectuals and community leaders in Istanbul, including four current members of the MM, were arrested and deported in April 1915.<sup>120</sup>

During the war years, the MM continued to work, helping to keep up the appearance of a constitutional regime that had actually been turned into a dictatorship.<sup>121</sup> The session period was shortened again from six to four months, and the chamber often merely sanctioned “temporary” laws that had previously been passed by the cabinet.<sup>122</sup> Some browsing in those years’ minutes conveys the impression of business as usual, the subject mostly being budgets of state institutions and minor regulations. Moreover, the more political bills betray the chamber’s character as a mere accomplice of CUP policies: In 1916, Turkish was made the empire-wide compulsory language for business transactions and correspondence of foreign companies (such as those running railways, tramways, etc.). Additional changes to the Constitution accomplished a strengthening of the central administration: in 1916, it became easier for the Sultan (by now a puppet of the CUP) to dissolve the chamber and harder to dismiss a cabinet.<sup>123</sup> Another change made it possible for nonresidents to run for deputy of up to three electoral districts.<sup>124</sup>

On November 4, 1918, during the first postwar session of the MM, several Greek deputies put forward a motion concerning the wartime massacres against Armenians and forced deportations against Greeks. During the ensuing debate, however, most of the Muslim deputies no longer listened to them.<sup>125</sup> At this point, the CUP had officially dissolved itself, and the Armistice of Moudros had been signed. From November 13, 1918, onward Allied troops started to occupy parts of the country: the French occupied Cilicia and the Italians occupied the south-western part of Anatolia around Antalya. In May 1919, Greek forces landed in Smyrna/İzmir. These landings provoked at first scattered and then more organized resistance on the part of the Muslim population, especially in those areas where Muslim refugees had been settled in houses of Christian deportees: wartime policies of social engineering now pitted returning survivors against incoming refugees.<sup>126</sup>

The last Ottoman election in late 1919 was boycotted by Armenians, Greeks, and the Liberal Party, and the resulting *Meclis* was dominated by the movement of the “Societies for the Defense of Rights,” a coalition of former CUP members and provincial Muslim notables from Anatolia and Thrace. This movement held several congresses in 1918 and 1919. The Erzurum (July–August 1919) and Sivas (September 1919) congresses elected a preliminary government called the “Representative Commission” (*Heyet-i Temsiliye*). The last MM convened in January 1920, adopting the “National Pact,” a document that famously stated the territorial claims of the nationalist movement, on January 28, 1920.<sup>127</sup> The chamber was dissolved in March 1920, following the full Allied military occupation of Istanbul. At this point, the *Heyet-i Temsiliye* issued a call for new elections to a Great National Assembly (*Büyük Millet Meclisi*, henceforth: BMM) to be convened in Ankara. The call explicitly stated that non-Muslims must not be

elected to the new parliament, which indeed did not happen.<sup>128</sup> It also lowered the threshold for electability to the age of 25.<sup>129</sup> Eighty-eight former members of the MM became part of the BMM, which first convened in Ankara on April 20, 1920. The other deputies were representatives of the Societies for the Defense of Rights from all over Anatolia and Thrace.

With the BMM (the adjective “Türk” would only be added in February 1921), the movement against the Allied occupation and partition of the remains of the Ottoman Empire gained a pillar of legitimization whose importance can hardly be overstated. Based on the BMM, which claimed to represent the nation (understood as the community of all non-Arab Muslims in the empire), the movement could form a government that would, for the next three years, function as a counter-government to that in Istanbul. The BMM was clearly a continuation of the MM insofar as it adopted its internal regulations and, at least theoretically, operated within the Ottoman constitutional framework. In 1921, it passed a number of additions to the Constitution that are considered the embryo of the modern Turkish Constitution, famously stating that “sovereignty is vested in the nation without any condition.”<sup>130</sup> On the other hand, however, the new parliament had revolutionary character insofar as its function differed fundamentally from that of its predecessors: it was cut off from the other Ottoman constitutional institutions, namely the State Council, the Senate, and the cabinet in Istanbul, which, according to the Ankara government, were hostages of the Allied occupation. The Ankara governments were formed out of the BMM, which was their sole source of legitimacy, and, as there was no new state yet, Mustafa Kemal had himself elected President of the parliament in order to legitimize his *de facto* leadership. As a result of this central legitimizing function, the first BMM was much more powerful than any of its predecessors (and all successors, too). It initially had legislative, judicative, and executive functions, the latter being represented by the Ankara governments, which called themselves “government of the (T)BMM.” In line with its indispensability, the TBMM sat year-round. Vested with the right to draft and pass laws by the MM’s rules and the Ottoman Constitution, and no Sultan or Senate to block bills, the BMM was able to pass even such laws that its own governments violently opposed. In the following years, the Ankara cabinets passed many decrees and other minor legal texts, but anything that was called a law had to pass through the BMM. This bottleneck function led to many rather serious conflicts between governments and the BMM, especially during the first legislative period (1920–1923). A case in point is the 1920 law for the prohibition of alcohol.<sup>131</sup> The Ankara government opposed the bill due to fiscal concerns – alcohol taxes were an indispensable source of revenue – but the chamber nevertheless passed the law.<sup>132</sup> It is telling that Ali Şükrü, one of the most prominent advocates of that law who later evolved into an important member of the opposition, was murdered in March 1923 by Mustafa Kemal Paşa’s bodyguard.<sup>133</sup>

As mentioned above, the BMM theoretically combined legislative and executive powers. The latter, however, could only be fully implemented over time, and with the help of the notorious “independence tribunals” from 1920 onward.<sup>134</sup> Unlike all later TBMMs, the first one of 1920–1923 was really elected by local

people, and it was a very “heterogeneous and unruly body” that frequently opposed legislation proposed by the government.<sup>135</sup> Therefore, the minutes of the first legislation period are much more instructive (and more fun to read) than the ones dating from later periods. Similar to the late Ottoman MM, the TBMM was initially united, but soon split up into two major groups (known as the first and second group) that later crystallized into parties. As already in 1912, the main point of contention was the role of the state: the first group, which would evolve into the People’s Party, favored a strong central state, while the second group called for more liberal, accountable and business-friendly policies. Members of the second group tended to be from areas that were not under Allied occupation (also not from the lost Balkan territories, where most former CUP members hailed from), and were more likely to have a liberal profession than a state job.<sup>136</sup>

The first TBMM was dissolved in 1923, after it had become clear that a majority for the acceptance of the Lausanne Peace Treaty would not be reached.<sup>137</sup> The ensuing elections were performed according to a new election law (passed in April that year) that no longer contained tax requirements for voters and lowered the voting age (still only for males) to 18.<sup>138</sup> Only three candidates belonging to the oppositional “second group” and very few independent candidates were elected to the TBMM.<sup>139</sup> All others belonged to the newly formed People’s Party (*Halk Fırkası*) led by Mustafa Kemal (later Atatürk). Like this, the power of the TBMM was brought under control of the People’s Party. In the following three decades, there were only two short experiments with oppositional parties in 1924–1925 and 1930. The period between 1923 and 1946 in Turkey is therefore known as the “single-party period.”

Throughout this period, discontent can only rarely be traced through the parliamentary minutes. Bills were voted through with only very little or no previous deliberation, and the parliament “functioned more as an extension of the executive than as a real check on the government.”<sup>140</sup> Instead, resistance seems to have been voiced mostly in two arenas whose minutes are unfortunately unavailable: first, the meetings of the parliamentary group of the People’s Party, and second, the meetings of the commissions in charge of certain parts of the legislation.<sup>141</sup> There are two other indications of discontent in the TBMM: the first is newspaper reports from behind the scenes (which are instructive only until 1925, when the oppositional press was closed), and the second is the number of deputies who put up passive resistance by voting with their feet.<sup>142</sup> The number of deputies actually voting was often lower than that of those who were either present, but did not bother to vote, or did not show up in the first place.<sup>143</sup> The casting of dissenting votes was a risky business: according to F. W. Frey, only five deputies who dared do so during the single-party period were reelected.<sup>144</sup>

When the TBMM first convened in April 1920, there were some discussions concerning the procedural rules for this new parliament. Deputies were aware that the 1914 *nizamname* of the MM did not fully match the new parliament anymore, and therefore decided to task a commission with changing it accordingly.<sup>145</sup> It is not entirely clear which articles were changed between 1920 and 1927. The few changes that were actually recorded concerned very minor points,

but surprisingly left issues such as the person of the Sultan and the number of commissions untouched.

In the following section, I shall discuss the text of the internal rules of conduct (according to the 1914 text) and compare it to the actual procedure followed in the parliament. First, I shall point at some obvious but mostly organizational issues. Second, I shall study one of the parliament's most important decisions, namely the 1923 alteration of the Basic Law (*Teşkilat-i Esasiye Kanunu*) which changed the form of the Turkish state to a republic, and show in which points the procedure followed here deviated from the *nizamname*. At the end of the paper, I will make some remarks concerning the changes made in the 1927 *nizamname*.

### Rules for plenary sessions

Both the 1914 and the 1927 rules mention that plenary sessions were usually open to the public, but could be made nonpublic or secret upon a request by at least 15 deputies or by a minister. Nonpublic sessions were relatively frequent in the 1920s and especially common when ministers were grilled about possible cases of misconduct or corruption. In those nonpublic or secret sessions that I have studied, there is a sense of disappointment among the deputies, who had expected to hear more, or had anticipated disciplinary consequences that eventually did not materialize.<sup>146</sup>

According to §44 of the 1914 text and §81 of the one from 1927, a plenary session was only valid if more than half of the deputies showed up. In both public and secret sessions, the chairman would have a list of speakers, and only those on the list were allowed to speak. Interruptions were officially illegal, but, at least in the TBMM, appear to have been fairly normal: the minutes convey the impression of a natural discussion, with frequent short comments being made and questions asked to the speakers. (§84 of the 1927 text mentions the possibility for deputies to ask the chairman for permission to make short comments). Speakers had to speak from the lectern and were not allowed to speak for longer than 15 minutes (so, filibustering was not possible, §48). This rule was not applied to government policy statements. (Atatürk's famous six-day speech of 1927, known simply as "the Speech" (*Nutuk*) in Turkish, was delivered at a Party congress.)

As before, bills had to be read twice before they could be voted on, and they had to be scrutinized by at least one commission before they could be put to vote. The rule introduced in 1877 according to which at least five days needed to pass between the first and second reading, in order to allow deputies to contemplate the bill, was maintained (§63 in 1914, §76 in 1927). It was possible to declare a bill "urgent" and have the assembly vote on that matter. If a bill was approved as "urgent," it could be passed without a second reading. The new rules passed in 1927 also mention that the rule could only be changed upon written request submitted by the government.

Both *nizamnames* mention three kinds of voting: open voting by raising hands, open voting by calling every single deputy and him shouting "yes," "no," or

“abstention,” and finally, secret voting, either by name or without it, with colored pieces of paper.<sup>147</sup> This, too, was a continuation of the 1877 rules.

The most obvious deviation of the TBMM practice from the 1914 *nizamname* is the number of chairmen. Unlike his predecessors in Ottoman times, the official TBMM Chairman was also (de facto) state President and head of the government. Mustafa Kemal, who was elected to that office in April 1920, clearly was not interested in chairing the parliament in its day-to-day affairs, preferring to act as a grey eminence in the background. (He was more of a night person, and important policy decisions were usually anticipated at his *rakı* table.) He needed the title of parliament Chairman merely as a source of legitimization for his *de facto* office of state President. Therefore, the three (rather than two) vice chairmen were the de facto “real” chairmen until 1923, when Mustafa Kemal became President of the new state.

### Commissions and branches

The system of a division into five branches (*subes*) of Ottoman times seems to have been all but abandoned in 1920: deputies were no longer recorded as members of certain branches in roll calls. In 1920, one deputy suggested that branch meetings were impossible due to an insufficient number of rooms in the new parliament building in Ankara.<sup>148</sup> However, in 1923, the purely administrative task of checking electoral credentials of new deputies was clearly performed by five branches.<sup>149</sup>

The TBMM also deviated from the *nizamname* in initially having only 11, rather than 15, commissions. According to art. 12 of the *nizamname*, the 15 permanent commissions of 15 members each were to deal with (1) petitions, (2) forests, mining, and agriculture, (3) land registry and immovable property, (4) postal and telegraph services, trade and industry, taxes and customs, (5) foreign affairs, (6) domestic affairs, (7) public health, (8) justice, (9) military affairs, (10) religious affairs and pious endowments, (11) financial law, (12) bills, (13) education, (14) budget law, and (15) public works.<sup>150</sup>

The TBMM initially had only 11 commissions, whose members were not elected (another violation of the rules) but (according to İhsan Ezherli) simply decided by themselves which commission they wanted to join.<sup>151</sup> The TBMM (at least in this first period) lacked commissions dealing with petitions and with budget law. Some other tasks were now named differently (such as “national defense commission” instead of “military commission”). Some commissions had as few as 5, others as many as 25 members. A commission tasked with drawing up a constitution was soon added,<sup>152</sup> and a commission for petitions seems to have been formed again by 1927.<sup>153</sup> According to the 1914 *nizamname*, all deputies had the right to attend all commission (and branch) meetings, and to ask for the documents considered there.<sup>154</sup> The *nizamname* of 1927 changed this rule by stipulating that particular ministers or one-third of the commission members could ask for closed (so-called “secret”) meetings.<sup>155</sup> According to a specification added in 1947, “secret” meant that any information shared there was supposed to remain secret.<sup>156</sup>



### **A case in point: the declaration of the Republic in October 1923**

An interesting case in point against which to compare practice to the rules is the October 1923 change of the Basic Law (*Teşkilat-i Esasiye Kanunu*) that officially changed the form of state to a republic. This may seem a minor change at first sight: after all, the Sultanate had already been abolished in November 1922, and the civil authorities of Istanbul had accepted Ankara's rule in early 1923. That said, Turkey had been a monarchy for at least 400 years, and the Sultan still acted as the Caliph of Islam, not least because loyalty to him continued to be an important pillar of governance in the country. The word "republic" had never been a part of nationalist propaganda during the War of Independence, which many people had joined simply to get rid of Allied occupation (and their returned former Christian neighbors). It therefore does not come as a surprise that an interview in late September 1923, in which Mustafa Kemal casually mentioned that the time had come to call the state what it was anyway – a republic – caused serious opposition in the TBMM. We know from newspaper reports that many deputies opposed not so much the idea of a republic itself but that of creating the office of a state President whose holder would be able to act much more independently from parliament than he previously had as President of the TBMM – one is tempted to say: his powers would be reminiscent of those of the Sultans.<sup>157</sup> The issue, in other words, was that a division of powers was proposed to the parliament that was holding them alone and was unwilling to share them.

Mustafa Kemal, whom we must call the *de facto*, if not *de jure* President of the nascent state, tasked an expert commission that was comprised of several ministers, the parliamentary commission for the Constitution, and several hand-picked experts to work out the relevant changes to the constitutional text. He did this without even consulting the TBMM. The special commission met in the Ankara train station, a point that an oppositional newspaper satirized like this:

As far as we know, republics are born not in train stations, but in national assemblies. The only thing that emerges from train stations are – trains. But gentlemen like Ağaoğlu Ahmet and Ziya Gökalp [two of the experts, who were not deputies] have quite some self-confidence. As far as they are concerned, it is the easiest thing for a train station to produce a republic or a constitution, and for a national assembly to produce an express train.<sup>158</sup>

We know from contemporary newspapers that the proposed changes were also discussed in several meetings of the Party group in parliament (which, given that almost all deputies were Party members, was almost identical with the General Assembly). According to the newspaper reports, many deputies strongly opposed the bill in those meetings, and were adamant at refusing to grant constitutional rights to the President that were quite similar to those previously enjoyed by the Ottoman Sultan. We do not know much more about those meetings, but it is likely that some changes were made in order to appease parliamentary opposition within the Party. Apparently, opposition was so strong as to suggest that a majority would not be found. At this point, Mustafa Kemal saw to it that the government resigned.

He basically blackmailed the assembly by only letting them have a competent government if they first approved of the republic.<sup>159</sup>

The bill was brought to the General Assembly on October 29, 1923, as an “urgent” bill, meaning that only one consideration was enough and that the text did not have to be circulated several days before consideration. (This was in conformity with the rules.) The bill included some very serious changes, including the stipulation in art. 12 that the Prime Minister (who was to be named by the President) could form governments even when the parliament did not sit, and have the government approved by the parliament later. Yunus Nadi, the chairman of the constitutional committee, rather lamely explained that this “not sitting” merely referred to holidays and other short periods of time.<sup>160</sup> I think that this point must have raised red flags, as it was reminiscent of Sultan Abdülhamit’s “temporary” dissolution of the parliament in 1878, which had actually lasted 30 years.

The deputies, however, did not raise this point. Apart from one lone deputy who suggested that the presidential election be left to the next assembly, the law was voted through, first paragraph by paragraph, and then as a whole (this again was in accordance with the rules). What is intriguing, however, is that neither the number of deputies present nor their votes were recorded in the minutes (as was usually done). According to §105 of the *nizamname* of 1914, constitutional changes had to be supported by at least two-thirds of all deputies (including absent ones) for the change to be valid. (The rules passed in 1927 are even clearer on this point: one-third of all deputies had to declare their willingness to change the Constitution in writing, and the Constitution could only be changed by a two-thirds majority.)<sup>161</sup> It is possible that İsmet (Eker), who was chairing the session as second vice president, refrained from performing a roll call because he knew that the quorum would not be met. Nobody mentioned the two-thirds majority requirement. The law was simply voted on openly, by raising hands. The minutes of this session, however, never mention any numbers, merely stating that the “bill was accepted unanimously” (*müttefikan kabul edilmiştir efendim*).<sup>162</sup>

How many deputies voted for the republic? The total number of deputies elected to the second assembly in 1923 was 325, so a two-thirds majority would have required 216 or 217 votes.<sup>163</sup> Judging from the minutes of other sessions around that time, during which votes were counted, it is highly unlikely that even 200 deputies bothered to show up. For instance, Mustafa Kemal was elected chamber President on August 13, 1923, with 196 of 197 votes cast.<sup>164</sup> His election as President of the Republic on October 30, 1923 (the day after the suspicious decision concerning the republic) was accomplished unanimously with only 159 votes.<sup>165</sup> These numbers, together with the suspicious non-counting of votes on October 29, 1923, strongly suggest that the decision to turn the Ottoman state into a republic was taken in violation of both the Ottoman Constitution and the TBMM’s internal rules.

For a historian of early Republican Turkey, it is not particularly surprising to discover that one of the most important constitutional changes in that country’s history was voted on in a fashion that was technically illegal. People lived in revolutionary times, and they were not only aware of it, but said so. Mustafa Kemal Paşa said more than once that “the revolution’s law is superior to preexisting

legislation.”<sup>166</sup> To be sure, the establishment of the TBMM and of a government in Ankara in themselves violated the Constitution, and many of the laws issued between 1920 and 1923 – such as the one abolishing the Sultanate, issued in late 1922 – had revolutionary character. One may well say that that Ottoman Constitution was merely an empty shell by 1923, when the republic was declared.

The issue at hand, however, was different in the case of the 1923 vote because what was at stake here was not legality, but legitimacy. At least in their own perception, the deputies in the TBMM had started off with very little of the former and much of the latter – but they were rapidly losing their legitimacy by 1923, when the Independence War had been won and the common enemy had been crushed. If the constitutional change of 1923 was indeed made by a chamber that did not meet the quorum, this happened not because the deputies wanted a republic but because they did not: it was a decision taken by a parliament against itself. The lack of a counting of votes strongly suggests that not only the Ottoman Constitution but also parliamentary freedom, and thus the internal regulation, were an empty shell, too: maintaining its tremendous power only on paper, the parliament had been hijacked by its own government, whose decision it could merely sanction, but no longer challenge in any meaningful way. In this, the TBMM had started to resemble the wartime MM under CUP rule. Now, however, it was not the government that broke the rules, but the parliament itself.

The *longue durée* approach followed here suggests that, in authoritarian states such as inter-war Turkey, there is a direct relationship between the constitutional rights of an assembly and the level of violence and threats used against its members. The Ottoman Empire, and later Turkey, remained first an autocratic and then an authoritarian state throughout the period studied here. During this time, however, the Chamber of Deputies saw an increase in its constitutional powers, such as that to draft and pass laws by itself and pass them on directly to the Sultan (according to the 1909 constitutional amendment). This competence was even further bolstered when the BMM started to operate without the Sultan, the Senate, and the State Council. It is striking that the two earlier Ottoman Chambers of Deputies were rather pedestrian institutions that usually played by their own rules, confining themselves to criticizing governments and holding debates about important issues. This, I argue, is due to their relative insignificance compared to the other constitutional institutions, which broke the rules quite frequently. Once parliamentary power increased, however, there was a surge in violence used against deputies, in electoral fraud, and eventually, in rule violations by parliament itself. This, I argue, was due not to the increase in powers as such but to the relationship between *de jure* and *de facto* powers of parliament and the importance of parliamentarism for the political legitimization of the emerging one-party regime in Turkey.

## Notes

- 1 Youtube contains at least a dozen such videos of fights among deputies that were recorded in various countries in the last ten years. For Turkish examples, combine the search terms “kavga” (fight) and “TBMM.”

- 2 For historical context for nonspecialists, I recommend Erik Jan Zürcher, *Turkey: A Modern History*, new rev. ed. (London: I.B. Tauris; Distributed by St. Martin's Press, 1998). A good selection of articles dealing with the first Ottoman parliament, its legal status and the identity of its members is provided in Herzog, Christoph, and Malek Sharif, eds., *The First Ottoman Experiment in Democracy*. Istanbul: Texte und Studien 18. (Würzburg: Ergon, 2010).
- 3 See Butrus Abu-Manneh, "Gülhane, Edict of," in *Encyclopedia of Islam*, THREE. doi: 10.1163/1573-3912\_ei3\_COM\_27541. For an English translation of the original document, see Jacob C. Hurewitz, ed., *The Middle East and North Africa in World Politics: A Documentary Record*, 2nd ed., rev. and enl (New Haven, CT: Yale University Press, 1975), 269–271. I have worked with the transliterated Ottoman text in A. Şeref Gözübüyük, *Türk Anayasa Metinleri: Tanzimattan Bugüne Kadar* (Ankara: Ajans Matbaa, 1957), 3–5.
- 4 See R. H. Davison, "Tanẓīmāt," in *Encyclopedia of Islam*, 2nd ed. doi: 10.1163/1573-3912\_islam\_COM\_1174.
- 5 See Butrus Abu-Manneh, "The Islamic Roots of the Gülhane Rescript," *Die Welt des Islams* 34, no. 2 (1994), 173–203. The underlying principle, known as the circle of justice, can be traced back to pre-Islamic empires in Mesopotamia. See Linda T. Darling, *A History of Social Justice and Political Power in the Middle East: The Circle of Justice from Mesopotamia to Globalization* (London: Routledge, 2013).
- 6 Hurewitz, *The Middle East*. The Ottoman original text does not mention individuals, but "classes of subjects": ((N)azarı madalet eseri müşfikānem de müsavi bulunan kaffe-i sunufi tebeai): Gözübüyük, *Türk Anayasa Metinleri: Tanzimattan*, 7.
- 7 This status of inferiority and protection for Christians and Jews was known as *dhimma* (in Ottoman Turkish: *zimmēt*). See Cl. Cahen, "Dhimmā," in *Encyclopedia of Islam*, 2nd ed. doi: 10.1163/1573-3912\_islam\_SIM\_1823.
- 8 Probably the thorniest area of reform was that of rural taxation. The abolition of tax farming, though promised as early as 1839, could not be implemented: see Stanford J. Shaw, "The Nineteenth-Century Ottoman Tax Reforms and Revenue System," *International Journal of Middle East Studies* 6, no. 4 (1975): 421–459. Attempts at tax reform often led to uprisings such as the one 1841 in Niş. See Ahmet Uzun, *Tanzimat Ve Sosyal Direnişler: Niş İsyanı Üzerine Ayrıntılı Bir İnceleme (1841)* (Istanbul: Eren Yayıncılık, 2002).
- 9 The contrast between promise and implementation of reforms was probably most pronounced in eastern Anatolia, where the Ottoman state, having destroyed traditional power structures in the 1840s, was unable to maintain law and order. The resulting power vacuum was filled by local warlords who often "taxed" the sedentary population in addition to regular state taxes. See Nadir Özbek, "The Politics of Taxation and the "Armenian Question" during the Late Ottoman Empire, 1876–1908," *Comparative Studies in Society and History* 54, no. 4 (2012): 770–797.
- 10 On the use of Tanzimat rhetoric in petitions, see Attila Aytekin, "Peasant Protest in the Late Ottoman Empire: Moral Economy, Revolt, and the Tanzimat Reforms," *International Review of Social History* 57, no. 2 (2012): 191–227. Masayuki Ueno, "'For the Fatherland and the State': Armenians Negotiate the Tanzimat Reforms," *International Journal of Middle East Studies (IJMES)* 45, no. 1 (2013): 93–109.
- 11 See Şerif Mardin, "Super-Westernization in Urban Life in the Ottoman Empire in the Last Quarter of the Nineteenth Century," (1974) in Şerif Mardin, *Religion, Society, and Modernity in Turkey* (Syracuse: Syracuse University Press, 2006), 135–163.
- 12 Virtually all "nationalist" uprisings of the nineteenth century were triggered by very non-nationalist, local conflicts. See Ramazan H. Öztan, "Nationalism in Function: 'Rebellions' in the Ottoman Empire and Narratives in Its Absence," in *War and Collapse: World War I and the Ottoman State*, eds. M. H. Yavuz and Feroz Ahmad (Salt Lake City: University of Utah Press, 2016), 161–202.

- 13 See Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas*, Modern intellectual and political history of the Middle East (Syracuse, NY: Syracuse University Press, 2000); Nazan Çiçek, *Young Ottomans: Turkish Critics of the Eastern Question in the Late Nineteenth Century*, Library of Ottoman Studies 20 (London: I.B. Tauris, 2010).
- 14 To legitimize the idea of parliamentarism, they cited suras 3:159 and 42:38 from the Qur'an. Namık Kemal used the Qur'anic verse "and seek their counsel in all affairs" from sura 3:159 as the title of one of his most famous articles. For a detailed discussion of his thought, see Mardin, *The Genesis of Young*, 283–336.
- 15 Louise Fawcett, "Neither Traditional nor Modern: Constitutionalism in the Ottoman Empire and Its Successor States," *Journal of Modern European History* 6, no. 1 (2008): 116–136.
- 16 On earlier forms of (limited) representative government in cities, see Roderic H. Davison, "The Advent of the Principle of Representation in the Government of the Ottoman Empire," in *The Beginnings of Modernization in the Middle East. The Nineteenth Century*, eds. William R. Polk and Richard L. Chambers (Chicago, IL: The University of Chicago Press, 1968), 93–108; Nora Lafi, "The Ottoman Municipal Reforms between Old Regime and Modernity: Towards a New Interpretative Paradigm," in *1. Uluslararası Eminönü Sempozyumu Tebliğler Kitabı - 1st International Symposium on Eminönü the Book of Noticifications* (sic), ed. Fatih Sadırlı (Istanbul: Eminönü Belediyesi, 2006), 348–355.
- 17 Davison, "The Advent," 96.
- 18 For a discussion of the organic laws for the Armenian, Orthodox, and Jewish communities, as well as other possible sources of inspiration for the Ottoman Constitution of 1876, see Aylin Koçunyan, "The Transcultural Dimension of the Ottoman Constitution," in *Well-Connected Domains: Towards an Entangled Ottoman History*, eds. Pascal Firges et al., The Ottoman Empire and Its Heritage (Leiden: Brill, 2014), 235–258.
- 19 Davison, "The Advent," 102.
- 20 B. Lewis et al., "Baladiyya (Turkey)," in *Encyclopedia of Islam*, 2nd ed. doi: 10.1163/1573-3912\_islam\_COM\_0095.
- 21 See Stanford Jay Shaw and Ezel Kural Shaw, *History of the Ottoman Empire and Modern Turkey: The Rise of Modern Turkey, 1808–1975/Stanford J. Shaw, Ezel Kural Shaw*, 1st ed., 2 vols. (Cambridge: Cambridge University Press, 1976); Zürcher, *Turkey*.
- 22 I have worked with the Ottoman transliterated text in Gözübüyük, *Türk Anayasa Metinleri*. The first 34 articles of the original Ottoman text are available online at <https://anayasa.tbmm.gov.tr/docs/1876/1876ilkmetinler/1876-ilkhal-osmanlica.pdf>. For an English translation (which also includes translations of the two reform rescripts mentioned above), see <http://genckaya.bilkent.edu.tr/documents1.html>
- 23 According to Shaw and Shaw, in the first Chamber of Deputies of 1877, there was 1 deputy for 88,282 males from the European provinces, 1 for 162,148 in the Anatolian provinces, and 1 for 505,000 in "Africa" (sic, probably meaning to include the Arab provinces in Asia – the only African province that sent representatives was Tripolitania). The Shaws are correct in stating that non-Muslims were overrepresented. However, their calculation is problematic due to the fact that late Ottoman population statistics, especially those concerning Armenian population figures, were unreliable and continue to be highly politicized. Stanford J. Shaw and Ezel K. Shaw, *History of the Ottoman Empire and Modern Turkey: The Rise of Modern Turkey, 1808–1975* (Cambridge: Cambridge University Press, 1976), 181.
- 24 The reference to "domestic servants" is probably a veiled acknowledgment of the continued existence of domestic slavery in the Ottoman Empire, which, despite legal steps aimed at banning slavery and slave trade taken since the 1830s, continued well into the twentieth century. For an overview, see Ehud R. Toledano, *Slavery and*

*Abolition in the Ottoman Middle East* (Seattle, WA: University of Washington Press, 1998).

- 25 <http://genckaya.bilkent.edu.tr/documents1.html>
- 26 Expense allowances for deputies elected to the German Reichstag were initially banned in 1871. The ban was supposed to prevent a professionalization of politics (and to keep men who were not of independent means, especially socialists, out of the Reichstag), but the actual effect was a very low attendance rate. In 1894, deputies became eligible for free train rides, and in 1906, expense allowances were introduced. See Hermann Butzer, *Diäten und Freifahrt im Deutschen Reichstag: Der Weg zum Entschädigungsgesetz von 1906 und die Nachwirkung dieser Regelung bis in die Zeit des Grundgesetzes*. Beiträge zur Geschichte des Parlamentarismus und der politischen Parteien 116 (Düsseldorf: Droste, 1999).
- 27 The online English translation (“The Treasury will allot to each deputy 20.000 piastres Per (sic) session”) (see note 22) is misleading. The sum was to be paid per parliamentary year: “Mebuslardan herbirine beher sene içtimai için hazineden yirmibin kuruş verilecek.” Gözübüyük, *Türk Anayasa Metinleri: Tanzimattan*, 33.
- 28 Again, the English translation is misleading. It was not “the ministry,” but the cabinet that was in charge of preparing bills: “Mücceden kanun tanzimi veya kavanini mevcudedden birinin tadili teklifi heyeti vükelaya ait” *ibid.*, 30.
- 29 Hasan Kayalı, “Elections and the Electoral Process in the Ottoman Empire, 1876–1919,” *International Journal of Middle East Studies* 27, no. 3 (1995): 265–286, 266.
- 30 *Ibid.*, 267.
- 31 Kemal H. Karpat, “The Ottoman Parliament of 1877 and Its Social Significance,” in Kemal H. Karpat, *Studies on Ottoman Social and Political History: Selected Articles and Essays* (Leiden: Brill, 2002), 75–89.
- 32 Kayalı, “Elections,” 267.
- 33 Karpat, “The Ottoman Parliament” in *Studies on Ottoman Social and Political History*, 79.
- 34 Kemal H. Karpat, “The Transformation of the Ottoman State, 1789–1908,” in *Studies on Ottoman Social and Political History: Selected Articles and Essays* (Leiden: Brill, 2002), 56.
- 35 Karpat, “The Ottoman Parliament” in *Studies on Ottoman Social and Political History*, 80.
- 36 *Ibid.*, 78.
- 37 Rıdvan Akın, “Osmanlı Parlamentosu ve Cumhuriyete Bıraktığı Siyasal Miras,” *Galatasaray Üniversitesi Hukuk Fakültesi Dergisi* 7, no. 2 (2008): 55.
- 38 *Ibid.*
- 39 In the 8th session on March 28, 1877, *ibid.*, 53–60.
- 40 In the 21st session on April 24, 1877. Hakkı Tarık Us, *Meclis-i Meb’usân: 1293=1877* (Istanbul: Vakıf, 1940), 170–180.
- 41 In the 45th and 46th sessions on June 6 and June 9, 1877. *Ibid.*, 338–339, 342–345.
- 42 The sessions dealing with the budget law were nonpublic, but they are mentioned and their results are abstracted in the minutes of the public sessions published in *Vakit*, at times with reference to other newspapers. See *ibid.*, 382.
- 43 Robert Devereux, *The First Ottoman Constitutional Period: A Study of the Midhat Constitution and Parliament* (Baltimore: Johns Hopkins University Press, 1963), 202.
- 44 For a list of the topics covered and short abstracts of the respective debates in modern Turkish, see İhsan Güneş, *Türk Parlamento Tarihi. Meşrutiyete Geçiş Süreci: I. Ve II. Meşrutiyet: I. Cilt* (Ankara: Türkiye Büyük Millet Meclisi Yayınları, 1996). I have checked the abstracts against the minutes and found them to be correct. The Ottoman Turkish spoken in the sessions was fairly simple and should be intelligible to readers of modern Turkish as well.
- 45 In the 32nd session on May 19, 1877. Us, *Meclis-i Meb’usân 1877*, 300–305.

- 46 In the 24th Session on May 7, 1877. *Ibid.*, 201–202.
- 47 The deliberations took place in various sessions between May 31 and May 3, 1877.
- 48 Kayalı, “Elections,” 267.
- 49 Güneş, *Türk Parlamento Tarihi*.
- 50 Şeref İba, *Osmanlı'dan Günümüze İçtüzük Metinleri* (Ankara: TBMM, 2007), 371. İba cites Servet Armağan, *Memleketimizde İçtüzükler* (Istanbul: İstanbul Üniversitesi Hukuk Fakültesi, 1972). Robert Devereux, *The First Ottoman Constitutional Period: A Study of the Midhat Constitution and Parliament* (Baltimore, MD: The Johns Hopkins Press, 1963), 155. It is beyond the scope of this paper to find out which examples were followed.
- 51 Khalid M. Al-Barazi, “The Majlis Mebusan (Meclis-i Mebusan): The Ottoman Parliament (1908–1912)” (Ph.D. diss. School of Oriental and African Studies (University of London), 2002), 100.
- 52 Devereux, *First Ottoman Constitutional Period*, 154.
- 53 I worked with the transliterated text provided in İba, *Osmanlı'dan Günümüze İçtüzük*.
- 54 For biographical information on him, see J. Deny, “Ahmad Wafiq Pasha,” in *Encyclopedia of Islam*, 2nd ed. doi: 10.1163/1573-3912\_islam\_SIM\_0426. Also Devereux, *First Ottoman Constitutional Period*.
- 55 Devereux, *First Ottoman Constitutional Period*, 156.
- 56 Al-Khalidi, member of one of the most prominent families of Jerusalem, served as mayor of that city from 1870 to 1876, and again from 1878 to 1879. See <https://islamansiklopedisi.org.tr/yusuf-ziya-el-halidi>. His biographical background fits the observation Karpat makes for many deputies: though not a “farmer” by profession, his family’s wealth was clearly based on property in agricultural land.
- 57 Devereux, *First Ottoman Constitutional Period*, 156.
- 58 Us, *Meclis-i Meb'usân 1877*, 32. The decision was taken with a simple majority, suggesting that some Muslims voted for observance of the Christian holiday.
- 59 Devereux, *First Ottoman Constitutional Period*, 183.
- 60 Vasilaki Efendi (Istanbul): bir işimiz olduğu, yahut hasta bulunduğumuz zaman ruhsat almak lazım mı? (...) Reis Efendi – bunun nizamnamede mussarah olduğunu, Vasilaki Efendi (Istanbul) (sic) – Nizamnamenin daha orası gelmediğini [söyledi]. Us, *Meclis-i Meb'usân 1877*, 32.
- 61 This is a question that I, too, have asked myself, and the chairman’s answer is instructive here: branches, unlike commissions, were not to be specialized in certain subjects. They were supposed to prepare the work of the plenary sessions, allowing for consideration of bills and other documents in smaller groups. All branches would, one after another, deal with the same documents. *Ibid.*, 32.
- 62 In session number five, *ibid.*
- 63 Devereux, *The First Ottoman Constitutional Period*, 163.
- 64 *Ibid.*
- 65 *Ibid.*
- 66 Arts. 57, 62 of the 1877 *nizamname*.
- 67 See Devereux, *First Ottoman Constitutional Period*, 175.
- 68 See M. Koß, *Parliaments in Time: The Evolution of Legislative Democracy in Western Europe, 1866–2015* (Oxford, New York: Oxford University Press, 2019), 133.
- 69 I have tried to verify this for the paper *Kastamonu*, which was published in that province as early as 1872. Unfortunately, the online collection of the Turkish National Library does not contain issues from the 1870s.
- 70 See Karpat, “The Ottoman Parliament,” in *Studies on Ottoman Social and Political History*.
- 71 See Devereux, *First Ottoman Constitutional Period*, 174.
- 72 See *ibid.*, 235–236.
- 73 Devereux, *First Ottoman Constitutional Period*, 236.
- 74 *Ibid.*, 237–238.

- 75 Ibid., 237.
- 76 Ibid., 247–248.
- 77 Akın, “Osmanlı Parlamentosu ve Cumhuriyete,” 60.
- 78 For a good overview of his reign, see François Georgeon, *Abdülhamid II (1876–1909): Le crépuscule de l'Empire ottoman*, Deuxième édition, Biblis 161 (Paris: CNRS éditions, 2017).
- 79 A case in point is the enforcement of military service. See Elke Hartmann, *Die Reichweite des Staates: Wehrpflicht und moderne Staatlichkeit im Osmanischen Reich 1869–1910*, Krieg in der Geschichte Band 89 (Paderborn: Ferdinand Schöningh, 2016).
- 80 On the CUP, see M. Ş. Hanioglu, “The Committee of Union and Progress and the 1908 Revolution,” in “*L'ivresse de la liberté*”: *La révolution de 1908 dans l'Empire ottoman*, ed. François Georgeon, Collection Turcica 17 (Paris: Peeters, 2012), 15–27.
- 81 On the relationship between centralists, liberals, and Armenian groups in exile, see Kévorkian, Raymond H., *The Armenian Genocide: A Complete History* (London: I.B. Tauris, 2011), 43–50.
- 82 “(P)arlamento rejim (...) amaç değil amaç sayılmıştır.” (Emphasis as in the original.) Tarık Zafer Tunaya, *Türkiye’de Siyasal Partiler: I. İkinci Meşrutiyet Dönemi 1908–1918*, 2nd ed. ([İstanbul]: Hürriyet Vakfı Yayınları, 1984). This also goes for the first constitutional period.
- 83 See Nader Söhrabi, “Global Waves, Local Actors: What the Young Turks Knew about Other Revolutions and Why It Mattered,” *Comparative Studies in Society and History* 44, no. 1 (2002), 45–79.
- 84 For a good overview, see François Georgeon, ed., “*L'ivresse de la liberté*”: *La révolution de 1908 dans l'Empire ottoman*, Collection Turcica 17 (Paris: Peeters, 2012).
- 85 See Erol A. F. Baykal, *The Ottoman Press (1908–1923)* (Leiden: Brill, 2019).
- 86 For a detailed discussion of the procedure, see Kayalı, “Elections.” The voting age was set at 25, for male taxpayers only.
- 87 According to the census of 1907, the empire had a population of roughly 20 million, of which 15 million were Muslims. See Akın, “Osmanlı Parlamentosu ve Cumhuriyete,” 62.
- 88 Feroz Ahmad, *The Young Turks. The Committee of Union and Progress in Turkish Politics 1908–1914* (Oxford: Oxford University Press, 1969), 28. According to Enver Ziya Karal, who provides much lower numbers for the non-Turkish Muslims, there were only 240 deputies. See Enver Z. Karal, *Osmanlı Tarihi. IX. Cilt. İkinci Meşrutiyet ve Birinci Dünya Savaşı (1908–1918)* (Ankara: Türk Tarih Kurumu Basımevi, 1996), 62. The minutes, however, don’t support Karal’s claim: For 1 Haziran/14 June 1909, they provide the result of a roll call, giving the full number of deputies (including absent ones) as 268:  
<https://www.tbmm.gov.tr/tutanaklar/TUTANAK/MECMEB/mmbd01ic01c004/mmbd01ic01c004ink092.pdf>, 338.
- 89 Charles R. Buxton, *Turkey in Revolution* (London, Leipzig (sic): Fisher Unwin, 1909), 207.
- 90 See Ahmad, *Young Turks*, 17.
- 91 For a very detailed discussion of the history of political parties, see Tunaya, *İkinci Meşrutiyet Dönemi 1908*.
- 92 See Ahmad, *Young Turks*, 65–91; Kayalı, “Elections,” 272–273.
- 93 Ileana Moroni, “Continuity and Change in the 1909 Constitutional Revision: An Ottoman Imperial Nation Claims Its Sovereignty,” in *The Young Turk Revolution and the Ottoman Empire: The Aftermath of 1908*, eds. Noémi Lévy-Aksu and François Georgeon, Library of Ottoman Studies 59 (London: Tauris, 2017), 265–317, 267.
- 94 At this point, in 1908, this would have been the Ottoman nation, whose exact character, and the relationship of different groups within it, was hotly debated during the



- first years of the second constitutional period. See Bedross Der Matossian, *Shattered Dreams of Revolution* (Stanford, California: Stanford University Press, 2014).
- 95 The state of emergency does not seem to have mattered much for the freedom of the press. See Baykal, *The Ottoman Press (1908–1923)*.
- 96 See Bedross D. Matossian, “From Bloodless Revolution to Bloody Counterrevolution: The Adana Massacres of 1909,” *Genocide Studies and Prevention* 6, no. 2 (2011): 152–173.
- 97 For a general overview of political events, see Zürcher, *Turkey*.
- 98 The number of temporary laws is taken from Tunaya, *İkinci Meşrutiyet Dönemi 1908*, 9.
- 99 For a comprehensive discussion and interpretation of the constitutional revision, see Moroni, “Continuity and Change.”
- 100 *Ibid.*, 270.
- 101 For a detailed discussion of the amended articles, which also provides a comparison to similar stipulations in the Belgian (1831), Prussian (1861), and German (1871) constitutions, see Gotthard Jäschke, “Die rechtliche Bedeutung der in den Jahren 1909–1916 vollzogenen Abänderungen des türkischen Staatsgrundgesetzes,” *Die Welt des Islams* 5, no. 3 (1917): 97–152. An English discussion largely based on Jäschke can be found in Al-Barazi, “The Majlis Mebusan.”
- 102 Art. 3. <http://www.anayasa.gen.tr/1909amendment.htm>. In my citation, (...) marks the place where I have taken out the explanation “canon law” for *Şeriat/Sharia*, which is grossly misleading, as *Sharia* law was *not* positive, despite late Ottoman attempts at fixating it in the *mecelle*, a compilation of *Sharia*-based provisions in paragraph form. The Ottoman Turkish text of the Constitution reads: “Zat-ı hazret-i padişah-i hin-i cüluslarında Meclis-i Umûmîde ve Meclis müctemi değilse ilk ictimainda şer’-i şerif ve Kanun-ı Esasi ahkâmına riayet ve vatan ve millete sadakat edeceğine yemin eder.” Gözübüyük, *Türk Anayasa Metinleri*, 50.
- 103 Akın, “Osmanlı Parlamentosu ve Cumhuriyete,” 63. The MM tried to make these posts, too, subject to approval by the chamber, but the Senate refused to sanction the changed article. See Moroni, “Continuity and Change,” 271.
- 104 According to the new article 35, in the case of such a disagreement, the Sultan could dissolve the chamber and hold new elections. If these produced a chamber that again persisted on its position, the Sultan had to accept the bill. For the changed article, see <https://anayasa.tbmm.gov.tr/docs/1876/1876-1/1876-1-degisiklik.pdf>. On the changes, also see Moroni, *ibid.*, 272.
- 105 Olgun, *1908–1912*, 131.
- 106 See Moroni, “Continuity and Change,” 271.
- 107 Article 4 of the election law stated: “in every district, all male Ottoman inhabitants shall be written into a register.” (her kazada mevcut olan osmanli nüfus-i zükurunun esas defterinin tanzimiyle.) (Emphasis mine.) *Kanun-i Esasi. Meclis-i Mebusan Nizamname-i Dahilisi. Meclis-i Azan Nizamname-i Dahilisi. İntihab-ı Mebusan Kanunu* (Istanbul: Matbaa-i Âmire, 1328 [1912/1913]). 86 (No page numbers, counted according to the pdf). Pdf obtained from <https://acikerisim.tbmm.gov.tr/xmlui/handle/11543/2463>
- 108 See Olgun, *1908–1912*, 190–191. Olgun is mistaken in believing that the deputy for Dersim, Lütfi Fikri Bey, proposed female suffrage. He actually compared women to children, who also belonged to the nation, but were not allowed to vote, and should therefore be represented in parliament (by male deputies). See <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/MECMEB/mmbd01ic01c004/mmbd01ic01c004ink092.pdf>, 356.
- 109 Unfortunately, Al-Barazi’s discussion of the internal regulations, despite dealing with the *Meclis-i Mebusan* after 1908, is limited to the 1877 text of the *nizamname*, not taking into account the 1909 amendments.
- 110 Unless stated otherwise, this section is based on the regulation texts as published by İba, *Osmanlı’dan Günümüze İçtüzük*.

- 111 See Olgun, *1908–1912 Osmanlı Meclis-i Mebusanı*, 119.
- 112 For a detailed discussion, see Kayalı, “Elections,” 272, Al-Barazi, “The Majlis Mebusan,” 124.
- 113 Kayalı, *ibid.*, and Barazi, 125. Raymond H. Kévorkian, *The Armenian Genocide: A Complete History* (London: I.B. Tauris, 2011), 67.
- 114 Al-Barazi, “The Majlis Mebusan,” 126.
- 115 This is suggested by some browsing in the parliamentary minutes. For studies of two particularly hot debates, see Louis Fishman, “Understanding the 1911 Ottoman Parliament Debate on Zionism in Light of the Emergence of a ‘Jewish Question’,” in *Late Ottoman Palestine: The Period of Young Turk Rule*, eds. Yuval Ben-Bassat and Eyal Ginio, Library of Ottoman Studies 29 (London: Tauris, 2011), 103–124; Ayhan Aktar, “Debating the Armenian Massacres in the Last Ottoman Parliament,” *History Workshop Journal* 64 (2007): 240–270.
- 116 See Kayalı, “Elections,” 273.
- 117 *Ibid.*, 279.
- 118 Changed articles 7, 35, and 43, 27 May 1914. See <https://anayasa.tbmm.gov.tr/docs/1876/1876-2/1876-2-degisiklik.pdf>. Changed article 102, same day, <https://anayasa.tbmm.gov.tr/docs/1876/1876-3/1876-3-degisiklik.pdf>.
- 119 Changed article 76 (11 February 1915) <https://anayasa.tbmm.gov.tr/docs/1876/1876-4/1876-4-degisiklik.pdf>. This is when the law came into force. It was probably discussed in the *meclis* much earlier, possibly prior to the First World War.
- 120 Among the arrested Armenian community leaders were deputy for Istanbul Krikor Zohrab (deputy for Istanbul, arrested only later), Vartkes Serengüliyan (Erzurum, arrested later), Nazaret Dağavariyan (Sivas), and Hampartsoum Boyacıyan (a.k.a. Murad, deputy for Sis/Kozan). All four were killed. There were also a number of former deputies among the deported. For an account of the April 1915 arrests in Istanbul, see Kévorkian, *The Armenian Genocide*.
- 121 See Erik J. Zürcher, “Young Turk Governance in the Ottoman Empire During the First World War,” *Middle Eastern Studies* 55, no. 6 (2019): 897–913.
- 122 Zürcher cites one session in 1915 during which 245 laws were passed, 177 of them without any discussion: Erik J. Zürcher, “Young Turk Governance in the Ottoman Empire during the First World War,” *Middle Eastern Studies* 55, no. 6 (2019): 897–913, 900.
- 123 Changed articles 7 and 35 of 9 March 1916 (4 Cemazievvel 1334), see <https://anayasa.tbmm.gov.tr/docs/1876/1876-5/1876-5-degisiklik.pdf>.
- 124 Changed article 72, 20 March 1916 (15 Cemazievvel 1334), see <https://anayasa.tbmm.gov.tr/docs/1876/1876-6/1876-6-de%C4%9Fi%C5%9Fiklik.pdf>.
- 125 For studies of this debate, see Kévorkian, *The Armenian Genocide*, 721–733, Aktar, “Debating the Armenian Massacres.”
- 126 For the nexus of war-time and postwar violence, see Ellinor Morack, “The Ottoman Greeks and the Great War: 1912–1922,” in *The World during the First World War*, eds. Helmut Bley and Anorthe Kremers (Essen: Klartext, 2014).
- 127 See Zürcher, *Turkey*, 138.
- 128 See M. Çağatay Okutan, *Tek Parti Döneminde Azınlık Politikaları*, 1. baskı, İstanbul Bilgi Üniversitesi yayınları Siyaset bilimi 9 (İstanbul: İstanbul Bilgi Üniversitesi Yayınları, 2004). I would like to thank Şener Aktürk (Koç University) for pointing this out to me and making me aware of Okutan’s book. I think, however, that such a statement was unnecessary, given that elections were only held in areas controlled by the new movement, which usually drove out the Christian population. The one community that may have been (theoretically) able to participate was the Turkish-speaking Orthodox Karamanli community living in central Anatolia.
- 129 See Kenan Olgun, “Türkiye’de Cumhuriyetin İlanından 1950’ye Genel Seçim Uygulamaları,” *Atatürk Araştırma Merkezi Dergisi* 27, no. 79 (2011): 1–36, 10. According to Tunaya, this only happened in 1924.

- 130 The 1921 *Teşkilat-i Esasiye Kanunu* (Fundamental Law) is often presented as a constitution in its own right. This, however, is not true. It was passed as a list of additions (merely 23 articles) which, if contradicting the Ottoman Constitution, replaced it, but left the other parts of the Ottoman Constitution in place.
- 131 See Emine Evered and Kyle T. Evered, “A Geopolitics of Drinking: Debating the Place of Alcohol in Early Republican Turkey,” *Political Geography* 50 (2016): 48–60.
- 132 The conflict over the question of alcohol prohibition is usually misrepresented as one between reactionary Islamists and progressive seculars. As the minutes show, almost all deputies (including those later perceived as “secular”) argued in favor of prohibition, citing health reasons and the desire to boycott non-Muslim businesses as objectives of the law. The minister of finance argued in favor of legal alcohol sales due to fiscal concerns.
- 133 See Mete Tunçay, *Türkiye Cumhuriyeti'nde Tek Parti Yönetimi'nin Kurulması: 1923–1931* (Ankara: Yurt Yayınları, 1981).
- 134 See Ergün Aybars, *İstiklâl Mahkemeleri* (Ankara: Bilgi Yayınevi, 1975).
- 135 Zürcher, *Turkey*.
- 136 See Tunçay, *Türkiye Cumhuriyeti'nde Tek*, 46. Turkish official historiography usually depicts the second group as religious reactionaries. They may have been more outspoken in their opposition to policies that weakened religious institutions, but I think that this was a result of their relative independence from state positions, rather than of lifestyles or contentions differing from their peers in the first group. Put differently, throughout early republican times, anti-religious policies were deeply unpopular and truly anti-religious people very few in numbers.
- 137 The problem apparently was that the Mosul question was left out of the Lausanne treaty, to be negotiated later. See Tunçay, *Türkiye Cumhuriyeti'nde Tek*, 49–50.
- 138 Olgun, “Türkiye’de Cumhuriyetin İlanından,” 12. Female suffrage was introduced on the local level in 1930, and for nation-wide elections in 1934.
- 139 See Tunçay, *Türkiye Cumhuriyeti'nde Tek* 55–56.
- 140 Erik J. Zürcher, “The Ottoman Legacy of the Turkish Republic: An Attempt at a New Periodization,” *Die Welt des Islams* 32 (1992): 237–253.
- 141 For a good discussion of opposition in parliamentary commissions during the single-party period, see Yelda Kaya, “A Fissure in ‘Unanimous Democracy’: Parliamentary Contestations over Property Rights on Land in Early Republican Turkey,” *Middle Eastern Studies* 55, no. 4 (2019): 540–556.
- 142 “(M)ebusların, pasif direnişi diyebileceğimiz, tutum ve davranışları devam ettiği gibi, daha da yaygınlaşıyor (...)” Mahmut Goloğlu, *Devrimler Ve Tepkileri, 1924–1930* (Ankara: Başnur Matbaası, 1972), 221.
- 143 For instance, in a vote conducted on March 2, 1927, out of 287 deputies, only 124 voted, and 123 of them voted Yes. See *ibid.*, 221. Goloğlu states that 287 deputies were present. I highly doubt this, but rather think that most of those who did not vote did not show up. The minutes are not clear here, speaking merely of “number of deputies.” See <http://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c030/tbmm02030039.pdf>
- 144 Kaya, “A Fissure in ‘Unanimous,’” 540. Citing Frederick W. Frey, *The Turkish Political Elite* (Cambridge, MA: MIT Press, 1965), 369. FN 10.
- 145 TBMM ZC, April 26, 1920, 71–72. The points raised at this point were presented as merely technical ones: the new parliament had three, rather than two, deputy chairmen, the number of commissions differed from that in the MM, and the parliament building was not big enough for housing five branches (*şubeler*).  
<http://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d01/c001/tbmm01001004.pdf>
- 146 The debate about the looting of İzmir in September 1922 is a case in point. See Ellinor Morack, *The Dowry of the State? The Politics of Abandoned Property and Nation-Building in Turkey, 1921–1945*, Bamberger Orientstudien 9 (Bamberg: Bamberg University Press, 2017), 181–210.

- 147 §§ 96–102 in the 1909 text, §131 in 1927.
- 148 <http://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d01/c001/tbmm01001004.pdf>.
- 149 See Faruk Alpkaya, *Türkiye Cumhuriyeti'nin Kuruluşu (1923–1924)* (Istanbul: İletişim, 1998) Also see the minutes of the 13 August 1923 session: <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c001/tbmm02001003.pdf>
- 150 [https://anayasa.tbmm.gov.tr/docs/ictuzuk/1-1877\\_M.M.N.D/1909sonras%C4%B1metin.pdf](https://anayasa.tbmm.gov.tr/docs/ictuzuk/1-1877_M.M.N.D/1909sonras%C4%B1metin.pdf), § 12, paragraph 2, 306.
- 151 See İhsan Ezherli, *Türkiye Büyük Millet Meclisi (1920–1992) ve Osmanlı Meclisi Mebusanı (1877–1920)* (Ankara: TBMM Yayınları, 1992), 39.
- 152 Ezherli, *Türkiye Büyük Millet Meclisi*, 42.
- 153 TBMM Basın ve Halkla İlişkiler Müdürlüğü, “TBMM Albümü 1920–2010: 1. Cilt 1920–1950,” Türkiye/Büyük Millet Meclisi. Membership in that commission is only mentioned for deputies from 1927 onward. It is, however, clear that people sent petitions to the TBMM long before that. Those petitions were usually forwarded to the ministries in charge of the matter at hand.
- 154 Nizamname-i Dahilisi, §20, paragraph 2. p. 307.
- 155 TBMM Dahili Nizamnamesi (2 Mayıs 1927) §24.
- 156 Ibid., FN 10.
- 157 For the debates surrounding the issue of the President’s powers, see Alpkaya, *Türkiye Cumhuriyeti'nin Kuruluşu*, 60 passim.
- 158 *Tevhid-i Efkar*, 19 Teşrinievvel/October 1339/1923, “Ankara İstasyon Binası Cumhuriyet Doğurabilecek Mi?” Cited in *ibid.*, 75.
- 159 See Alpkaya, *Türkiye Cumhuriyeti'nin Kuruluşu*, 74–89.
- 160 See <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c003/tbmm02003043.pdf>, 90.
- 161 1927 Nizamnamesi, Madde 146: “Teşkilâtı Esasiye Kanununun 102 nci maddesi mucibince mezkûr kanunun tadili icabettikte teklifin Meclis mürettep azasının, en az üçte biri tarafından imza edilmesi meşruttur. Tadilât, mürettep aza adedinin üçte iki ekseriyetiyle kabul olunur.”
- 162 Session on 29 October 1923: <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c003/tbmm02003043.pdf>, 98.
- 163 According to the list of deputies given in the TBMM album: TBMM Basın ve Halkla İlişkiler Müdürlüğü, “TBMM Albümü 1920–2010,” 81–122.
- 164 Session on 13 August 1923: <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c001/tbmm02001003.pdf>, 36.
- 165 Session on 30 October 1923: <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c003/tbmm02003044.pdf>, 102.
- 166 “(İ)nkılâbın kanunu mevcut kavâninin fevkindedir.” Mustafa K. Atatürk, *Gazi Mustafa Kemal Paşanın 1923 Eskişehir - İzmit Konuşmaları*. Edited by İnan Arı (Ankara: Türk Tarih Kurumu 1982), 79–82, cited in Alpkaya, *Türkiye Cumhuriyeti'nin Kuruluşu*, 26.

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(April 26, 1920)

<https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d02/c001/tbmm02001003.pdf>  
(13 August 1923)

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(29 October 1923)

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## 8 Nominal democracy in Stalinism

### The Soviet Constitution of 1936<sup>1</sup>

*Olga Velikanova*

Though democracy was on the banners of all Russian revolutions, the resulting regimes stubbornly drifted in an authoritarian direction, producing weak judiciaries and weak legislatures. Constitutional reforms in Russia – in 1906, 1936, and 1993 – faded again and again into token democracies, where elections – a cornerstone of democracy – took place, while constitutional liberties were praised in theory but violated in practice. I suggest here my interpretation of the nominal nature of democratic institutions under Stalinism – elections, a constitution, soviets, and the Supreme Soviet – focusing on the Constitution of 1936 but placing it in a larger national and historical context.

In June 1936, the draft of the new Soviet Constitution was published for public discussion. It announced that the USSR was becoming a nonantagonistic socialist society and, accordingly, it canceled restrictions on voting rights and introduced universal suffrage, a secret ballot, separation of powers, an open judicial process, and the right of the accused to a defense. It declared freedom of the press, the right to assemble, and the inviolability of the individual, housing, and correspondence. In view of the Bolsheviks' previous fixation on class struggle, this liberal, inclusive law was an unexpected swing in official policy. This turn to democracy, which nobody had demanded, was interpreted by historians in various ways: as fake, as a retreat from I. V. Stalin's model of socialism, or as an intended but unrealized democratic reform.<sup>2</sup> Not only the Stalinist version of democracy but Soviet socialism as a whole was treated by many scholars as fictitious, as spectacle, simulation, imitation, self-representation, virtual reality, simulacrum,<sup>3</sup> or an instrument of social mobilization. M. Mamardashvili discussed the hyperreality of Soviet life; E. Dobrenko, socialism as representation; and E. Schulmann, the problem of dormant institutions when speaking about modern Russia.<sup>4</sup> Thus, the dilemma of duality – the discrepancy between self-presentation and practice that pervaded all of Soviet and Russian life – is recognized by scholars who try to make sense of it from various perspectives. I argue here that the intentional deception explanation of the duality phenomenon does not always work. The sources of the nominal nature of the Soviet Constitution of 1936 and of Soviet democracy included other things: the ontological dichotomy between the representation and the reality of Russian life, pressure from traditional sociocultural practices that confronted the modernizing project with its legal culture, the Bolsheviks' way of

thinking, and a perceived urgency for social transformation that was unfavorable for democracy.

The secret internal communications of the leaders show that the government introduced the new Constitution to achieve international, ideological, and political goals.<sup>5</sup> The conventional explanation stresses that the Constitution was a propagandistic trick designed for external use: to impress the West, which was experiencing economic crisis, with the alternative of socialism, and to enhance the Soviet Union's reputation among Western democracies and attract allies. New documents show that international factors did play a role, but they were secondary to domestic goals. Among the domestic political goals was the managerial goal of improving the effectiveness of government and its ability to exert control through a new election law – using democratic procedures to motivate, revitalize, remove, and to purge sluggish, corrupt, unreliable officials.<sup>6</sup>

Here, I suggest looking once again, and very rigorously, at the ideological reason for a new Constitution<sup>7</sup> – the attainment of socialism – often degraded by historiography as pure deception and propaganda. But internal communications convey that the leaders took very seriously the dictum of the attainment of socialism and the “new order of classes.” The Stalinist vision of achieved socialism and a transformed society explains why the idea of election reform with the enfranchisement of former enemies arose in 1933–1935 and soon led to an entirely new constitution.

### **Lenin's and Stalin's views of democracy and socialism**

Socialism belonged to a metanarrative that structured the Revolution, the policies of War Communism, the socialist offensive, and the five-year plans, even though it often challenged the Bolsheviks' positions in power. When Stalin launched the socialist offensive in 1928, he projected socialism as the result of a five-year plan. In this, he followed V. I. Lenin's plan of building socialism, elaborated in “State and Revolution” and later articles. Lenin envisioned socialism as democratic, but in a specific form and not attained all at once. He saw the soviets as a new form of popular majoritarian democracy in opposition to liberal European democracy with its concern for minority rights. In the USSR, directly elected local soviets sent delegates to periodic congresses of soviets at various levels, and since 1937 the Supreme Soviet was elected directly. The USSR Supreme Soviet was the highest legislative organ in the country (its Presidium acted as such between its sessions), with the Council of People's Commissars serving as an executive body.<sup>8</sup>

While imagining a proletarian, or socialist, democracy representing the majority of the working people in the future socialist state, Lenin reserved a severe critique for bourgeois parliamentarism. He asserted that bourgeois parliamentary democracy's claims of popular sovereignty were deceptive because real power was exercised behind the scenes by the capitalist bourgeoisie due to tricks with the legislatures.<sup>9</sup> While Lenin's skepticism about parliamentary democracy partially reflected his Machiavellianism, such views were not rare among the contemporary left in Europe who were disillusioned with “parliamentary

governments [that] failed to address the crises” associated with the First World War.<sup>10</sup> Theoreticians concur that the parliamentary systems were poorly equipped to work effectively in emergency situations that require quick decisions. To bourgeois parliamentarianism meant “for the minority,” Lenin contraposed electoral and representative institutions for the majority in the future socialist democracy.

However, democracy would not be introduced in full immediately after the Revolution. Following Karl Marx, Lenin demanded a temporary restriction of democracy by the dictatorship of the proletariat, first of all, to suppress the resistance of the exploitative classes. The dictatorship of the proletariat was seen as a transitional revolutionary measure in the name of the majority until the foundations of a socialist economy and a new society could be created. The delay in introducing a full-fledged democracy and the rule of law was the Bolsheviks’ practice under conditions of a revolutionary “state of emergency,” as Giorgio Agamben called it. Second, the dictatorship of the proletariat would provide time to educate workers, to prepare them for their new roles in administering the socialist society, and to indoctrinate society in socialist values. This implied that the Russian population was not yet literate or mature enough for full democracy. But Stalinists liked to repeat Lenin’s point that “the dictatorship of the proletariat would already be more ‘democratic’ than any European parliamentary democracy because it would rule in the interests of the overwhelming majority (laborers – OV), whereas European democracies ruled in the interests of the bourgeoisie.”<sup>11</sup>

Lenin’s plan formed the foundation of Stalin’s policy of building a socialist economy, fomenting cultural revolution, focusing the second five-year plan on creating a classless society. At the Eighth Congress of Soviets in 1936, the dictator praised the growth of the new working class and the creation of new cadres of intelligentsia, and emphasized the new nature of the *kolkhoz* (collective farm) peasantry,<sup>12</sup> thus implying that the new soviet public is socialist and loyal now that “exploitative elements have been eliminated.” Purges of society of exploitative (petty) bourgeois elements and former people were an integral part of this concept of the dictatorship of the proletariat.

Such a paradoxical view of democracy (as a dictatorship at the beginning) was further modified and even deformed in the USSR in the peculiar way that I describe here. While we see an attempt at democratic socialist governance in the early Soviet state, it was gradually curtailed in the soviets,<sup>13</sup> factory committees,<sup>14</sup> and public organizations, and by establishing a one-party system. Historians attribute the failure of the Soviet democratic transition to various factors: both the catastrophic circumstances themselves<sup>15</sup> and the leaders’ perceptions of threat; in Erik Van Ree’s view, because Lenin’s radical and opportunistic view of democracy was flawed from the start;<sup>16</sup> the Bolsheviks’ “deep-seated preference for centralization”; the insufficiency of democratic traditions, literacy and legal culture in the country; and Stalin’s personal role. The Bolsheviks’ *Realpolitik* adjusted the ideal of democracy to circumstances on the ground and at the top.

## Discourse of democracy in the mid-1930s

After the “successful” implementation of industrialization, collectivization, and cultural revolution, at the Seventeenth Party Congress, Stalin announced that Lenin’s plan of constructing socialism had been realized. Consequently, in 1935–1936, we see some moderation in policies justified by having achieved socialism. The reform of the Constitution was a part of this larger discourse of moderation and democratization in political, economic, judicial, and ideological developments in 1933–1936, including the move to legal reform and the lower tide in repressions. The moderation of policy<sup>17</sup> stems from two different government contexts: sometimes it was a pragmatic adjustment or ad hoc correction after the “excesses” of collectivization (*Realpolitik*); at other times – on the level of metadiscourse – the relaxation was motivated by the expectation of the advent of socialism in accordance with Lenin’s plan.

The Constitution belonged to this metadiscourse, evident in a retreat from class rhetoric and a shift toward the new discourse of democracy and even parliamentarism. The members of the Constitutional Drafting Commission studied foreign constitutions very seriously: they consulted the texts of constitutions and electoral laws from England, Belgium, Poland, Germany, Norway, Czechoslovakia, and Switzerland, and the text of the French “Declaration of the Rights of Man and of the Citizen” (1789). These internal consultations proved genuine interest rather than public relations theater. The scrupulous work of the Constitutional Commission while preparing the draft in 1935–1936 leads Samantha Lomb to the important conclusion that “these [civil] rights were so carefully crafted because they were not simply propaganda but real programs the state sought to implement.”<sup>18</sup> We do not know the details of the discussions in the Commission and sub-commissions’ meetings because they were not stenographed. But later M. I. Kalinin recognized publicly that the new Soviet election system would resemble the French one.<sup>19</sup> V. M. Molotov in *Pravda*, November 30, 1936, stated: “All the best in the democratic systems of other states we brought in and added to our Constitution to apply to the conditions of the Soviet state.”<sup>20</sup> At the Seventh Congress of Soviets on February 6, 1935, Molotov, after repeating Lenin’s critique, used the term “parliament” in relation to the Soviet organs:

All the best in parliamentarism – direct, equal, and secret elections of representatives to the organs of state government with universal participation of all working people, as our Constitution demands, all these should be realized now in the Soviet Union. Thus, we have the further development of the soviet system in the form of a combination of the directly elected local soviets with a kind of (*svoego roda*) directly elected *Soviet* parliaments in the [union] republics and all-union *Soviet* parliament.<sup>21</sup>

After the first meeting of the Commission on July 7, 1935, the newspapers *Pravda*, *Izvestia*, *Komsomol’skaia pravda*, *Economicheskaiia zhishn’*, and the journal *Sovetskoe gosudarstvo i pravo* started publishing articles about Western and Japanese constitutions. The articles’ major propagandistic goal was to present the

“unsightly background of bourgeois constitutionalism” and the “degeneration of Western parliamentaryism.” All the authors displayed profound contempt for either democratic, fascist, or monarchical constitutionalism by means of scorn and irony. They emphasized the function of European parliaments as masking the bourgeois dictatorship in democratic wrapping. They described restrictions of voting rights for women and the military, as well as residency and income qualifications. The articles on the European constitutions on the pages of *Pravda* juxtaposed descriptions of the hard life of working people under these constitutions to contrast the written rights with actual conditions.<sup>22</sup> In 1935–1936, the four-volume collection *The Constitutions of Bourgeois Countries* was published.<sup>23</sup> In Prosecutor A. Ia. Vyshinskii’s article, accompanying the publication of “[t]he Statute on the Elections to the Supreme Soviet of the USSR” in July 1937, the critique of bourgeois constitutionalism received more detailed and expansive development with references to foreign juridical literature.<sup>24</sup> These public references to the Western constitutions, in-house examination of their models in the Commission, and the straightforward use of the word “parliament” in relation to the Soviet legislature was a shift. It tells us about the organizers’ self-confidence and their belief that “the time had come to move to a full Soviet democracy.”<sup>25</sup> It seems they did not fear that such publications would make the readers compare the suppression of civil rights in Europe and in the USSR. The public, curious about Western democracies, accepted these publications with noticeable interest. People appreciated European freedoms and often compared them to Soviet ones. In these highly ideological articles, the attentive reader might notice that even under “degenerative democracy,” multiple workers’ and peasants’ parties existed in Europe and monarchical Japan, and they could find striking similarities between the political systems of fascist Italy and the Soviet Union. Workers talking in 1937 said: “We have no democracy; our democracy is fake; any bourgeois country has more democracy than the USSR.”<sup>26</sup>

### **Why was the democratic constitution introduced?**

In the mid-1930s, in both public and confidential settings, the Party leaders – I. V. Stalin, V. M. Molotov, G. G. Iagoda, and A. S. Enukidze – repeatedly declared that the goals of the great socialist offensive had been largely achieved – in the economy and in the social and class structure. According to Stalin’s Marxism, as soon as the economic base had been transformed through the five-year plan and collectivization, it should almost automatically reshape society. Granting democratic liberties and voting rights to the former “enemies” in 1936 grew from the Marxist maxim that the new socialist relations of production, combined with education, propaganda, and appropriate “cleansings” of society would shape a new consciousness and a new Soviet unity of “friendly classes” and nationalities.

As a result, direct, equal, and universal elections by secret ballot – a core of the participatory direct democracy envisioned by Lenin in full-fledged socialism – was introduced by the 1936 Constitution, which ended the disfranchisement of former people, kulaks, and priests – 2.5 percent of the voters, according to Molotov.<sup>27</sup>

Other liberties granted by the Constitution were in line with an understanding of the new conditions in the country as socialist. Therefore, the new Supreme Soviet replaced the earlier Congress of Soviets as the supreme legislative body. The USSR Supreme Soviet was supposed to be elected in December 1937 with multiple candidates according to the new rules. The 1936 Constitution finalized and celebrated the ideological program of building socialism and announced a shift to democracy.

The Stalinists' wishful thinking projected socialism as being real. In 1936, Stalin and the government were sincere in their belief.<sup>28</sup> Ideological dogma, mental filters, and tailored information that they received distorted their perception of reality. Their aspirations for the future and their proclivity to see the present as it ought to be – representing the future as if it were already here – contributed to their wishful thinking. The writer M. M. Prishvin in his diary from 1950 dissected this kind of worldview:

To the question about the number of prisoners in the USSR, [his] answer was: whatever the number, it doesn't make a difference. ... Stalin is right, of course ... when he declares we don't have prisoners. He believes in communism so firmly that he sees the current situation with prisoners as temporary and insignificant; he believes in free speech so firmly that he degrades the current censorship: it will pass away soon [anyway].<sup>29</sup>

J. Arch Getty explains:

The objective realities of the 1930s were perhaps not as important as the Bolsheviks' perceptions of them, not least because the Bolsheviks acted on their perceptions. Like all politicians, the Bolsheviks interpreted their world and created representations of it that were, for them, reality.<sup>30</sup>

How earnestly the Stalinists took these anticipated transformations is seen in top-secret internal communications and in their practical steps toward a new society: the new Constitution's enfranchisement of "former people"; the intended shift in OGPU (Joint State Political Directorate) methods (from extrajudicial repressions in favor of legality, surveillance, and prophylactics, though barely realized); permission in 1936 for previously distrusted Cossacks to serve in the Red Army. More, they expanded welfare, and in the hungry years of 1936–1937 directed food aid to the peasants now "converted" into *kolkhozniks* (contrasting with the treatment of peasants as saboteurs during the 1932 famine). All these steps relaxed the official policy toward the groups of the population seen earlier as enemies. Practical implementation of the Constitution was *contested* elections by secret ballot held in the Party and trade unions in the spring and summer 1937 with up to 70 percent rotation of cadres. Discussing this innovation, Wendy Goldman asks:

Was Stalin's invocation of democracy simply a smoke screen? ... Was it a cynical ploy by Stalin and his supporters to strengthen and centralize power



by inciting the rank and file against their regional leaders? Or was it part of a genuine belief that the Party could be purged of oppositionists and revitalized at the same time?

She answers: “Democracy was not peripheral, not a smoke screen, not a collection of meaningless slogans designed to mask the ‘real’ meaning of events.”<sup>31</sup>

Then, if in 1936 the Constitution was not a deception, why at some moment in 1937 did it turn out to be a sham? Why were its norms broken and extralegal mass repressions begun? Let’s look at Stalin’s shift, first in the short term and then in the long term.

### **Why did the Constitution turn out to be a sham?**

The outcome of the state-sponsored popular discussion of the Constitution in the summer and fall of 1936 dashed the high hopes of Stalin that society had been successfully transformed. Besides the mobilizational, integrational, educational, and legitimization functions of the discussion,<sup>32</sup> I would like to draw readers’ attention to its monitoring function. Organizers were very persistent in gathering information on the popular comments and they reprimanded lackluster cadres for nonreporting. The USSR TsIK<sup>33</sup> collected 43,000 comments, plus copious reports went to Party leaders from newspapers, localities, the NKVD (Soviet security and intelligence body), as well as personal letters. Prishvin assumed in his diaries that the discussion had become a kind of test for Sovietness, after which freedom would be allowed: “[The government] ... expects real hosannas [praise] ... from the people, and then, after they [the government] are confident of the genuineness of the hosannas, [they will] say, ... Speak, write whatever you want freely.”<sup>34</sup>

However, the unexpected reactions of society to the Constitution brought disillusionment to its organizers, who anticipated unanimous support from the allegedly *Sovietized* society. The popular clamor for civil rights and support – real and orchestrated – for the innovations of the Constitution contrasted with mass discontent, disapproval of the new liberties, warnings about numerous enemies, and demands for the continued segregation of “former people.” On top of that, the public, especially peasants, complained about scarcity, excessive taxes, bureaucratic arbitrariness, and the disruption of religious freedoms. Threats of anti-Communist uprisings in case of war, condemnations of the *kolkhozy*, and distrust in the Constitution were recorded in the reports from different agencies as “anti-Soviet moods.” The expansion of the franchise (got 10.8 percent of all recorded comments) met extremely articulate opposition – against the enfranchisement of “former people,” kulaks, clergy, and individual farmers. Arguing with Stalin’s programmatic thesis that all classes had become socialist and friendly, many commentators warned about resilient anti-Soviet attitudes among the population: “Former merchants, kulaks, and other exploiters have not yet transformed themselves and forgotten their former wealth. During elections they can propagate their views and attract unstable, hesitant citizens. Former people should be restricted in their rights.” “In the future war, priests may betray the socialist fatherland.”<sup>35</sup>

There were numerous fears among the public that old enemies – especially former kulaks and priests – could use the new constitutional liberties and suffrage to obstruct the construction of socialism. Tellingly, it is exactly these two groups that became the first targets of mass operations against commoners in 1937. These warnings about enemies came now from various sources: in addition to the regular OGPU–NKVD *svodki* (summaries) on popular moods, the USSR TsIK collected materials from the soviets, localities, and newspapers. After reading an article by the TsIK secretary I. A. Akulov, in *Izvestia*, summarizing the comments, a British intelligence analyst concluded: “Akulov would have us believe that the bulk of public opinion is unwilling to accept so ‘liberal’ a Constitution, and would prefer to see the paternal government endowed with more effective powers for the suppression of dangerous thoughts.”<sup>36</sup> We know from Stalin’s discussion of the popular comments at the Eighth Congress of Soviets that he picked up the same kind of message.<sup>37</sup>

Worse, two months later, Stalin received another sobering piece of information: results of the 1937 Census showed that society lagged behind the expected progress already acclaimed on the eve of the census.<sup>38</sup> Illiteracy had not been completely overcome, religiosity remained high (57 percent claimed to be believers), and population growth was below extrapolated numbers. The results were so discouraging that the census data was suppressed and the statisticians paid with their lives for figures that dissatisfied the government.<sup>39</sup>

First, the popular commentaries on the Constitution and, second, the results of the 1937 Census revealed to Stalin the lack of progress in society and made him change his mind. Stalin’s protracted conflict with regional Party–state clans<sup>40</sup> and the inflammatory role of the new NKVD head N. I. Ezhov provides the background for his change of heart. On top of that, several developments during the winter of 1936–1937 could have influenced Stalin’s reversal in views on society and politics. International developments – the resurgence of the opposition in Spain and the November 1936 German–Japanese Anti-Comintern Pact – heightened Stalin’s fears and insecurity. His internalization of the popular discussion of the Constitution can provide the missing piece in the puzzle explaining why relative moderation ended and mass repressions began. Only then, in the winter of 1936, did the Constitution *become* a sham. The 1937 February–March Central Committee Plenum of the VKP(b) (the All-Union Communist Party (Bolsheviks)) made clear that Stalin had changed his mind and moved toward repressions against masses.<sup>41</sup> Following purges in the military in June 1937, operations against believers and *tserkovniki* (derogative name for priests), and then kulaks and anti-Soviet elements began in the summer of 1937 as a “final blow” to potentially disloyal sectors of the population.

Thus, the Constitution was not an intentional trick from the very beginning. We never find in the leaders’ internal communications on the Constitution, now available in the archives, any suggestions to declare one thing but do another thing. Instead, a perceived conflict between paradigmatic expectations of triumphant socialism and the need to deal with the “imperfections” on the ground rendered the Constitution *pro forma*.

The 1936 failed shift to democracy was not the first. A. Medushevskii stresses the continuity of sham constitutionalism in twentieth-century Russia: in the Fundamental Laws of the Russian Empire of 1906, the Soviet Constitutions of 1918, 1924, 1936, 1977, and in the 1993 Constitution.<sup>42</sup> Here, he follows Max Weber's view about the token nature of the 1906 reform, exemplified in the creation of the Duma, which did not effectively constrain the monarchy. Reform was seen by Weber more as the product of difficult circumstances and the disinterest of society in liberalism rather than of the Russian people's "immaturity for constitutional government."<sup>43</sup> We see a certain zigzag pattern in history when both Nicholas II and Stalin, under very different circumstances, introduced freedoms but then withdrew or emasculated them.

### **Nominal Soviet institutions**

The case of Stalin's Constitution is the most striking, but examples of the nominal, pro forma character of democracy in Soviet Russia are abundant: soviets, trade unions, "the active Soviet public (*obshchestvennost'*)," the state-sponsored popular discussion of the Constitution,<sup>44</sup> etc. The soviets were gradually stripped of their decision-making power and redefined as organs of local administration.<sup>45</sup> Decisions were taken in the Party's Central Committee or Politburo but published under the name of the USSR TsIK. In the countryside, pressure and tutelage from the authorities, and the promotion of the poor and the Communists in soviet elections – all of these caused distrust and kept the villagers away from the soviets. Low participation in 1924 led to the cancellation of results in 40 percent of rural local elections. To keep the kulaks out of the soviets, the state directive from September 1926 expanded the constituency of the disenfranchised, but despite that, due to "unsatisfactory" results – the election of kulaks – authorities had to cancel them in many places. Finally, in the winter of 1927–1928, the Politburo postponed elections to the soviets for a year because of the peasants' rage.<sup>46</sup> Apart from the soviets, a number of agencies were organized by the state – officially, to represent the interests of the peasants: cooperatives, committees of peasants' mutual aid (KKOV), and credit funds, but in reality they promoted the exploitative interests of the state rather than the interests of the peasants. Villagers protested: "The soviets and the Communist Party do not express the interests of the peasants." "Neither committees of the poor, nor KKOVs satisfy us, middle peasants."<sup>47</sup> But the Party incessantly tried to "revive" the lifeless soviets and inculcated controllable proxies. The power levers of competing peasant communes, including their budgets, were shifted to the soviets and finally the communes, the countryside's last independent institution, were abolished in 1930.

"The active Soviet public" (*sovetskaiia obshchestvennost'*), like workers' and peasants' correspondents,<sup>48</sup> among others, was cultivated in the place of civil society for which all possible venues, such as cafés, printing presses, and associations, were barred. The trade unions, initially active in political and economic participation, in 1921–1922 were made responsible for mobilizing workers for production tasks and were allowed only "to correct blunders and excesses resulting from

bureaucratic distortions of the state apparatus.”<sup>49</sup> Simon Pirani describes the process of curtailing the workers’ democracy in 1922–1923, gradually confining it to secondary questions. Unions were “involved in implementing rather than making decisions.” The initial workers’ democracy was substituted by political mobilization campaigns where “workers were consigned to a supportive, passive role.” It was a kind of social contract: workers publicly displayed their support in organized street demonstrations and orchestrated meetings, donation and state loan campaigns in exchange for some privileges, higher rations, and opportunities for promotion.<sup>50</sup> Effective here was the state mechanism of sponsoring pseudo organizations, artificial and under Party control, substituting live and organic agencies: the Orthodox Church by the Renovationist branch, independent peasant unions and peasant communes by the KKOVs and rural soviets, artistic and public organizations of the 1920s by the state-sponsored unions of writers, artists, etc. The tools of taming were substitution, repression, propaganda, infiltration,<sup>51</sup> and splitting (*razlozhenie*) from the inside. When and to what degree these policies were conscious and intentional is a difficult question. But in the case of splintering the Peasant Union movement and the Orthodox Church hierarchy, the OGPU destroyed them very purposefully and consciously.<sup>52</sup>

However, sometimes it was self-delusion. The leaders believed in the power of socialist conditions and “Party enlightenment” to shape society. In 1917, Lenin did not see the public in Russia as being mature enough for full democracy or able to intelligently participate politically. Following Marx and in the state of emergency during the Civil War, Bolsheviks limited democracy to the dictatorship of the proletariat to discipline the soviets, electors, factory committees, and the press<sup>53</sup> to behave in required ways under close Party scrutiny and backed up by terror. The immediate need to hold power took preeminence over the democratic ideal – Lenin and then Stalin got a taste of centralization and state violence as a quicker way to transform society in a time of perceived emergency and they delayed democracy. Besides economic transformation, they announced the need to enlighten the public and shape its socialist values, to purge enemies, and only *then* grant society freedom, as Stalin did in 1936. But his illusion of successful Sovietization of society was short-lived.

### **The form and content dichotomy**

After a review of the specific circumstances of 1936–1937 and why the Constitution was not fully implemented in practice, I move now to consider the long-term factors that underlie the persistent Soviet pattern of democratic form without content. The overarching context was the dichotomy in Russian life. Indeed, well recognized in historiography, the conflict between the state modernization drive and traditionalist society is a part of this dichotomy. Old, *informal* norms and practices, rooted in the legacy of a traditionalist society,<sup>54</sup> often competed with formal legal structures and official ambitions. The political system was permeated by this duality: the turn to legality in the 1934–1936 legal reform contrasted with the continuation of extralegal practices; the freedom of

conscience declared in all Soviet constitutions contrasted with religious persecution; the figurative power system of the soviets was paralleled by the actual power of the Party – the Supreme Soviet remained a token organ that did little more than approve decisions already made by the Politburo, and its ordinary deputies performed the role of political marionettes. Idealistic socialist realism perfectly expressed this dichotomy. The gap between the government's intentions and their realization contributed to dualism that, from the outside, was seen as political zigzags or deception. We observe multidirectional and meandering policies throughout the interwar period: (1) a tactical retreat from War Communism to the New Economic Policy (NEP) in 1921; (2) cancellation of the NEP in 1928 and resumption of a socialist program; (3) Stalin's article "Dizziness from Successes" in March 1930; and (4) the unexpected liberalism of the 1936 Constitution and then the turn to mass repression. Such consistent inconsistency cannot be attributed solely to personal whims or the dishonesty of the leaders or revolutionary chaos. The cause of such duality was fundamental and structural. Such radical policy changes resulted from the incompatibility of the Bolsheviks' utopian ambitions with the pressures of reality. The resulting strains were aggravated by voluntarism,<sup>55</sup> maladministration, the dogmatism and intransigence of the leadership, and the breakneck speed of transformation. Not only Soviet constitutionalism but also Stalinism as a whole was so contradictory because policymakers were guided by the socialist ideal, yet at the same time had to cope with the "imperfections" they saw on the ground – a backward population and economy, unmanageable local officials, and a frightening international environment. Implementing the socialist project, speculative and detached from reality, too often caused unexpected and unintended results (like mass migration after collectivization) that required adjustments, which in turn produced zigzags and multidirectional politics (like legal reform in 1934–1936 and simultaneous extralegality in urban purges).

The supremacy of representation in the construction of Soviet social reality was not entirely new. It had old historical roots. Since Peter the Great, Russia had "pretended to be something it was not."<sup>56</sup> Alexander Sokurov ponders Russian preoccupation with the theatricalization of reality back to the eighteenth century in his movie *Russian Ark*. With the tradition of Potemkin villages and a historical pattern of simulating European civilization,<sup>57</sup> Stalin's socialism-building belonged to just such a "catch-up discourse" and compensation for "the old Russian trauma of inadequacy vis-à-vis Europe."<sup>58</sup> Evgeny Dobrenko highlights the purely representational character of socialism as a whole in his retrospective of an older Russian proclivity toward representationalism at the expense of realism. The advent of socialism in 1936 belonged to discursive accomplishments, described as "the spectacle of socialism" by Dobrenko, and as a performance by Alexei Yurchak and Jeffrey Brooks.<sup>59</sup>

The dichotomy of Soviet life has been examined by many scholars from various angles. Terry Martin and Michael David-Fox<sup>60</sup> discussed modern versus neotraditionalist elements in policies. S. Fitzpatrick, R. Suny, and L. Viola emphasized the need to distinguish the level of intentionality, with its hyperplanning, from

the unexpected consequences and the uncontrollable chaos on the ground (in our case, the idealistic Constitution versus a frustrated and divided society).

While ideological claims departed from practice, commonsense citizens tried to come internally to terms with the incongruity between anticipation of the promised bright socialist future and the hardships of every day. That is why the expression “in principle” was so common in the language. Coping with this dichotomy, in order to survive and remain sane, citizens learned to speak Bolshevik and to *display* politically correct behavior, which took precedence over the content of their inner values,<sup>61</sup> interpreted as double-thinking by observers. Alexei Yurchak reasons that this gap between performance and content widened in late post-Stalin socialism.<sup>62</sup> It produced cynicism in society, which together with other factors finally eroded the communist edifice that had failed to keep its promises. Notably, this dual pattern persists today. Post-Soviet sociological studies undertaken by Western and Russian scholars evaluating the attitudes of Russian citizens toward democracy during the 1990s and 2000s evidence that while a big majority of Russians regard democracy as ideal, they increasingly support V. V. Putin’s undemocratic political practices.

Again, it would be simplistic to see official representationalism only as a pure and intentional deception, despite the obvious Machiavellianism of Soviet polity. Close reading of historical documents produces an impression that Stalinists succumbed to self-deception about the success of socialism as Stalin seems to have sincerely believed in the power of will or words to realize the Marxist project: “The role of so-called objective conditions has been reduced now to a minimum, while the role of the Party has become crucial.” He insisted, for example, that “realization [of the first five-year plan] depends exclusively on ourselves, on our ability and our will to use the very rich possibilities we have.”<sup>63</sup> Because Stalin was the main architect of the policies, his mentality was an important factor in the representation of Soviet democracy. The scholars who tried to peek inside the dictator’s mind pointed to his wishful thinking, among other characteristics.<sup>64</sup> Richard Sakwa argues: “Stalin remained something of an idealist in the sense that for him ideas (schemas) could take on an almost material reality.”<sup>65</sup> Merab Mamardashvili called this phenomenon “logocracy”: “A sort of magical mindset where it was thought that words constituted reality itself. ... If something has no name ... we cannot grasp it.”<sup>66</sup> Numerous of his utterances provide evidence that Stalin firmly believed in the power of words and their potential to shape reality, which Sarah Davies and James Harris called logocentrism.<sup>67</sup> In the 1920s, the idea that one could change a person’s mind by using the right words was quite influential – the idea that “language can serve as the ultimate vehicle for the kind of transformation sought by revolution.”<sup>68</sup> The successor of the Enlightenment, Stalin thought that words of education and propaganda, whether Party propaganda or “kulak agitation,” were omnipotent in their ability to change personality and its psychology. Consequently, he saw rival ideologies and texts as “equivalent to political rebellion.”<sup>69</sup> Desired norms were imposed on society via rhetorical tools like assigning names (“democracy,” “socialism,” “kulak,” “enemy of the people”), monopolizing the power of naming and producing political ideas,<sup>70</sup> or

inculcating speech, behavior, and thinking patterns to enforce the state's agenda. Discursive strategies structured social reality by encouraging language patterns in line with official ideology, such as "achievements of socialism," and discouraging "wrong" patterns. The words "famine," "repressions," and "peasants' revolts" were excluded from the official public agenda and therefore hidden, becoming "nonexistent," replaced by the euphemisms "food difficulties" and "kulak sabotage." Such a mentality predetermined Stalinists' annoyance with the lag of reality behind desideratum.

## Law and practice

The representational and performative nature of socialist and democratic discourse was also a product of resilient sociocultural practices in relations between the state and society<sup>71</sup>: among others, reliance on informal, personalized practices rather than on legal norms. Historically, the latter only slowly established themselves both in the elite, bureaucracy, and peasantry. The model of "the supremacy of the ruler to the law [as] an attribute of monarchical rule in Russia"<sup>72</sup> can explain such traditional negligence of the law. Only in the mid-nineteenth century did the new legal ethos emerge with its recognition of the importance of law in Russian judicial administration, but among the peasantry customary law continued to dominate.<sup>73</sup> These fragile foundations of legal consciousness could hardly be strengthened in Soviet practice when the law had been rejected in the Revolution, when law contradicted established informal practices,<sup>74</sup> and when implementation of one law contradicted another law.<sup>75</sup> The persistence of informal practices (*blat*, for example) was another side of distrust of institutions at the bottom of society.

"Revolutionary" suspension of law during the Civil War period and the constant resort to extrajudicial measures later did not enforce legality in the bureaucracy or legal consciousness in the population and ultimately contributed to poor manageability of the state apparatus. As P. Solomon notes, "the antilaw tendency in Soviet legal thought," so pronounced in the 1920s, "had always appealed to the hearts and minds of many Party officials."<sup>76</sup> The 1920s and 1930s saw a persistent pattern of cessation and reemergence of the extrajudicial power of the political police toward specific groups and offenses. On the one hand, the suspension of law accelerates and simplifies procedure; on the other, it conflicts with a ruler's need to control the state machinery. A clear legal framework adds legitimacy and stability to the system of power<sup>77</sup> as the Constitution of 1936 projected. The turn to a traditional legal order in the mid-1930s, in order to revive the authority of law and enforce centralization and manageability, was inconsistent and was finally interrupted by the extralegality of the Great Terror. Tellingly, the Prosecutor's Office – the institution designed to oversee compliance of the law with the Constitution – by its own hands waived the constitutional demand of the prosecutor's sanction on arrest. On August 7, 1937, Prosecutor A. Ia. Vyshinskii issued the appropriate instruction to the legal agencies: "There is no need to follow the legal procedure and preliminary sanction on arrest."<sup>78</sup> It was restored in November 1938. It was common practice for laws to be ignored by implementers

at the local level (the cases are too numerous to be presented here): churches were often closed without the required sanction of the local soviet and the TsIK; when the Politburo ordered stopping repressions “immediately” starting November 16, 1938, shootings in NKVD cellars continued even during December.<sup>79</sup> Both local executives and the current legislature commonly ignored the law.

The gap between current laws, instructions, and the Constitution was one of the mechanisms of the nominal nature of democracy in Stalinism. Just before his quiet cancellation of the constitutional norm of the prosecutor’s sanction for arrest on August 7, 1937, Vyshinskii stated:

Soviet state justice is characterized by the unity and coherence of all its parts. In our Constitutional justice, there is no contradiction between its individual institutions, and there is no contradiction or even the slightest divergence between the principles it proclaims and their practical implementation. ... The Constitution of December 5, 1936, and the electoral law of July 9, 1937, are in complete unity.<sup>80</sup>

Constitutional legal norms authorized by government bodies were time and again degraded or modified by numerous often secret instructions and decrees issued by the NKVD, the prosecutor, or the Party. Their instructions bent the Constitution to meet the convenience of one or another agency. The Tatar ASSR (Autonomous Soviet Socialist Republic) NKVD chief questioned Moscow in January 1937:

For us, the line to follow in our conduct [in relation to exiled kulaks] is not clear in connection with the new Constitution. We ask you to clarify if all previous orders of the USSR NKVD on this subject remain in effect, or if we should rely on the corresponding articles of the Constitution and apply them to those people as citizens of the USSR enjoying all rights as citizens.<sup>81</sup>

We can see the answer to this question from practice: when, after the 1936 Constitution, the NKVD prioritized its own decrees and Politburo directions. Soviet polity often lived according to informal practices and normative acts.

Deportation of the kulaks in the collectivization and construction of special settlements was a good example of this incongruence. Legal formalization of the repressions lagged behind their implementation. First, extrajudicial deportations started and only afterward did the construction of the quasi-legal foundation for them begin. Many peasants were deported without trial or formal verdict and did not know their terms:

We do not consider ourselves to be deprived of rights according to the court decision, but only by the NKVD [power], because we did not hear any sentence, any trial, but they simply exiled us to another area and that’s it.<sup>82</sup>

As Lynne Viola and Sergei Krassil’nikov wrote, the mass banishment during collectivization was conducted not by the judiciary but by Soviet administrative



organs. According to the law, such an administrative procedure could inflict only individual (not family) deportation and only free (not forced) labor, and was limited to five years. The extraordinary practice of family deportation, with forced labor and no terms of exile, violated the law and created a legal vacuum around the question of subsequent liberation that in turn allowed authorities to manipulate the issue with bylaws and instructions according to their immediate needs.<sup>83</sup>

L. Viola and S. Krassil'nikov conclude: "Normative acts quenched the power of law." The authors abstain from using the term "the legal status of *spetspereselentsy*" (special settlers or deportees), as the notion of legality does not reflect the reality of deportees' conditions.

It was a quasi-legal procedure, with norms and rules not restricted by any legal or justice institutions, but established and changed by political authority. ... The law was an instrument in the hands of regime organs [NKVD] supervising the groups of special settlers.<sup>84</sup>

Restoration of their civil rights according to the 1936 Constitution was incomplete and sabotaged at every level of administration. It is worth noting that all instructions and laws (if carried out) were interpreted by implementers in favor of tightening and restriction rather than softening. We see a common practice whereby the Constitution, law, or decree granting rights to citizens was truncated by normative instructions or nonfulfillment on the local level. In this light, it is emblematic that Stalin rejected most popular amendments to the Constitution in 1936 by reasoning that they instead belonged to current legislation. They were supposed to be disregarded.<sup>85</sup>

## **Elections**

Free elections are at the core of democracy and were in the center of the 1936 Constitution. The mechanism of elections and Soviet manipulations is a large topic deserving further studies.<sup>86</sup> Here I only briefly present a few examples of subverted elections in 1936–1937 at the grassroots. Before that, open voting by raising hands under OGPU surveillance, rather than by secret ballot, and voting for the whole list of candidates presented by the organizers effectively "usurped democracy."<sup>87</sup> The new Constitution's voting rules were spontaneously tested in the fall of 1936 during the elections to the local and all-union soviet congresses, even before the Constitution's formal adoption, and were expanded to Party organizations and trade unions from May through the summer of 1937. The party, soviets, and the NKVD were not ready to implement new constitutional norms despite official encouragement to criticize and dismiss ineffective officials in the campaign of criticism. The NKVD with its civil war mentality saw the 1936 pre-election mobilization of the population, inspired by new freedoms, as anti-Soviet agitation and regularly reported on the revival of socially alien elements, who were formally absolved by the Constitution.<sup>88</sup> The old practice of control over elections continued. It was the duty of Party organizers to "direct

election campaigns,” organizing 100 percent turnout and selecting and verifying the candidates. However, newly enfranchised persons were often removed from the voting lists in 1937. “It [is] the responsibility of local soviets to ensure that voter lists [are] compiled correctly.”<sup>89</sup> But those in the soviets who had deported kulaks in 1930 were not interested in reinstating the voting rights of returnees. In the 1936 discussion, they regularly articulated that they anticipated revenge.<sup>90</sup>

Nomination of candidates was a crucial moment that allowed the party-state to manipulate the process. The Party and soviet officials arranged the nomination of desirable candidates. If this filter did not work for some reason, the unwanted candidates were excluded from the voting lists or arrested by the NKVD. The plenum of the Gorkii Krai Party Committee in September 1936 directly instructed Party officials to scrutinize the cadres of the candidates and to manage the elections of the deputies to the soviets’ congresses.<sup>91</sup> And of course, the NKVD did its job searching enemies. In October, it reported with alarm that voters had nominated and elected to the local soviet congresses anti-Soviet elements, *lishentsy* (the disenfranchised), or former counterrevolutionaries. The NKVD quickly dismissed such delegates from the congress list: in Malaia Vishera, Podporozhie, Novoselskii *raion* in Leningradskaia *oblast’*, Zeldskii *raion* in Odesskaia *oblast’*, and other places.<sup>92</sup> The kulak *lishenets* Afanasii Popov in the Caucasus was deprived of his deputy mandate in the middle of the congress by the NKVD, while delegates “Khoptiar, suspected in spying, and Zaidman, a Trotskyist,” in Vinnitsa *oblast’*, were arrested.<sup>93</sup> Security bodies and the Party directly intervened in the elections, blocking undesirable candidates and imposing their nominees. In Tikhvin *raion*, Leningrad *oblast’*, the voters declined the candidacy of village soviet chair Sokolov, but the *raion* representative said, “[y]ou can vote him out, but my word is final: Sokolov will stay chair.”<sup>94</sup> A disunited and unorganized population could not effectively promote and defend their candidates from the ground or oppose the state security forces. Pessimistic citizens moaned: “Even if the people elect their representatives, the Bolsheviks, under the conditions of their dictatorship, will do everything to dismiss them.”<sup>95</sup>

Another method of manipulation was “an informal quota system,” or *raznariadka*. For example, the Gorkii *krai* soviet leader instructed his staff: “Elections to the *krai* [Soviet] Congress should guarantee [the winners to include] 34 percent women, 40–45 percent nonparty people, 22 percent workers, and 30 percent *kolkhozniks*.”<sup>96</sup> This sorting took place at the moment of nomination. Such a system of Party backing of loyal candidates made deputies much more dependent on their supervisors than on their constituencies. Under such conditions, the democratic principle of accountability of the deputies to the electorate did not work. Thus, already in the fall of 1936 the local elections of delegates to soviet congresses saw the failure of implementation of the new freedoms. Elected former kulaks, *lishentsy*, and members of now banned parties were blocked illegally via something akin to “criminal checks,” or they were simply arrested. The elections remained phony. Getty convincingly argues that the mass repressions of 1937 were of a preemptive character in view of the coming free elections to the Supreme Soviet in December 1937. In the summer, the ballots were printed to

accommodate several candidates. Scared by the revival of its perceived enemies, the Party quietly canceled *contested* elections in October, but elections remained universal and direct by secret ballot. In December, the people were disappointed to find only one name on each ballot. The intelligent and critically minded Leningradian Liubov' Shaporina wrote in her diary:

During the studies of the election law in all enterprises and institutions, the public asked if they could take the ballot and go home to ponder what candidate to vote for. Answer: yes. I entered the booth where I was supposed to read the ballot and choose my candidate to the Supreme Soviet ... [but] we have on the ballot one name, selected in advance. I had a laugh attack in the booth. For a time, I could not make the appropriate calm face. At the exit I met Iurii with a stony expression on his face. I raised my collar [to hide my face – OV] – it was incredibly laughable. In the yard I met Petrov-Vodkin and Dmitriev. V. V. [Dmitriev] talked about something and wildly laughed. ... We all laughed.<sup>97</sup>

The tool of democracy was firmly in the hands of the rulers – they reserved it only for the low- and middle-rank cadres. Criticism against high targets was not intended by the masterminds in the Kremlin in an official campaign of criticism targeting incompetent or corrupt officials in 1936–1937. Rather, they exploited the democratic tools of criticism and elections to discipline the intermediate bureaucrats by using the hands of the people. British diplomat MacKillop observed in September 1936 that a Soviet citizen, invited to criticize,

must ... surrender his critical faculty and [not] use it for the still immovable establishment of those in high office – he must not use it against them – by helping them to detect and to eliminate the inefficient among those minor office-holders with whom he comes into daily contact and by generally reducing that sense of security among elected persons.<sup>98</sup>

However, this tool of controlled democracy did not always work as expected by the Kremlin. Getty describes how the Party and soviet functionaries cunningly diverted the critiques and purges to the lower-ranking officials and thus escaped the blow of criticism from below and democratic rotation.

## **Conclusion**

The Constitution of 1936 and the democratic elements of socialism were not always a pure deception; they were also a part of the initial grand project. However, the democratic impulse envisaged by Marx and Lenin in full socialism became hollow under a combination of factors: the pressure of catastrophic circumstances (sometimes self-inflicted), the perceived urgency of socialist transformation, the revolutionary Manichean mentality and Machiavellianism of the leaders, and the legacy of the traditionalist peasant culture embodied in steady

informal sociocultural practices. A multivalent dichotomy, a gap between ideal and social practice and between ambitious intentions and actuality, was a result of the utopianism of the socialist project and, more broadly, in significant part it was a product of the belated and “catch-up” mode of Russian modernization, and of a complex of geopolitical inferiority that defined the nominal nature of Soviet democracy. It looks like a sham from an outside perspective but looks idealistic from inside the communist paradigm. Stalin’s regime benefited from controlled democracy when it purged the bureaucracy by the hands of the people, or when it purchased a kind of temporary legitimacy in the eyes of both outsiders and insiders – all without many constraints. As for the people, they learned the language of democracy and got some training and experience in elections, but in the long run, the token nature of Soviet democracy produced mass disillusionment with and distrust of either the government, the institutions per se, or ideology. This finally corrupted the citizens’ psyche and eroded the moral foundation and legitimacy of the Soviet regime.

## Notes

- 1 The ideas expressed in this article were stimulated by discussions with colleagues at a workshop at Heidelberg University and at the 2019 ASEES convention in Zagreb, especially Benno Ennker, Ekaterina Schulmann, and Ivan Sablin. I want to express here my gratitude to Jeffrey Brooks for his thoughtful recommendations.
- 2 J. Arch Getty, “State and Society under Stalin: Constitution and Elections in the 1930s,” *Slavic Review* 50, no. 1 (1991): 34–35.
- 3 Jean Baudrillard’s theory about the significations and symbolism of culture and media that construct perceived reality.
- 4 Merab Mamardashvili, *Kak ia ponimaiu filosofiū* [My Understanding of Philosophy] (Moscow: Progress–Kul’tura, 1992), 201, 204; E. Dobrenko, “Socialism as Will and Representation, or What Legacy Are We Rejecting?” *Kritika: Explorations in Russian and Eurasian History* 5, no. 4 (2004), 675–708; Ekaterina Schulmann, “How Regime Self-Preservation Could Accidentally Democratize Russia,” December 14, 2017, Carnegie Moscow Center, <https://carnegie.ru/commentary/75014>.
- 5 Olga Velikanova, *Mass Political Culture under Stalinism: Popular Discussion of the Soviet Constitution of 1936*, chap. 5 (London: Palgrave Macmillan, 2018).
- 6 See Wendy Z. Goldman, *Democracy and Terror in the Age of Stalin* (New York: Cambridge University Press, 2007), and J. Arch Getty, *Practicing Stalinism: Bolsheviks, Boyars, and the Persistence of Tradition* (New Haven, CT: Yale University Press, 2013), especially their emphasis on the center–periphery struggle.
- 7 The role of ideology in Soviet state-building has been debated for a long time. Recently, Kotkin has emphasized the ideology of Marxism–Leninism as a driving force for Stalin’s policies, a “key source of his power,” rather than statism or extraordinary circumstances. Stephen Kotkin, *Stalin*, vol. 1, *Paradoxes of Power, 1878–1928* (New York: Penguin, 2014), 427, 470.
- 8 Lara Douds, James Harris, and Peter Whitewood, “Introduction: Illiberal Liberation, 1917–41,” in *The Fate of the Bolshevik Revolution: Illiberal Liberation, 1917–41*, eds. Lara Douds, James Harris, and Peter Whitewood (London: Bloomsbury Academic, 2020), 5–7.
- 9 Stalin referred to this thesis in his speech at the Eighth Congress of Soviets in December of 1936. I. V. Stalin, *Doklad o proekte konstitutsii SSSR* [Report on the Constitution Project] (Moscow: Gospolitizdat, 1947), 21.

- 10 Douds, Harris, and Whitewood, "Introduction," 5, 7; Erik Van Ree, "Dictatorship Unlimited: Lenin on the State, March–November 1917," in *The Fate of the Bolshevik Revolution*, 17–30.
- 11 Douds, Harris, and Whitewood, "Introduction," 14.
- 12 Stalin, *Doklad* [Report], 8.
- 13 I. V. Pavlova, *Mekhanizm vlasti i stroitel'stvo stalinskogo sotsializma* [Power Mechanism and the Construction of Stalin's Socialism] (Novosibirsk, RU: Sibirskoe otdelenie RAN, 2001).
- 14 Steve Smith, "Factory Committees," in *Critical Companion to the Russian Revolution, 1914–1921*, eds. E. Acton, V. Cherniaev, and W. Rosenberg (London: Arnold, 1997), 346–358.
- 15 The theory states that democracy is connected with stability and does not flourish in emergency situations, as it needs time, procedures, and organization.
- 16 Douds, Harris, and Whitewood, "Introduction," 11.
- 17 Olga Velikanova, "Stalinist Moderation and the Turn to Repression: Utopianism and Realpolitik in the Mid-1930s," in *The Fate of the Bolshevik Revolution*, 141–154.
- 18 Samantha Lomb, *Stalin's Constitution: Soviet Participatory Politics and the Discussion of the 1936 Draft Constitution* (London: Routledge, 2018), 22.
- 19 TsK VKP(b). "Materialy fevral'sko-martovskogo plenuma TsK VKP(b) 1937 goda [Materials of the February–March Plenum of the VKP(b) Central Committee], *Voprosy Istorii*, no. 6 (1993): 16–17.
- 20 Cited in Lomb, *Stalin's Constitution*, 14.
- 21 V. M. Molotov, *Otchetnyi doklad o rabote Pravitel'stva VII S'ezdu Sovetov SSSR 28 ianvaria 1935 g.; Ob izmeneniiakh v Sovetskoi Konstitutsii: Doklad na VII S'ezde Sovetov 6 fevralia 1935 g.* [Government Report to the Seventh USSR Congress of Soviets, January 28, 1935; On the Changes in the Soviet Constitution: The Report at the Seventh Congress of Soviets, February 6, 1935] (Gor'kii, USSR: Gor'k. izd-vo, 1935), 80, <http://elib.shpl.ru/ru/nodes/38599-molotov-v-m-otchetnyy-doklad-o-rabote-pravitelstva-vii-sezdu-sovetov-sssr-28-ianvaria-1935-g-ob-izmeneniyah-v-sovet-skoy-konstitutsii-doklad-na-vii-sezde-sovetov-6-fevralya-1935-g-gorkiy-1935#mode/inspect/page/93/zoom/4>.
- 22 *Pravda*, July 10, 13, 17, 18, 21, 24, 1935.
- 23 *Konstitutsii burzhuaiznykh stran* [The Constitutions of the Bourgeois Countries], 4 vols. (Moscow: Sotsekgiz, 1935–1936).
- 24 A. I. Vyshinskii, "Stalinskii izbiratel'nyi zakon" [Stalin's Election Law], *Vestnik Akademii Nauk SSSR* [News of the USSR Academy of Sciences], no. 9 (1937): 16–42. It included a critique of French, American, German, Italian, British, Japanese, and Polish election laws.
- 25 V. M. Molotov, *Ob izmeneniiakh v Sovetskoi Konstitutsii: Doklad na VII S'ezde Sovetov 6 fevralia 1935 g.* [On the Changes in the Soviet Constitution: The Report at the Seventh Congress of Soviets, Verbatim], RGASPI, f. 82, op. 2, d. 247, l. 1.
- 26 [NKVD Information summary on sociopolitical situation, 1937], Tsentral'nyi Gosudarstvennyi Arkhiv Istoriko-politicheskikh Dokumentov Sankt-Peterburga (TsGAIPD SPb) [Central State Archives of Historical and Political Documents, Saint Petersburg], f. 24, op. 2v, d. 2685, l. 1–2.
- 27 Molotov, The Report at the Seventh Congress of Soviets, February 6, 1935, Verbatim, RGASPI, f. 82, op. 2, d. 247, l. 29.
- 28 See the detailed argumentation in J. Arch Getty and O. V. Naumov, *The Road to Terror: Stalin and Self-Destruction of the Bolsheviks, 1932–1939* (New Haven, CT: Yale University Press, 1999), 26–27.
- 29 M. M. Prishvin, *Dnevnik [Diaries] (1950–1951)* (Saint Petersburg: Rostok, 2016), 69, 221.
- 30 Getty and Naumov, *The Road to Terror*, 26.
- 31 Goldman, *Democracy and Terror*, 127, 130, 146–147.

- 32 Velikanova, *Mass Political Culture*, chap. 7. The all-nation discussion was represented as popular sovereignty in practice, but it did not involve voting and the majority of the people's recommendations were ignored. It is another example of the nominal nature of democracy under Stalinism.
- 33 The Central Executive Committee (TsIK) of the USSR was the supreme body of Soviet government between the congresses of soviets prior to the constitutional reform.
- 34 M. M. Prishvin, *Dnevniky [Diaries] (1936–1937)* (Saint Petersburg: Rostok, 2010), 298, 382.
- 35 [People's amendments to the Constitution collected by the USSR TsIK], Gosudarstvennyi arkhiv Rossiiskoi Federatsii (GARF) [State Archive of the Russian Federation], f. 3316, op. 41, d. 126, l. 147; op. 8, d. 225, ll. 92–3; op. 40, d. 40, l. 103; d. 15, l. 121; [Popular comments about the Constitution], Rossiiskii Gosudarstvennyi arkhiv sotsial'no-politicheskoi istorii (RGASPI) [Russian State Archive of Social and Political History], f. 89, op. 4, d. 55, l. 19; f. 17, op. 120, d. 232, l. 71; TsGAIPD SpB f. 4000, op. 7, d. 1176, ll. 13, 24.
- 36 [Dispatch, November 24, 1936]. British Foreign Office–Russia correspondence, 1781–1945 (hereafter British F.O.) (Wilmington, DE: Scholarly Resources, 1975), 371, 1936, vol. 20351, p. 117.
- 37 Stalin, *Doklad* [Report], 29–30.
- 38 *Pravda*, January 2, 1937, announced the task of the census was to quantify the social changes of the last decade, including “elimination of the hostile classes.”
- 39 Catherine Merridale, “The 1937 census and the Limits of Stalin Rule,” *The Historical Journal*, 1996, 39(1): 225–40.
- 40 See Getty, *Practicing Stalinism*, chaps. 6, 7.
- 41 Stalin's report, March 3, 1937, *Lubianka: Stalin i Glavnoe Upravlenie gosbezopasnosti NKVD, 1937–1938: Dokumenty* [Lubianka: Stalin and the Main Directorate of State Security NKVD; Documents] (Moscow: Demokratiia 2004), 95–109.
- 42 Andrei Medushevskii, *Russian Constitutionalism: Historical and Contemporary Development* (London: Routledge, 2005).
- 43 David Beetham, *Max Weber and the Theory of Modern Politics* (Cambridge: Polity Press, 1985), 194–198.
- 44 See note 28.
- 45 Simon Pirani, “Mass Mobilization versus Participatory Democracy,” in *A Dream Deferred: New Studies in Russian and Soviet Labour History*, eds. D. Filtzer, W. Goldman, G. Kessler, and S. Pirani (Bern: Peter Lang, 2008), 115.
- 46 OGPU instructions, January 5 and August 21, 1928, V. K. Vinogradov, “Informatsionnye materialy OGPU za 1923–1929 gg” [OGPU Information Materials for 1923–1929], *Sovetskaia derevnia glazami VChK–OGPU–NKVD: Dokumenty i materialy v 4 tomah* [The Soviet Village under the Gaze of VChK–OGPU–NKVD: Documents and Materials in 4 vol.], eds. Alexei Berelovich and Victor Danilov (Moscow: ROSSPEN, 2000–2012), 2:47; [Politburo TsK VKP(b) agenda], RGASPI, f. 17, op. 163, d. 650, item 24.
- 47 [OGPU information summaries], RGASPI, f. 17, op. 85, d. 281, l. 89, 83 (1926); *Sovetskaia derevnia* [Soviet Village], 2:498, 553.
- 48 The activist-volunteers who regularly reported local affairs to the newspapers.
- 49 Pirani, “Mass Mobilization,” 116.
- 50 *Ibid.*
- 51 Infiltrating provocateurs into dissident, religious, and intelligentsia circles and into Peasant Unions, or implanting Communists in the soviets or academic or other organizations (“communization”).
- 52 Georgii Mitrofanov, *Istoriia Russkoi Pravoslavnoi Tserkvi, 1900–1927* [History of Russian Orthodox Church] (Saint Petersburg: SATIS, 2002), 222, 233–236, 257, 269–270, 272–273; Olga Velikanova, *Popular Perceptions of Soviet Politics: Disenchantment of the Dreamers* (Basingstoke: Palgrave, 2013), 154–156.

- 53 Jeffrey Brooks, "The Press and the Public Adjust to a New Normal, 1918–1935," in *Reading Russia: A History of Reading in Modern Russia*, eds. Damiano Rebecchini and Raffaella Vassena (Milan: LEDI Publishing, 2020), sees a much longer period of taming the press – 1918–1935.
- 54 Getty discusses the patrimonial personification of power, collective responsibility, the practice of writing letters to authorities, patron–client culture, etc. Getty, *Practicing Stalinism*, chaps. 1 and 2.
- 55 The doctrine that will is a fundamental factor in the individual or the universe.
- 56 Dobrenko, "Socialism," 685, 702; Stephen Kotkin, "Will Putin Ever Leave?" *Wall Street Journal*, March 10–11, 2018, p. 11.
- 57 Marquis de Custine, *Letters from Russia* (London: Penguin Classics, 1991).
- 58 Dobrenko, "Socialism," 707.
- 59 Alexei Yurchak, *Everything Was Forever, Until It Was No More* (Princeton, NJ: Princeton University Press, 2005), 21; Jeffrey Brooks, *Thank You, Comrade Stalin! Soviet Public Culture from Revolution to Cold War* (Princeton, NJ: Princeton University Press, 2000), xvi.
- 60 Terry Martin, "Modernization or Neo-traditionalism? Ascribed Nationality and Soviet Primordialism," *Russian Modernity: Politics, Knowledge and Practices, 1800–1950*, eds. D. Hoffmann and Y. Kotsonis (Basingstoke, UK: Palgrave Macmillan, 2000), 161–182; Michael David-Fox, *Crossing Borders: Modernity, Ideology, and Culture in Russia and the Soviet Union* (Pittsburgh, PA: University of Pittsburgh Press, 2015), 44, 94.
- 61 Dobrenko, "Socialism"; Brooks, *Thank You*; and Brooks, "The Press and the Public." The authors of the subjectivity school had written about the influence of speech patterns and ideological pressure on modifying and shaping the values of the New Soviet person. According to A. Zinov'ev, the result was the ugly *Homo sovieticus*. The research on the outcomes of the Soviet social engineering project continues.
- 62 Yurchak, *Everything*, 12, 21.
- 63 I. V. Stalin, *Sochinenia* [Collected Works] (Moscow: Gospolitizdat, 1951), 13:366–367.
- 64 Getty and Naumov, *The Road to Terror*, chap. "Stalinist Mentalities, Language, and the Question of Belief," 15–29.
- 65 Richard Sakwa, *Communism in Russia: An Interpretative Essay* (Basingstoke: Palgrave Macmillan, 2010), 72.
- 66 Mamardashvili, *Kak ia ponimaiu filosofiiu* [*My Understanding of Philosophy*], 201, 204; Dobrenko, "Socialism," 680, 690–692, 703.
- 67 Sarah Davies and James Harris, *Stalin's World: Dictating the Soviet Order* (New Haven, CT: Yale University Press, 2014), 11.
- 68 Katerina Clark, *A Crucible of Cultural Revolution* (Cambridge, MA: Harvard University Press, 1998), 208; Eric Laursen, "Bad Words Are Not Allowed! Language and Transformation in Mikhail Bulgakov's 'Heart of a Dog,'" *Slavic and East European Journal* 51, no. 3 (Fall 2007): 492.
- 69 Getty and Naumov, *The Road to Terror*, 20.
- 70 Pierre Bourdieu and John Thompson, *Language and Symbolic Power: The Economy of Linguistic Exchanges* (Cambridge: Polity – Basil Blackwell, 1991), 166, 168.
- 71 Medushevskii, *Russian Constitutionalism*, 156, 187, 241.
- 72 Richard S. Wortman, "Intentions and Realities in 18th-Century Monarchy: New Insights and Discoveries," *Kritika: Explorations in Russian and Eurasian History* 17, no. 2 (2016): 376.
- 73 See B. Mironov, *A Social History of Imperial Russia, 1700–1917* (Boulder, CO: Westview Press, 2000), 2:307–326; Richard S. Wortman, *The Development of a Russian Legal Consciousness* (Chicago, IL: University of Chicago Press, 1976); Jane Burbank, *Russian Peasants Go to Court: Legal Culture in the Countryside, 1905–1917* (Bloomington, IN: Indiana University Press, 2004).
- 74 In this case, the law is illegitimate in the view of the people and breaking it is just.

- 75 A. K. Sokolov, "The Constitutional Bases of Society and the Historical and Cultural Heritage of the Soviet Past in Modern Russia," *Soviet and Post-Soviet Review* 37, no. 1 (2010): 48.
- 76 Peter H. Solomon, *Soviet Criminal Justice under Stalin* (Cambridge, MA: Cambridge University Press, 1996), 194.
- 77 Moshe Lewin, *The Making of the Soviet System: Essays in the Social History of Interwar Russia* (London: New Press, 1985), 281–284.
- 78 Cited in A. G. Tepliakov, *Mashina Terrora: OGPU–NKVD Sibiri v 1929–1941 gg.* [The Terror Machine: Siberian OGPU–NKVD in 1929–1941] (Moscow: Novyi Khronograf, 2008), 353.
- 79 *Ibid.*, 386.
- 80 Vyshinskii, "Stalinskii izbiratel'nyi zakon" [Stalin's Election Law], 16, 20.
- 81 Special message of Tatar ASSR NKVD, January 11, 1937, in *Tragediia Sovetskoi Derevni: Kollektivizatsiia i raskulachivanie: Dokumenty i materialy* [The Tragedy of Soviet Village: Collectivization and De-kulakization: Documents and Materials], eds. V. Danilov, R. Manning, and L. Viola (Moscow: ROSSPEN, 2004), 5.1:83.
- 82 [Letters to the USSR TsIK, 1936], GARF, f. 3316, op. 41, d. 86, ll. 2a, 2a (verso), 2b, 2b (verso); [People's amendments to the Constitution collected by the USSR TsIK], f. 3316, op. 40, d. 14, ll. 33, 57.
- 83 *Politburo i Krestianstvo: Vysylka, Spetsposelenie, 1930–1940* [Politburo and Peasants: Deportation, Special Settlement], eds. N. N. Pokrovsky, V. P. Danilov, S. A. Krassil'nikov, and L. Viola (Moscow: ROSSPEN, 2006), 15, 22; Lynne Viola, *The Unknown Gulag: The Lost World of Stalin's Special Settlements* (Oxford: Oxford University Press, 2007), 155–159.
- 84 *Politburo i krest'ianstvo* [Politburo and Peasants], 21–22, 38.
- 85 We know of only one exception to this tendency: *kolkhoz*, *sovkhoz*, and enterprise meetings got the right to nominate the candidates to the Supreme Soviet, according to the election rules. "Polozhenie o vyborakh v Verkhovnyi Soviet," Stat'ia 57 [The Statute on the Elections to the Supreme Soviet, Article 57] from July 1937, in *Vestnik Akademii Nauk SSSR* [The News of the USSR Academy of Sciences], no. 9 (1937): 8.
- 86 See the Party bureaucracy perspective on elections in 1937 in Getty, *Practicing Stalinism*, 206–220; Stephan Merl, "Elections in the Soviet Union, 1937–1989: A View into a Paternalistic World from Below," in *Voting for Hitler and Stalin: Elections under 20th Century Dictatorships*, eds. R. Jessen and H. Richter (Frankfurt am Main: Campus Verlag, 2012), 276–308.
- 87 Pirani, "Mass Mobilization," 115.
- 88 *Sovetskaia derevnia* [Soviet Village], 4:346–358.
- 89 Vyshinskii, "Stalinskii izbiratel'nyi zakon" [Stalin's Election Law], 22.
- 90 [Explanations to the questions on the Constitution], GARF, f. 3316, op. 29, d. 793, l. 32; op. 41, d. 126, l. 147.
- 91 The information of the Gork'ii *krai* soviet chair Yu. M. Kaganovich about the preparation of the extraordinary soviet congresses at the Tenth Plenum of the VKP(b) *Krai* Committee, September 28, 1936. *Obshchestvo i vlast': Rossiiskaia provintsiia* [Society and Power: Russian Province], eds. A. A. Kulakov, V. V. Smirnov, and L. P. Kolodnikova (Moscow: Institute Rossiiskoi Istorii RAN, 2005), 2:384–385.
- 92 *Sovetskaia derevnia* [Soviet Village], 4:354–355, 363–364.
- 93 [NKVD Special report on the negative comments during the soviets' report campaign and the discussion of the new Constitution, November 1936], TsGAIPD SPb, f. 24, op. 2v, d. 1860, ll. 3, 14–15; d. 2664, l. 231; *Sovetskaia derevnia* [Soviet Village], 4:354–355, 365.
- 94 *Sovetskaia derevnia* [Soviet Village], 4:354.
- 95 [NKVD Special report on the negative comments during the Soviets' report campaign and the discussion of the new Constitution in the Crimea ASSR, November 1936], TsGAIPD SPb, f. 24, op. 2v, d. 1860, ll. 19–20.



- 96 *Obshchestvo i vlast'* [Society and Power], 2:385–447; Serhy Yekelchyk, *Stalin's Citizens: Everyday Politics in the Wake of Total War* (Oxford: Oxford University Press, 2014), 199–202.
- 97 Shaporina, Liubov', *Dnevnik* [Diary] (Moscow: NLO, 2012), 1:219.
- 98 [Dispatch from MacKillop, September 1935], British F.O., 371, 1936, vol. 20351, p. 48.

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# 9 The preparations for the first Chinese People's Political Consultative Conference and the quest for legitimacy

*Henrike Rudolph*

## Introduction

A sheet of paper in his hand, his head slightly tilted, an array of microphones in front and his most loyal supporters behind, red lanterns swaying overhead. The image of Mao Zedong's proclamation of the founding of the People's Republic is ingrained in public memory. The festivities on October 1, 1949, marked the beginning of a new era in Chinese history with cheering masses and a military parade. The founding ceremony (*kaiguo dadian* 開國大典) was, however, not only a show of force of the Chinese Communist Party (CCP) and the People's Liberation Army. The line of supporters standing shoulder to shoulder with CCP leaders on Tian'anmen Gate embodied the promise of political stability and an inclusive government.<sup>1</sup> Among them were eminent figures such as Shen Junru 沈鈞儒 (1875–1963), Zhang Lan 張瀾 (1872–1955), Song Qingling 宋慶齡 (1893–1981), and Li Jishen 李濟深 (1885–1959) as representatives of several left-leaning smaller parties and associations that had formed during the Republican period (1912–1949). Under the direction of the CCP's United Front Work Department (*tongzhanbu* 統戰部), they had laid the groundwork for the convening of a new political body, the Chinese People's Consultative Conference (CPPCC), in September 1949.

The CPPCC modeled its corporatist structure and function on Republican precursors to draw intellectuals and political activists into the Communist system of government. By inviting left-leaning elites to join the bridge-building process during the turbulent months of dissolution and reconstruction in 1948–1949, the CCP heralded an era of “New Democracy” (*xin minzhu* 新民主). Democracy, a term that had pervaded Mao's writings for years, now had to be filled with concrete meaning. The first CPPCC's preparations, however, were as much a process of inclusion as of exclusion and a preemptive move to stifle demands for a genuinely democratic form of government.

The pomp and circumstance of the enraptured masses and the military parade on October 1 outshone the preceding ceremonies of the first CPPCC. Likewise, in historical scholarship, the preparations for the CPPCC have received little attention, mainly because historians tended to dismiss it as mere political theatre. Gerry Groot has offered the most comprehensive analysis to this day, but his focus rests on the events themselves, not, for example, their portrayal in contemporary

media.<sup>2</sup> This chapter thus revisits the months preceding the first CPPCC and focuses on the following three points: first, it takes the symbolism of the first CPPCC seriously and reconsiders its role in strategically constructing an image of the CCP's popular support. Second, it will bring the public perception of the preparations leading up to the first CPPCC to the fore, arguing that the rehearsal was just as important as the performance itself. Third, the first CPPCC is examined as part of a more significant endeavor to create a coherent foundation myth of the People's Republic of China (PRC). These three issues are central to our understanding of the narrative of a "New Democracy," which constitutes a fundamental source of legitimacy of the PRC's system of government until today.<sup>3</sup>

### **Changing visions of legitimate rule in the republican period**

Before we can turn to the events leading up to the convening of the first CPPCC in September 1949, we have to revisit the attempts to form similar advisory bodies during the preceding two decades. Only then can we grasp the historical significance and the symbolic deviations from previous attempts to use consultative bodies for the expansion of regime legitimacy.

From the last decades of the nineteenth century to the end of the Republican period, Chinese perceptions of the relationship between the individual, the collective, and the state witnessed dramatic change. Former subjects of imperial rule now laid claim to their rights and duties as citizens. These changes became most apparent in discourses on citizenship and nationalism, the emergence of new public institutions, and a new education system.<sup>4</sup> Progressive intellectuals examined foreign political alternatives as members of study societies or joined forces in nationalist organizations and political parties.<sup>5</sup> Moreover, an increasingly self-confident urban workforce made their demands heard through protests, boycotts, and strikes. Such mass movements of the early Republican period further paved the way for more popular modes of forming and expressing political opinions and the emergence of mass political parties in the mid-1920s.<sup>6</sup> However, how exactly the will of the masses was to enter political decision-making processes was a contested issue.

Early experiments with popular voting had proven in the eyes of many observers that "elections merely aggregated private interests, which could be manipulated by unscrupulous campaigners for personal benefit."<sup>7</sup> Nonetheless, even though the elites were divided on the question of popular voting, they united behind the demand for a greater involvement of intellectuals and experts as counsels to the government, which was firmly in the hands of the Nationalist Party (*Guomindang* 國民黨, GMD). They believed that their expertise would improve political decision-making and that they could act as mediators between the government and the common people's interests. The self-image of many intellectuals, their trust in the moral character of talented men, and the primacy of a strong government over civil liberties were reminiscent of the justification of merit-based appointments for political offices during the late imperial period. In 1931, the GMD government gave in to the intellectuals' demands as its reputation decreased with every

concession to Japanese aggression. They extended an invitation to prominent public figures (except Communists) to join a National Emergency Conference (*Guonanhui* 國難會), which met in Luoyang in April 1932.<sup>8</sup>

Contemporary critics unmasked the conference as a mere political gesture to counter a growing sense of disillusionment caused by the empty promises of an inclusive and representative form of government and the related loss of legitimacy. After the disclosure of the list of participants, the famous intellectual Tao Xingzhi 陶行知 (1891–1946) derided it as a “celebrity conference” (*mingren huiyi* 名人會議), in which fame outranked expertise. None of the participants ever fended for themselves through manual labor, but they would still claim to speak on behalf of China’s common people (*dai laobaixing shuohua* 代老百姓說話). “The deterioration of politics in recent years stems from this word *dai*. ... How I wish that this grievous word will no longer be included in future dictionaries of the Chinese Republic,” Tao concluded reproachfully.<sup>9</sup> Other prominent figures like Shi Liangcai 史量才 (1880–1934) joined the call for a boycott of the National Emergency Conference. They demanded to replace it with an assembly of real political influence, yet the GMD was not willing to put its monopoly of power up for discussion.<sup>10</sup> Even GMD delegates voiced concerns over the lack of representative bodies as a counterweight to one-party rule.<sup>11</sup>

In 1938, the GMD started a renewed attempt to appease calls for a more democratic form of government by establishing the *Guomin canzhenghui* 國民參政會, the “National Political Participatory Assembly.” Again, the real power of the council did not meet expectations. Peng Juyuan 彭菊園 (dates unknown) described the longing for structures that would represent the will of the people (*minyì jiguan* 民意機關). In Peng’s view, a genuinely democratic council would have to meet four criteria: first, it would need to be large enough to represent the diversity of China’s large population; second, its members would have to be selected through democratic procedures; third, it would have to hold the highest decision-making power; and fourth, participation in this council should be open to people from all parts of China.<sup>12</sup> The National Political Participatory Assembly fell short in all four points. However, we see here the yardstick for measuring later proposals for consultative or even legislative assemblies: size, elective procedures, legal status, and the representation of all regions and social groups.

With the Japanese defeat and the end of the Second World War, the external threat’s unifying power diminished, and the GMD’s and CCP’s competition for popular support entered a new round. In 1945, the American and Soviet governments pressured both parties to return to the negotiation table and to sign the “Double Tenth Agreement”<sup>13</sup> on October 10. As part of this agreement, a Political Consultative Conference (*Zhengzhi xieshang huiyi* 政治協商會議) was to be held as the first step toward the drafting of a constitution and a reformed united government, including the so-called democratic parties and groups (*minzhu dangpai* 民主黨派, DPGs).<sup>14</sup> However, when the conference finally convened in January 1946, the government had failed to implement the necessary reforms promised in the agreement. Not surprisingly, the public expectations of the conference merely ranged from cautiously optimistic to fatalistic.<sup>15</sup> Already the concluding

celebrations of the consultative conference were disrupted by attacks on DPG representatives. Both CCP and GMD refocused on solving the conflict through the power of the gun rather than persuasion.

Ultimately, the failure of the GMD to make political concessions, as well as the persecution of DPG members, helped the Communists to portray themselves as a conciliatory force pressured into a military confrontation. As Lyman van Slyke noted, at this point, the language of CCP propaganda changed accordingly from an “anti-feudal united front,” to a “new democratic united front,” reaching its climax in an even broader “anti-Chiang front” against the head of the GMD government Chiang Kai-shek 蔣介石 (1887–1975).<sup>16</sup> Furthermore, the CCP began to set up elected representative bodies in the areas under their control to showcase their willingness to cooperate across party divisions.<sup>17</sup> In short, the CCP decided to revive the “old” consultative conference (*jiu zhengxie* 舊政協) of 1946 not because it had been a functioning political body but, on the contrary, as a potent symbol of democratic promises broken by the GMD, which were finally to be realized by the CCP with a “new” consultative conference (*xin zhengxie* 新政協). The choice of the name “consultative conference” rather than, for example, “participatory council” (*canzhenghui* 參政會) projected an image of a transitional assembly that was to mediate between political forces and to pave the way for a new form of government. That this body would become a permanent part of the PRC’s political system was not apparent at this stage.

### Legitimizing Communist rule

With the decision to grant the CPPCC – and thereby the minor political parties and nonaligned intellectuals – an official status within the state apparatus, the CCP leadership broke with the model of the Soviet Union. Years earlier, Mao Zedong had coupled the ideal of an inclusive constituency with a Marxist avant-garde leadership in his writings on “New Democracy.” For him, historical materialism and scientific communism justify the rule of the working class led by the Communist Party over the people. Following this logic, the working classes, commanded by party members, possess the highest level of social consciousness and are thus the driving force in the linear historical progress toward socialism and communism. This role as a vanguard of historical change legitimizes *party* authority, while the power of the *state* rests on the claim that it represents the interests of the people.<sup>18</sup>

In Communist China, the oxymoron of the “people’s democratic dictatorship,” a term Mao coined in 1949, exemplifies this logical friction between the rule of the few and the will of the masses. Only the Communist Party, he declared, possessed the necessary knowledge and foresight to create a glorious classless future. Under the leadership of the CCP, the masses (*minzhong* 民眾) could unite and rise up to create a democracy for the people (*renmin* 人民) and a dictatorship for the reactionaries (*fandongpai* 反動派).<sup>19</sup> Accordingly, the only relevant bestowers of legitimacy are the masses. All those who refuse to follow the CCP are counter-revolutionaries and hence irrelevant to the construction of legitimacy.<sup>20</sup>



It was not Mao, however, who first put the theory of a Communist-led “people’s democracy” into practice. After the Second World War, the “new democracies” of Eastern Europe set precedents for alternatives to the Soviet state system.<sup>21</sup> By inviting all toilers to participate in a (nominal) coalition government, they established a much more inclusive policy than the Soviet “dictatorship of the proletariat.”<sup>22</sup> When the CCP leadership decided that China too would follow a path independent of the Soviet model, they invoked special historical conditions.

The popular democratic dictatorship in China includes representatives and political groups of the liberal bourgeoisie which wish to fight imperialism, feudalism, and bureaucratic capital. This is the difference [from the Soviet Union]. This circumstance is explained by the fact that China is a semi-colonial country and that in a period of revolution and after its victory, we will need for a long time a concentration of all the forces in the fight against imperialism and its agents.<sup>23</sup>

Mao’s principle of a people’s democratic dictatorship is only the *normative* dimension of the construction of the legitimacy of CCP rule. A shared belief in the logic and truth of Marxist theories is the precondition for its acceptance. Yet, in the transition period of the late 1940s, a large part of China’s elites still embraced a vision of legitimacy based on constitutionalism, deliberation, and inclusiveness. Because there was not a unified “Legitimitätsglaube” (belief in legitimacy) in a Weberian sense,<sup>24</sup> the new regime could not solely rely on ideological persuasiveness. David Beetham identifies three different factors that are essential for creating a belief in legitimacy. First, “the legal validity of the acquisition and exercise of power,” second, “the justifiability of the rules governing a power relationship in terms of the beliefs and values current in the given society,” and third, “the evidence of consent derived from actions expressive of it,” such as political rituals.<sup>25</sup> Even nondemocratic rulers “need to credibly anchor their legitimacy claim in the hearts and minds of the people.”<sup>26</sup> Hence, after the abolition of the “old” political system in 1949, the CCP needed a new narrative of how this regime not only received an *ex-post* approval but also how it was created through consensual deliberations between Communist and non-Communist leaders.

In short, as the proclamation of the People’s Republic drew closer, the planning for the CPPCC was part of the Communists’ strategy to tie the normative-ideological legitimation of power and the popular belief in legitimacy together. All of China and the world were watching how the CCP would “set the stage” for the CPPCC.<sup>27</sup> Every official communiqué, every gesture of goodwill toward the DPGs, and every negotiation report contributed to the stabilizing of CCP rule during the transition period. The CCP later combined these narrative threads and memorialized them as part of a political myth of the founding of the People’s Republic. Christopher Flood’s understanding of political myth as “an ideologically marked narrative which purports to give a true account of a set of past, present, or predicted political events and which is accepted as valid in its essentials by a social group”<sup>28</sup> is instructive in this respect. How exactly the events leading

up to the first CPPCC unfolded and whether we can glimpse behind the scenes of the “ideologically marked narrative” will be discussed in the following section.

### Inviting the protagonists and setting the stage

With its historical baggage of the “old” consultative conference, the reconvening of a “new” conference became a political tightrope act: if the CCP convened a meeting before it could be sure that DPG representatives would participate, it would lose face. Furthermore, the convening of a consultative conference before military victory was within reach would undermine the historical significance of the event, which could then no longer serve as a prelude to the institutionalization of the new government. Mao thus hesitated to proclaim the founding of the PRC before strategic locations, such as the Beiping (Beijing) and Nanjing, had come under CCP control.<sup>29</sup> On the other hand, if the CCP waited too long, the Americans might pressure the GMD to reconvene a consultative conference driving a wedge between the Communists and the intellectuals and DPGs. From early 1948 onward, the CCP began to stage a process of planning and consultation by forming a “Preparatory Committee of the New Consultative Conference” (*Xin zhengxie choubei hui* 新政協籌備會). They hoped to bring the DPGs to commit themselves publicly in support of a CCP-led government *prior* to the founding of the PRC.

With the “Labor Day Call” (*Wu yi kouhao* 五一口號) on May 1, 1948, the CCP extended a formal invitation to all peasants, workers, and Chinese youth of the “freedom movement” (*ziyou yundong* 自由運動) as well as the intellectuals, the “free capitalist class” (*ziyou zichan jieji* 自由資產階級), the DPGs, prominent public figures (*shehui xianda* 社會賢達),<sup>30</sup> and all other patriots to participate in the formation of a “Democratic United Government” (*minzhu lianhe zhengfu* 民主聯合政府).<sup>31</sup> The CCP, however, refrained from directly naming people or groups in the call, thereby giving the impression of being open for cooperation with all political forces that could commit to anti-imperialism, anti-feudalism, anti-bureaucratic capitalism, and the fight against Chiang Kai-shek. Cosignatories of this appeal were, among others, leaders of the Revolutionary Committee of the Chinese Guomindang (*Zhongguo guomindang geming weiyuanhui* 國民黨革命委員會), the Chinese Democratic League (*Zhongguo minzhu tongmeng* 中國民主同盟), the National Salvation Association (*Jiuguohui* 救國會), and the Zhigong Party (*Zhigongdang* 致公黨).<sup>32</sup>

Interestingly, the cosignatories vanished from most official PRC historiographies.<sup>33</sup> In 1949, the image of a concerted effort of the CCP and smaller political parties lent credibility to the call for creating a united government. Today, the mentioning of other parties chips away some of the glory that the CCP claims for its vanguard spirit in promoting a “New Democracy.” Yet, even in official narratives that omit the cosignatories, the CCP remains a convener and arbiter, not a controller of events and a symbol that by publicly endorsing the call, the DPGs implicitly accepted CCP leadership. However, as Groot has pointed out:

[T]he support of MPGs [DPGs] did not necessarily mean unqualified endorsement for all CCP policies or its ultimate program. What the MPGs

[DPGs] failed to realize was that the CCP was going to transform them to suit its new agenda.<sup>34</sup>

By 1948, the CCP had already infiltrated or cooped some of the DPGs, diminishing their independence.<sup>35</sup> Yet up until today, the Labor Day Call is a central element of the CCP's construction of legitimacy.<sup>36</sup>

Not all of those responding to the Labor Day Call were already influential political forces. A response to the call could also elevate small associations that had previously been politically insignificant to a level of national importance. As A. Doak Barnett rightfully predicted in December 1948,

the alliance of these splinter groups in Hong Kong with the Communist Party lifted the names of their leaders from relative obscurity to prominence in the seething rumor markets of present-day China. ... It is probable, therefore, that some time next year press dispatches and other reports of developments in China will contain the names of many political parties, groups, and leaders in China that heretofore have been virtually unknown, even to many people within their own country.<sup>37</sup>

The assembling of figures that might not all be famous, but representative, for example, of China's scholars, scientists, teachers, or business people, might not have hurt the cause of projecting representativeness. Broad strata of Chinese society that felt marginalized by the Communist rhetoric of class struggle should identify with these delegates, and thereby another "celebrity conference" could be avoided. Overall, the CCP narrative of an enthusiastic response of all progressive forces and notable Chinese intellectuals to the Labor Day Call has to be called into question.

Once left-leaning DPG leaders had publicly endorsed the Labor Day Call, the ball was in the playing field of the CCP again. Yet the Communists waited another three months until they reacted to the endorsement. In August 1948, Mao Zedong invited a carefully selected group of 55 DPG representatives and "democrats" (*minzhu renshi* 民主人士) to the areas under CCP control to initiate the consultations for the establishment of a united government. Initially, the CCP had planned to convene the consultative conference by autumn in Harbin, but the military situation changed dramatically during the summer of 1948. When the Communist forces advanced quicker than expected, the consultative conference was rescheduled to coincide with the proclamation of a new government.<sup>38</sup> To uphold the image of a busy preparation process until a military victory was secured, the CCP finally brought prominent figures, for example, the writer Mao Dun 茅盾 (alias Shen Dehong 沈德鴻, 1896–1981) and his wife Kong Dezhi 孔德沚 (1897–1970), Li Jishen of the Revolutionary Committee of the Chinese Guomindang,<sup>39</sup> as well as Shen Junru of the Chinese Democratic League, to the "liberated areas."<sup>40</sup>

By involving a maximum number of political activists in this streamlined process, the Communists killed three birds with one stone: first, by inviting these

prominent figures to the areas under their control, the CPP could shield them from the influence of their opponents. As Mao Zedong lamented in December 1948:

Now the Americans ... sent their diplomatic workers and journalists to the leaders of the right-wing of the democratic league – Luo Longji, Zhan[g] Lan, Hua Nanshe, and to the leader of the revolutionary committee of the Guomindang Li Jishen (he is en route to the liberated areas), so as to conduct among them provocative work and efforts to lure [them in]. We already paid attention to this and must do our best to make sure that the Americans will not achieve the aim of their intrigue.<sup>41</sup>

Indeed, when GMD member Huang Shaohong 黃紹竑 (1895–1966) flew to Hong Kong in January 1949 to convince Li Jishen to come to Nanjing and act as a mediator between the GMD and the CCP, he arrived only to find that Li had left days earlier.<sup>42</sup> Li and the other prominent figures, among them the political activists Zhu Yunshan 朱蘊山 (1887–1981) and Peng Zemin 彭澤民 (1877–1956), who secretly boarded a cargo ship for Dalian in December 1948, felt they were no longer safe in Hong Kong. The CCP's offer to smuggle those political leaders persecuted by the GMD out of the city was thus hard to decline. Once the group arrived in Dalian, Zhou Enlai 周恩來 (1898–1976) personally arranged a fine hotel, a banquet, and even a new set of clothes against the harsh Northern winter.<sup>43</sup>

Second, the CCP leadership was eager to prove that they took the concerns of the smaller parties seriously and organized inspection tours, study sessions, and called for informal discussions. In a speech to fellow CCP cadres, Dong Biwu 董必武 (1886–1975), who had been involved in the consultations, concluded in August 1949 that when they had published the Labor Day Call in May 1948 to convene the consultative conference, the DPGs still embraced diverse views. Contested issues were especially the leadership status of the CCP, the possibility of peace with the GMD, China's dependency of the United States and Great Britain, and reservations against the Soviet Union.<sup>44</sup> In their meetings with the visiting intellectuals, the CCP put such questions as the continuation of class struggle after the Communist victory,<sup>45</sup> the decision on how a “democratic” political system could look like, and which role the DPG leaders would take in the new government up for discussion.<sup>46</sup> These exchanges offered a platform for the probing of common ground and the honing of arguments. In other words, in the early months of 1949, the CCP tested the ideological toolkit that they continued to employ after 1949 to convince China's intellectual elites of the CCP's rightful rise to power.

And third, the sojourn of the DPG leaders in the model communes of the “liberated areas” held a propagandistic value. Intellectuals like Zhang Bojun 章伯鈞 (1895–1969) or Shen Junru possessed a valuable social and cultural capital that enabled them to communicate effectively with social groups beyond the Communists' reach. Writings of Li Jishen, Shen Junru, and Zhang Bojun from the year 1948 illustrate how these political thinkers reframed the plans for a new consultative conference in a way that resonated more with the Republican elites than

the anti-capitalist or anti-bureaucrat slogans of the Communist camp. Li, speaking for the Revolutionary Committee of the Chinese Guomindang, reinterpreted the political writings of Sun Yat-sen (Sun Zhongshan 孫中山, 1866–1925) and claimed that the CCP's proposal of convening a consultative conference was in accordance with Sun's demands for representative institutions. Sun was revered across the political spectrum as an icon of the revolution of 1911, and the article thus invoked his name to construct a sense of shared political ideals of all forces opposed to the GMD's one-party dictatorship.<sup>47</sup> Shen Junru similarly distanced himself from the GMD and reminded his readers that to hope for creating peace with the GMD was just as hopeless as trying to "fish for the moon in the water."<sup>48</sup> And in an article Shen coauthored with Zhang Bojun, both drew a line in the sand between democracy and dictatorship, as well as between the people and the people's enemies. They embraced the call for a new consultative conference as the only remaining road to a democratic, peaceful, and united "New China." Everyone not on their side was a reactionary working against the interest of the people.<sup>49</sup> Without explicitly endorsing Communist ideology, or even praising the military or political achievements of the CCP, all of these writings stressed the moral decay of the GMD. These intellectuals thus achieved what would have been impossible for Communist writers, which is to shift the attention away from the potential danger of a new one-party rule under a Communist regime and to decouple the call for a reconvening of a consultative conference from all ideological questions that separated the DPGs and the CCP.

The second type of publications that disseminated from Northern China were reports on the administrative and political situation in the Communist-ruled areas. Sun Qimeng 孫起孟 (1911–2010), a member of the China National Democratic Construction Association (*Minzhu jianguohui* 民主建國會), for example, stressed that life was like heaven in comparison to the hell of the GMD-held territories and praised the humanistic spirit of the correctional facilities he had visited in Harbin.<sup>50</sup> Fifty-five visitors to the "liberated areas" voiced their support for the political strategy of Mao Zedong in a statement they published in several journals such as the *Haitao* 海濤 in Shanghai and Hong Kong's journal *Gonglun* 公論, a mouthpiece of the Zhigong Party.<sup>51</sup> In the version that appeared in the *Haitao*, however, an entire paragraph praising an "atmosphere of democratic freedom," the exemplary conduct of CCP cadres, and the neat and rapid reconstruction of social and economic order was missing.<sup>52</sup> Apparently, the subversive force and the discursive power of this paragraph were forceful enough to necessitate censorship in Shanghai.

Despite their recurring references to democratic principles and appraisals for the rule of law, the publications disseminating from the CCP territories were, at the same time, very frank in their portrayal of the CCP's understanding of democracy. In a lengthy article, Sun Qimeng discussed how he came to realize that he and his fellow intellectual friends needed to reform their thinking and to better themselves for the service of the people (and thereby the CCP), and he denounced all opposing forces as reactionary.<sup>53</sup> Furthermore, these publications spelled out in no uncertain terms what the CCP expected from intellectuals in general and the DPGs in particular. Like the DPG's public vows of support following the Labor Day Call,

these publications thereby contributed to a narrative of a conscious and unhesitant submission of China's minor political forces to CCP leadership in the months preceding the founding of the People's Republic. Additionally, in these writings, the DPG leaders themselves undermined any future challenges to CCP's legitimacy by labeling all forces questioning the Communist leadership as revisionist.

Newspaper coverage from the GMD-ruled areas countered the CCP's United Front Work Department's tale of harmonious and unanimous consultations. It scolded the intellectuals and their DPGs, who had followed the invitation to the "liberated areas," as victims of false promises. Luo Jianbai 羅堅白 (dates unknown) of the Chinese Democratic Socialist Party (*Zhongguo minzhu shehuidang* 中國民主社會黨) ridiculed those leaving for the "liberated" areas as opportunists trying to hunt down a government post "like ants drawn to rotten meat, like flies in pursuit of a foul smell."<sup>54</sup> The *New Statesman* (*Xin zhengzhijia* 新政治家) similarly denounced the theatrical "beating of gongs and drums for the new consultative conference," declaring that all those who still hoped the conference would be a continuation of the peace talks of 1946 were misguided. The article quotes extensively from CCP documents to prove that the CCP had, in fact, no interest in engaging with all parties and certainly not on an equal footing.<sup>55</sup> Similarly, the journal *Life and Time* (*Shenghuo yu shidai* 生活與時代) questioned the CCP's attempt to convene a consultative conference consisting of small parties that were in no way representative of the general Chinese population. If they wanted a more inclusive government, why not merely hold a popular election? Yet, the coverage of the preparations for the consultative conference not only questioned the "democratic" motives of the CCP, but it also painted a picture of an exasperated GMD that resorted to both promises and intimidations to keep prominent political figures from joining the conference.<sup>56</sup>

Overall, the Chinese public was left to speculate for many months as to where the conference would assemble, who was to participate, and whether it would negotiate peace between the GMD and CCP or herald a new political regime. The Communist leadership, due to the rapidly changing national and international political situation and out of security concerns, set no definite date or place. Thus, making a virtue of necessity, Mao Zedong still claimed in the telegram to the DPG representatives that the opportune timing of convening the assembly, its location, and the decision who to invite was not yet set because it should rest in the hands of the democratic leaders to reach a joint decision on these issues.<sup>57</sup>

In late 1948, before a formal Preparatory Committee for the New Consultative Conference assembled, there were effectively three hubs of activity: the first was the CCP's United Front headquarter in Lijiazhuang, where Zhou Enlai hosted some of Beijing's prominent intellectuals like Fu Dingyi 符定一 (1877–1958), Wu Han 吳晗 (1909–1969), and Liu Qingyang 劉清揚 (1894–1977); the second was the Northeastern Bureau of the CCP in Harbin, where the CCP cadres Gao Gang 高崗 (1905–1954) and Li Fuchun 李富春 (1900–1975) conferred with DPG leaders Shen Junru, Tan Pingshan 譚平山 (1886–1956), Zhang Bojun, and others who had arrived from Hong Kong in September 1948; the third was the network of political allies remaining in Hong Kong.<sup>58</sup> In the following months,

drafts, comments, and revisions were sent back and forth between these three locations.<sup>59</sup> Unfortunately, the paper trail that these deliberations must have left behind has to this day not been made public. Nonetheless, the available sources allow us to reconstruct the haggling over the size and composition of the CPPCC. Here again, the symbolic dimension is not only reflective of reality, but it also constituted reality: the list of factions invited to the CPPCC became a barometer registering who gained or lost favor with the CCP in the following months.

### Delegations in the CPPCC

The formal planning process of the first CPPCC began with a draft by Zhou Enlai titled “Various Questions Concerning the Convening of a New Political Consultative Conference” (*Guanyu zhaokai xin de zhengzhi xieshang huiyi zhu wenti* 關於召開新的政治協商會議諸問題). Unfortunately, all official CCP source collections omitted Zhou’s draft. Most other documents drafted and revised during the preparations for the consultative conference are also kept under lock and key.<sup>60</sup> Thus, changes in the available invitation lists can give important insights into power struggles between the DPGs and the CCP as well as between the DPGs that competed for influence in the new regime.

A list attached to the CCP leadership’s draft from October 1948 mentioned 39 entities: 9 DPGs, 6 factions representing local interests, 6 factions representing the military as well as representatives from 17 civic associations.<sup>61</sup> Already one week later, the number of DPGs had shrunken to seven, excluding the Zhigong Party and the Democratic National Construction Association.<sup>62</sup> The final “Agreement on Questions Concerning the Convening of a New Political Consultative Conference,” published on November 25, 1948, listed 23 entities that were to dispatch up to 4 delegates (see Table 9.1).

In considering the list’s symbolic importance, let us turn first to its composition. On closer inspection, an apparent division between the table’s upper and lower part reflects two different conceptions of representation (and thereby of legitimacy). Even though the participants were never elected by a public vote or in a transparent intraparty process, the CPPCC stressed the “representativeness” (*daibiaoxing* 代表性) of this assembly. The upper part catered to Republican-era conceptions of a representation of competing political forces, such as in the Anglo-American system. The lower section, with its delegations of women, ethnic minorities, and students, illustrates the CCP’s corporatist approach to representation resting on the assumption that women best represent women, members of ethnic groups best represent ethnic minorities, and so forth. After 1949, the DPGs were subjected to the same corporatist logic of representation when the CCP set clear guidelines for noncompetitive membership recruitment that was limited to specific constituencies. They assigned DPGs and other political organizations the function of transmission belts communicating with and supervising predetermined social groups. Shielded from the public eye, the DPGs included in this list had already come under a varying degree of CCP influence by late 1948 and were after 1949 transformed into corporatist structures.<sup>64</sup>

Table 9.1 Groups of Participants of the CPPCC as Listed in the "Agreement on Questions Concerning the Convening of a New Political Consultative Conference"<sup>63</sup>

No.	Name Chinese (Pinyin)	English
1	中國共產黨 ( <i>Zhongguo gongchandang</i> )	Communist Party of China
2	中國國民黨革命委員會 ( <i>Zhongguo guomindang geming weiyuanhui</i> )	Revolutionary Committee of the Chinese Guomindang
3	中國民主同盟 ( <i>Zhongguo minzhu tongmeng</i> )	Chinese Democratic League
4	中國民主促進會 ( <i>Zhongguo minzhu cujinhui</i> )	Chinese Association for Promoting Democracy
5	中國致公黨 ( <i>Zhongguo zhigongdang</i> )	Chinese Zhigong Party
6	中國農工民主黨 ( <i>Zhongguo nonggong minzhudang</i> )	Chinese Workers' and Peasants' Democratic Party
7	中國人民救國會 ( <i>Zhongguo renmin jiuguohui</i> )	Chinese People's Salvation Association
8	中國國民黨民主促進會 ( <i>Zhongguo guomindang minzhu cujinhui</i> )	Chinese Guomindang Association for the Promotion of Democracy
9	三民主義同志聯合會 ( <i>Sanmin zhuyi tongzhi liankehui</i> )	Federation of Comrades of the Three Principles of the People
10	民主建國會 ( <i>Minzhu jianguoahui</i> )	Democratic National Construction Association
11	無黨派民主人士 ( <i>Wu dangpai minzhu renshi</i> )	Democrats without party affiliation
12	全國教授 ( <i>Quanguo jiaoshou</i> )	Professors
13	國內少數民族 ( <i>Guonei shaoshu minzu</i> )	National minorities
14	海外華僑民主人士 ( <i>Haiwai huaqiao minzhu renshi</i> )	Chinese democrats living overseas
15	中華全國總工會 ( <i>Zhonghua quanguo zonggonghui</i> )	All-China Workers' Union
16	解放區農民團體 ( <i>Jiefangqu nongmin tuanti</i> )	Peasants' associations in the liberated areas
17	全國婦女聯合會籌備委員會 ( <i>Quanguo funü liankehui choubei weiyuanhui</i> )	Preparatory Committee of the All-China Women's Federation
18	全國學生聯合會 ( <i>Quanguo xuesheng liankehui</i> )	All-China Federation of Student Unions
19	全國青年聯合會籌備委員會 ( <i>Quanguo qingnian liankehui choubei weiyuanhui</i> )	Preparatory Committee of the All-China Youth Federation
20	上海人民團體聯合會 ( <i>Shanghai renmin tuanti liankehui</i> )	Federation of People's Organizations in Shanghai
21	產業界民主人士 ( <i>Chanyejie minzhu renshi</i> )	Democrats from industrial circles
22	文化界民主人士 ( <i>Wenhuajie minzhu renshi</i> )	Democrats from cultural circles
23	中國人民解放軍 ( <i>Zhongguo renmin jiefangjun</i> )	People's Liberation Army



Second, the order of the DPGs in the upper part of the list is of importance. Up until today, official documents maintain a particular order in listing the DPGs, reflecting a political hierarchy.<sup>65</sup> When the preparatory committee officially met for the first time on June 19, 1949, the order of the participating parties and groups had changed again. For example, the Democratic National Construction Association had risen to the 4th position, while the Zhigong Party descended to the 11th position.<sup>66</sup> In the sources, the underlying rules for setting this hierarchy are opaque. Yet, four factors were central: the ideological proximity of the DPGs to the Communist Party, the public image of the parties' most influential members, the direct involvement in the consultation process in Lijiazhuang or Harbin, as well as the importance of the constituents that each DPG could mobilize for the national reconstruction.

Here again, the May First Call was of strategic significance in the construction of the consultative conference's and thereby the CCP's legitimacy. To deflect allegations that the CCP was not interested in a united government but would merely pick close allies and weak parties excluding all contesting forces, the CCP claimed that hierarchies apparent in the listings merely reflected how quickly the DPGs had responded to the call for holding a consultative conference in May 1948.<sup>67</sup> To attentive observers, however, not only the shifting order of DPGs in these lists but also the conspicuous absence of certain parties must have called this narrative into question.

The Chinese Association for the Promotion of Popular Education (*Zhonghua pingmin jiaoyu cujinhui* 中國平民教育促進會), the Chinese Peasants' Party (*Zhongguo nongmindang* 中國農民黨), the Guangfu Association (*Guangfuhui* 光復會), the Chinese Young Workers' Party (*Zhongguo shaonian laodongdang* 中國少年勞動黨), the Alliance for People's Freedom and Democracy (*Renmin minzhu ziyou lianmeng* 人民民主自由聯盟), and other political parties and associations requested to participate in the CPPCC. Yet, the CCP claimed that members of those groups were mostly reactionaries, and thus their request was declined. Selected members willing to readjust their political views could nonetheless return to the "people's camp" and "participate in the construction of a New China."<sup>68</sup>

The Chinese Democratic Socialist Party (*Zhongguo minzhu shehuidang* 中國民主社會黨) was a more complicated case. Under the leadership of Zhang Junmai 張君勱 (1887–1969), the Democratic Socialists had joined the "old" consultative conference of 1946, and Zhang continued to cooperate with the GMD in drafting a new constitution. This caused an intraparty rift because many members had become wary of the authoritarian rule of the GMD and, by 1947, founded the Reform Faction of the Democratic Socialist Party (*Minshedang gexinpai* 民社黨革新派).<sup>69</sup> Its leaders Sha Yankai 沙彥楷 (1875–1970) and Wang Shiming 汪世銘 (1896–1977) had responded to the May First Call on behalf of the Reform Faction.<sup>70</sup> Therefore, according to a logic one might call "whoever is willing to join will be invited," the *Minshedang gexinpai* should have participated in the CPPCC. In June 1949, the preparatory committee for the CPPCC decided that they would not reward seats to the party because their political stance was

unclear. Nonetheless, Sha and Wang were offered memberships in the Chinese Democratic League, and the Reform Faction of the Democratic Socialist Party disbanded.<sup>71</sup> In a report to I. V. Stalin, the CCP's Central Committee member Liu Shaoqi commented on the DPG's structure:

In each democratic party and group there are several leaders who have some influence among the popular masses, thanks to their having engaged in political activity in China for a long time. Their party organizations are held together only in these leaders. There are three categories of people in each party and group: rightists, leftists, and centrists.<sup>72</sup>

Thus, as long as one could integrate the most prominent leftist or centrist leaders into the CPPCC, the DPGs as organizational structures were no longer important. The Jiusan Study Society (*Jiusan xueshe* 九三學社), on the other hand, never counted more than a hundred members before 1949 and was nonetheless included in the CPPCC, representing university teachers and scientists. Its name was only added to the list of participating groups in June 1949,<sup>73</sup> which exemplifies how the CPPCC embraced tiny organizations like the Jiusan or the Taiwan Democratic Self-Government League (*Taiwan minzhu zizhi tongmeng* 台灣民主自治同盟). They expanded only after the founding of the PRC into organizational strongholds that served to reach certain parts of the Chinese elites.

In short, the publication of the different lists demonstrated the broadness and strength of the new united front. They proved that the first CPPCC concluded a process that had effectively separated the democratic forces of the Republican period into two camps, leading to the successful exclusion, weakening, or even disbanding of political associations. It elevated some groups to a level of national importance not founded on popular support but rather on corporatist functions that these parties had to fulfill within the united front framework.

### **The preparatory committee of the consultative conference**

After the takeover of Beijing in January 1949, the United Front Work Department could finally relocate to the new capital. They selected the Beijing Hotel (*Beijing fandan* 北京飯店) and the Liuguo Hotel (*Liuguo fandan* 六國飯店), two of the most luxurious hotels in the city, for a liaison office. The office's task was to make life as pleasant as possible for those political figures who had participated in the initial consultations in Lijiazhuang, Harbin, and other parts of the country and who now gathered in Beijing. The head of the United Front Work Department, Li Weihai 李維漢 (1896–1984), regularly invited the DPG representatives to so-called tea meetings (*chahui* 茶會) to the Liuguo Hotel. Additionally, Mao Zedong and Zhou Enlai personally met with the DPG leaders to discuss national and international questions.<sup>74</sup> As we do not have detailed accounts of these meetings, it is unclear whether the participants were encouraged to express their opinions on the convening of the CPPCC or the reorganization of China's cultural, social, and political institutions or if these meetings were merely study sessions intended to

teach them Mao's doctrine of a "People's Democratic Dictatorship." Furthermore, from April to June, a group of nearly 60 prominent figures from the DPGs, overseas Chinese, cultural, and literary circles, as well as from different classes and minorities of Chinese society, went on a study tour to the Northeastern cities. Li Weihai and his colleagues ensured that the DPG leaders led a comfortable life in Beijing and that their children had access to a good education. They should feel that the CCP still valued their cooperation and be kept busy until the Preparatory Committee for the CPPCC first convened on June 11, 1949, at the residence of Mao Zedong in Xiangshan (Beijing).<sup>75</sup>

By July 1949, Mao Zedong proudly reported to Moscow that the convening of a preparatory committee had already been a success. It appeased the democratic forces while ensuring CCP control over all proceedings:

The democratic and unaffiliated public figures are quite satisfied with such a method of convening the PCC [Political Consultative Conference]. ... It [the preparatory committee] has 134 members, of which 43 are Communists, 48 are progressive figures who will unquestionably support us, 43 centrists, but 12 of which are centrists with a rightist inclination. There are 15 among the progressive figures who are clandestine Communists. Leadership in the Preparatory Committee is furnished by the Communist Party. A permanent presidium of 21 people has been created in the Preparatory Committee. Leadership in this presidium has also been furnished by the Communist Party.<sup>76</sup>

Among those who Mao considered "clandestine Communists" might have been, for example, Zhang Bojun and Tan Pingshan. Zhang and Tan had joined the CCP in the early 1920s but left the party after the Nanchang Uprising in 1927.<sup>77</sup> They were officially known as leaders of the Chinese Workers' and Peasants' Democratic Party, but rumors of Zhang's concealed CCP membership or at least close cooperation with CCP cadres were rampant in 1947.<sup>78</sup> By the late 1940s, the fact that the CCP was covertly recruiting leaders of the DPGs or even installing CCP members in strategic positions was an open secret.<sup>79</sup>

Despite the CCP's growing control over the DPG structures and even though they had only invited handpicked individuals to enter the preparatory committee, Mao nonetheless feared that the GMD might infiltrate the DPGs or even convene a rivaling consultative conference under GMD auspices.<sup>80</sup> On the surface, however, an atmosphere of confidence and friendship was to be maintained. In the opening speech of the first meeting of the preparatory committee, Mao Zedong reiterated that, apart from the "enemies of the people" (imperialists, feudalists, bureaucratic capitalists, and reactionary GMD), "we are all friends, we are all one large and strong revolutionary united front."<sup>81</sup> In his speech, Mao even refrained from using the rhetoric of CCP leadership over all other parties and groups.

The preparatory committee proceeded to form six workgroups, each being in charge of a specific task: group 1 determined the list of associations and groups to participate in the CPPCC and their delegates (headed by Li Weihai), group 2 drafted the statutes for the CPPCC (head: Tan Pingshan), group 3 outlined

the “Common Program” as a provisional government program of the PRC (head: Zhou Enlai), group 4 prepared the organic law of the Central People's Government (head: Dong Biwu), group 5 wrote the official declaration of the first CPPCC (head: Guo Moruo 郭沫若, 1892–1978), and group 6 was to reach a decision concerning the national flag, the national emblem, and the national anthem (head: Ma Xulun 馬敘倫, 1885–1970). Thus, official (not clandestine) CCP party members headed the workgroups and relegated DPG leaders like Huang Yanpei 黃炎培 (1878–1965) or Xu Deheng 許德珩 (1890–1990) to vice-head positions.<sup>82</sup> The staged organizing of six groups and public haggling over the composition of the CPPCC were part of the CPP's attempt to at least formally meet the criteria observers expected of “democratic” assemblies (as outlined above): a large number of delegates, some form of elective procedures with delegates dispatched by the parties, a real decision-making power, and a diversity of representatives that would reflect China's social, regional, and ethnic diversity.

The discussion over the name of the new state exemplifies that even though the CCP allowed an exchange of views, no final decision could be reached against the CCP's will. While the members of the Preparatory Committee Huang Yanpei and Zhang Zhirang 張志讓 (1893–1978) advocated for the name “People's Democracy of China” (*Zhonghua renmin minzhuguo* 中華人民民主國), Zhang Xiruo (張奚若, 1889–1973) favored “People's Republic of China” (*Zhonghua renmin gongheguo* 中華人民共和國). The term “people's republic” would already invoke the notion of democratic rule.<sup>83</sup> The CCP's resistance against the inclusion of the word *minzhu* 民主 in the state name was symptomatic of how they understood “New Democracy” to refer to a transitory period, rather than a long-term commitment. Gradually the term “democratic” also vanished, for example, from the name of the All-China Women's Federation, which used the name All-China Democratic Women's Federation (*Zhonghua quanguo minzhu funü lianhehui* 中華全國民主婦女聯合會) until 1957.<sup>84</sup>

In sum, from the perspective of the DPGs, the preparatory committee already cemented the pattern of participation without independent decision-making power that later characterized their work in the CPPCC. The committee and its workgroups concluded their work on September 20, one day before the People's Liberation Army fired a salute outside the Huaiyuan Hall in Beijing and thereby ceremoniously heralded the successful convening of the CPPCC. The People's Daily, as the mouthpiece of the new government, reported extensively on the proceedings, interviewed the delegates and recorded their speeches, and featured pictures showing the members on stage behind microphones or as an attentive audience. Other photographs showed Beijing citizens parading the streets with banners welcoming the CPPCC.<sup>85</sup> The Xinhua broadcasting service of Beijing additionally recorded and broadcasted the speeches for a larger audience.<sup>86</sup>

## Conclusion

In the late 1940s, the CCP's strategy of tying as many political forces as possible to the regime profited from gravitational forces that drove intellectuals and

political activists away from the GMD to the left. Many political activists were appalled by the GMD's lack of respect for the rule of law, and GMD persecution forced some to seek refuge in the "liberated areas", while others awaited the arrival of a new government in Hong Kong. Dissatisfaction with the GMD did not, however, turn directly into support of the Communists. The CCP hence went to great lengths to make cooperation attractive. Having by 1948 or 1949 to choose between the tutelage of either one of the mass parties (GMD or CCP), many political activists chose the latter, because the CCP at least seemed to make an effort to consider different voices. The CCP rhetoric of "New Democracy" and the temporary deemphasizing of class struggle helped to meet those who were skeptical of Communist ideology halfway.

Once political figures had arrived in the CCP-ruled territories, the CCP successfully shielded them from GMD influence. It drove a wedge between the democratic movement and made DPG leaders and their families financially and politically dependent on the new regime. Simultaneously, just as it severed ties to "reactionary forces," the preparatory committee forged new relationships between members of different DPGs and nonaligned political figures by bringing them together in regular meetings bridging previous party boundaries. Behind the scenes, the months of preparation and "rehearsal" of the first CPPCC thus bore fruit in eliminating or isolating any influential voices in the public discourse that could have challenged the narrative of a peaceful assumption of power of the CCP. On the public stage, by convening the CPPCC as a revival of a Republican-era institution, the CCP upheld the promises for a legal multi-party rule that the GMD had broken. To believe, however, that the DPGs were blindly following a trace of honey only to fall into the CCP's totalitarian trap is unfounded. The media coverage of the time gave voice to both ardent supporters of the Communist revolution as well as well-informed calls of warning. For many of the later CPPCC delegates, their alliance with the Communists must have been a strategic decision to secure a political office.

To reach a conclusive answer as to how exactly the preparations and the CPPCC itself provided a foundation for a popular belief in legitimacy (*Legitimitätsglaube*), we should revisit Beetham's three foundations of legitimacy. The gradual institutionalization of consultative structures from discussion meetings to the preparatory committee, and finally to the drafting of laws governing the first CPPCC created the "legal validity of the acquisition and exercise of power." Second, the subordination of several DPGs to CCP leadership and the thereby implicit acceptance of Mao's theory of "People's Democratic Dictatorship" as well as the DPG leader's appraisals of life in the "liberated areas" contributed to "the justifiability of the rules governing a power relationship in terms of the beliefs and values current in the given society." And third, the strategy reached its peak when the staging of the CPPCC itself provided "the evidence of consent."<sup>87</sup>

Since 1949, the CCP yearly reconvenes the CPPCC as a televised proof of the government's popular support and its system of rule. Thus, it turned the united front policies, once designed to win over the forces of the middle during the civil war, into a strategy to stabilize the postwar order and a mythopoeic prehistory

of the PRC. The legislative power of the CPPCC was gradually dismantled after 1949, and later generations were never again allowed to assume as many ministerial posts as the early DPG leaders. Nonetheless, even though the early CCP revolutionaries believed that the “New Democracy” phase and its institutions would only be maintained for a decade or two, 70 years later, the CPPCC is still meticulously restaged (by now in the symbol-laden Hall of the People on Tian’anmen square). In contrast, the preparatory process preceding the first CPPCC was in danger of sinking into oblivion. The production of the movie “The Founding of a Republic” (*Jianguo daye* 建國大業), starring a dazzling cast of 100 of China’s biggest film stars, brought the narrative back to a new generation of citizens in 2009. For Sebastian Veg, the film sheds light on some recent trends in PRC historiography:

This commercial conceit also carries with it an implied ideological message: history, thus invaded by the contemporary star system, is no longer the province of the anonymous proletariat; turning away from Marxist methodology, the film portrays the founding of the PRC as a succession of intrigues and strategic moves by a well-defined set of great men (and a few women) led by Mao. The rural masses are to all intents and purposes swept off the stage of history.<sup>88</sup>

Gloria and M. E. Davies share Veg’s assessment that this film is symptomatic of a change in official PRC historiography.<sup>89</sup> As I would argue, however, the movie signifies not only a turning away from the “collective protagonist.”<sup>90</sup> The more conciliatory stance to non-CCP political figures, the depiction of the DPGs leader’s gradual rapprochement to the CCP, as well as the extensive coverage of the work of the preparatory committee of the CPPCC that concludes the film is re-invoking narratives of peaceful cooperation that the Cultural Revolution had erased from public memory. Overall, the public discourse spurred by the movie, the recent reemphasis on united front work by President Xi Jinping, and the remodeling of the old site of the United Front Work Department in Shijiazhuang into a red tourism spot all exemplify that the legitimizing power of the PRC’s foundation myth of consensual consultations and decision-making of 1948–1949 has gained in relevancy in the past decade.<sup>91</sup>

## Notes

- 1 The scene has been captured in numerous paintings and became a popular motif for propaganda posters, such as the famous painting by Dong Xiwen. See Yan Geng, *Mao’s Images: Artists and China’s 1949 Transition* (Wiesbaden: J.B. Metzler, 2018), 127–171.
- 2 Gerry Groot, *Managing Transitions: The Chinese Communist Party, United Front Work, Corporatism, and Hegemony* (New York: Routledge, 2004), 49–55.
- 3 Jean-Pierre Cabestan, “The Chinese People’s Political Consultative Conference (CPPCC): Its Role and Its Future,” in *The EU-China Relationship – European Perspectives*, ed. Kerry Brown (London: Imperial College Press, 2015), 51–62.
- 4 See, for example, Joseph Levenson, *Confucian China and Its Modern Fate* (Berkeley, CA: University of California Press, 1968); Prasenjit Duara, *Rescuing History from the*

- Nation* (Chicago, IL: University of Chicago Press, 1995); Joshua A. Fogel and Peter Zarrow, *Imagining the People* (Armonk, NY: M.E. Sharpe, 1997); Thomas D. Curran, *Educational Reform in Republican China* (Lewiston, NY: Edwin Mellen Press, 2005); Robert Culp, *Articulating Citizenship: Civic Education and Student Politics in South-Eastern China, 1912–1940* (Cambridge, MA: Harvard University Press, 2007); Peter Zarrow, *After Empire: The Conceptual Transformation of the Chinese State, 1885–1924* (Stanford, CA: Stanford University Press, 2012).
- 5 Edmund S. K. Fung, “Recent Scholarship on the Minor Parties and Groups in Republican China,” *Modern China* 20, no. 4 (1994): 478–508.
  - 6 Shakhar Rahav, “Predicated on the People: Legitimizing Mass Politics and Parties in Early Republican China,” *Cross-Currents: East Asian History and Culture Review* 6, no. 1 (2017): 262–295.
  - 7 Joshua Hill, *Voting as a Rite: A History of Elections in Modern China* (Cambridge: Harvard University Press, 2019), 162.
  - 8 Edmund S. K. Fung, *In Search of Chinese Democracy: Civil Opposition in Nationalist China, 1929–1949*, Cambridge Modern China Series (Cambridge: Cambridge University Press, 2000), 88–96.
  - 9 Tao Xingzhi 陶行知, “Guonan huiyi yu mingren huiyi” 國難會議與名人會議 [The National Emergency Conference and the Celebrity Conference], *Shenbao* 申報, January 28, 1932, 11.
  - 10 Groot, *Managing Transitions*, 2.
  - 11 Fung, *In Search of Chinese Democracy*, 91.
  - 12 Peng Juyuan 彭菊園, “Ping guomin canzhenghui” 評國民參政會 [Assessing the National Political Participatory Assembly], *Minzhu* 民主 1, no. 1 (1938): 20–21. For earlier attempts to establish advisory political bodies in the late Qing and early Republican period, see the chapter by Egas Moniz Bandeira in this volume.
  - 13 Also called “Minutes of the GMD-CCP Talks” (*Guo Gong huitan jiyao* 國共會談紀要).
  - 14 Like Edmund Fung, Gerry Groot translates the *minzhu dangpai* as “minor parties and groups” (MPGs). Groot, *Managing Transitions*, xiii; Fung, “Recent Scholarship on the Minor Parties and Groups in Republican China.” I have chosen the verbatim translation of “democratic parties and groups” (DPGs), not because I claim that they *were* democratic but because as *symbols* of a “new democracy” they are still relevant today. See also James D. Seymour, “China’s Satellite Parties Today,” *Asian Survey* 26, no. 9 (1986): 991.
  - 15 Ruo Yu 若愚, “Cong jiantao Guo Gong huitan jiyao shuodao zhengzhi xieshang huiyi de qiantu” 從檢討國共會談紀要說到政治協商會議的前途 [Discussing the Future of the Consultative Conference in Light of the Minutes of the GMD-CCP Talks], *Minzhu* 民主, no. 5 (1946): 1.
  - 16 Lyman van Slyke, *Enemies and Friends: The United Front in Chinese Communist History* (Stanford, CA: Stanford University Press, 1967), 189.
  - 17 Groot, *Managing Transitions*, 18.
  - 18 Georg Brunner, “Legitimacy Doctrines and Legitimation Procedures in East European Systems,” in *Political Legitimation in Communist States*, eds. Thomas Harold Rigby and Ferenc Fehér (Oxford: Macmillan: St. Antony’s College, 1982), 30–32.
  - 19 Mao Zedong 毛澤東, “Lun renmin minzhu zhuanzheng” 論人民民主專政 [On the People’s Democratic Dictatorship], in *Lun renmin minzhu zhuanzheng xuexi cankao cailiao* 論人民民主專政學習參考材料, ed. Duzhe shudian 讀者書店 (Tianjin: Duzhe shudian, 1949), 7.
  - 20 On the construction of legitimacy of leaders within the CCP, see Frederick C. Teiwes, *Leadership, Legitimacy, and Conflict in China: From a Charismatic Mao to the Politics of Succession* (Armonk, NY: M.E. Sharpe, 1984).
  - 21 H. Gordon Skilling, “People’s Democracy, the Proletarian Dictatorship and the Czechoslovak Path to Socialism,” *American Slavic and East European Review* 10, no. 2 (1951): 100–116; Benjamin Schwartz, “China and the Soviet Theory of People’s Democracy,” *Problems of Communism* 3, no. 5 (1954): 8–15.

- 22 Ruth Amende Rosa, "The Soviet Theory of 'People's Democracy,'" *World Politics* 1, no. 4 (1949): 495.
- 23 Liu Shaoqi, "Report from the Head of the Delegation of the CC of the Chinese Communist Party, 'The Current State of the Chinese Revolution,'" trans. Gary Goldberg, July 4, 1949, RGASPI, f. 558, op. 11, d. 328, ll. 32–50, History and Public Policy Program Digital Archive, <https://digitalarchive.wilsoncenter.org/document/134156>.
- 24 Max Weber, *Economy and Society* (Berkeley, CA: University of California Press, 1987), 213.
- 25 David Beetham, *The Legitimation of Power* (New York: Palgrave Macmillan, 2013), 12–13.
- 26 Johannes Gerschewski, "Legitimacy in Autocracies: Oxymoron or Essential Feature?" *Perspectives on Politics* 16, no. 3 (2018): 654.
- 27 Walter Sullivan, "China's Communists Set Stage to Form Coalition Regime," *New York Times*, June 20, 1949.
- 28 Christopher Flood, *Political Myth: A Theoretical Introduction* (London: Routledge, 2002), 44.
- 29 Anastas Ivanovich Mikoyan, "Memorandum of Conversation between Anastas Mikoyan and Mao Zedong," trans. Sergey Radchenko, January 31, 1949, APRF: F. 39, Op. 1, D. 39, Ll. 7–16, History and Public Policy Program Digital Archive, <https://digitalarchive.wilsoncenter.org/document/112436>.
- 30 The CCP dropped the term *shehui xianda* 社會賢達 in 1949, because it was too closely associated with those intellectuals who had participated in the National Assembly (*Guomin dahui* 國民大會) under the GMD government. After some of these prominent figures such as Wu Yunwu and Fu Sinian had followed the GMD to Taiwan, the CCP instead began to adopt the expression "democrats" (*minzhu renshi* 民主人士), or "patriotic democrats" (*aiguo minzhu renshi* 愛國民主人士) when referring to those anti-GMD intellectuals who did not belong to any political party. Shaanxi zhengjiaoxi bianxiezu 陝西師大政教系編寫組, *Zhongguo Gongchandang lishi* 中國共產黨歷史 [History of the Chinese Communist Party] (Chang'an: Shaanxi shida zhengjiaoxi, 1980), 237; Dong Biwu 董必武, *Dong Biwu zhengzhi falü wenji* 董必武政治法律文集 [Collected Political and Legal Works of Dong Biwu] (Beijing: Falü chubanshe, 1986), 59.
- 31 Reprinted in: Zhongguo minzhu tongmeng zhongyang wenshi ziliao weiyuanhui 中國民主同盟中央文史資料委員會, ed., *Zhongguo minzhu tongmeng lishi wenxian 1941–1949* 中國民主同盟歷史文獻1941–1949 [Historical Documents of the Chinese Democratic League 1941–1949] (Beijing: Wenshi ziliao chubanshe, 1983), 419–421.
- 32 Doak Barnett, *China on the Eve of the Communist Takeover* (New York: Praeger, 1963), 83.
- 33 See, for example, Ye Jiefu 葉介甫, "1949 nian xin zhengxie daibiao shi ruhe chansheng de" 1949年新政協代表是如何產生的 [How the New Political Consultative Conference's Delegates Were Nominated in 1949], *Yanhuang chunqiu* 炎黃春秋, no. 6 (2019): 41.
- 34 Groot, *Managing Transitions*, 58.
- 35 Groot, 20.
- 36 Liu Yandong 劉延東, ed., *Lishi cong zheli kaishi – Jinian Zhongguo Gongchandang lingdao de duodang hezuo wu shi zhou nian* 歷史從這裡開始——紀念中國共產黨領導的多黨合作五十週年 [This Is Where the History Begins – Commemorating the 50th Anniversary of the Chinese Communist Parties' Multi-Party Cooperation] (Beijing: Huawen chubanshe, 1999), 9.
- 37 Barnett, *China on the Eve of the Communist Takeover*, 83.
- 38 Li Ge 李格, "Yi jie zhengxie choubei wenti de ruogan kaocha" 一屆政協籌備問題的若干考察 [Investigation into the Preparations for the Political



- Consultative Conference], *Dangdai Zhongguo shi yanjiu* 當代中國史研究 13, no. 4 (2006): 71–76. Some Chinese sources explain the delay with a disruption of communication channels so that the DPG's response only reached Mao Zedong three months later. However, that the CCP headquarters were during the summer of 1948 completely cut off from all communications seems less likely than a conscious decision to postpone. See, for example, Shu Yun 舒雲, “Zhengxie huiyi shang de quwen yishi” 政協會議上的趣聞軼事 [Interesting Anecdotes from the Consultative Conference], in *Jianguo milu* 建國秘錄, eds. Cao Ying 曹英 and Yu Minhui 余敏輝 (Beijing: Tuanjie chubanshe, 1993), 154.
- 39 Even though this political group still carried the name of the Guomindang, it had split from the Nationalists during the civil war and by the 1940s sided with the CCP.
- 40 Li Jishen 李濟深, “Yonghu Zhonggong baxiang tiaojian: Renmin minzhu geming bixu jinxing daodi” 擁護中共八項條件：人民民主革命必須進行到底 [In Support of the Eight Demands of the Communist Party – The People's Democratic Revolution Has to Be Carried Through to the End], *Gonglun* 公論, no. 5 (1949): 21–22.
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- 42 Li Peijin 李沛金, *Wo de fuqin Li Jishen* 我的父親李濟深 [My Father Li Jishen] (Beijing: Tuanjie chubanshe, 2007), 154.
- 43 Li Peijin, 162–64.
- 44 Dong Biwu, *Dong Biwu zhengzhi falü wenji*, 60.
- 45 Mao coined the slogan “carry the revolution through to the end” (*jiang geming jinxing daodi* 將革命進行到底) in December 1948 proclaiming that the CCP and its allies (including the DPGs) could not stop until they had smashed all traces of imperial exploitation, feudalism, or counterrevolutionary activities. Xinhuashe 新華社, *Jiang geming jinxing daodi* 將革命進行到底 (Beijing: Xinhua shuju, 1949), 5.
- 46 Sha Jiansun 沙建孫, ed., *Zhongguo gongchandang tongshi* 中國共產黨通史 [Comprehensive History of the Chinese Communist Party], vol. 5 (Changsha: Hunan jiaoyu chubanshe, 2000), 690–692.
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- 48 Shen Junru 沈鈞儒, “Wo duiyu shiju kanfa” 我對於時局看法 [My Views on the Current Political Situation], *Shidai piping* 時代批評 5, no. 104 (1948): 7.
- 49 Shen Junru 沈鈞儒 and Zhang Bojun 章伯鈞, “Shiju shengming” 時局聲明 [Statement on the Current Political Situation], *Guangmingbao* 光明報 2, no. 8 (1948): 2.
- 50 Sun Qimeng 孫起孟, “Ha'erbinshi jianyu canguanji” 哈爾濱市監獄參觀記 [Notes from a Visit to the Harbin Municipal Prison], *Jinbu qingnian* 進步青年, no. 1 (1949): 26–27, 31.
- 51 Li Jishen, “Yonghu Zhonggong baxiang tiaojian: Renmin minzhu geming bixu jinxing daodi”; “Li Jishen Shen Junru Zhang Bojun deng fabiao shiju yijian” 李濟深沈鈞儒章伯鈞等發表時局意見 [Li Jishen, Shen Junru, and Zhang Bojun Express Their Views on the Current Political Situation], *Haitao* 海濤, no. 5 (1949): 14.
- 52 “Li Jishen Shen Junru Zhang Bojun deng fabiao shiju yijian.”
- 53 Sun Qimeng 孫起孟, “Wo duiyu zhishi fenzi gaizao de jidian renshi” 我對於知識分子改造的幾點認識 [Some Remarks on My Understanding of Reforming the Intellectuals], *Jinbu qingnian* 進步青年, no. 2 (1949): 5–7.
- 54 Luo Jianbai 羅堅白, “Guoshedang ruci ‘zai fenlie’ ” 國社黨如此「再分裂」 [So the National Socialist Party Is Divided Again], in *Zhongguo minzhu shehui dang* 中國民主社會黨, ed. Fang Qingqiu 方慶秋 (Beijing: Dang'an chubanshe, 1988), 506.
- 55 Yu Yuan 于遠, “Miluo jingu de xin zhengxie” 密鑼緊鼓地新政協 [The Beating of Gongs and Drums for the New Political Consultative Conference], *Xin zhengzhijia* 新政治家 1, no. 4 (1948): 3–6.

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- 57 Mao Zedong 毛澤東, "Mao Zedong guanyu zhaokai xin zhengxie fu ge minzhu dangpai dian" 毛澤東關於召開新政協復各民主黨派電 [Telegram by Mao Zedong to the Minor Political Parties and Groups on Convening a New Consultative Conference], in *Zhonggong zhongyangwenjian xuanji* 中共中央文件選集, ed. Zhongyang dang'anguan 中央檔案館, 17 (1948) (Beijing: Zhonggong zhongyang dangxiao chubanshe, 1992), 273–74.
- 58 Ye Jiefu, "1949 nian xin zhengxie daibiao shi ruhe chansheng de."
- 59 Tong Xiaopeng 童小鵬, Yu Gang 于剛, and Yin Hua 尹華, "Guanyu choubei he zhaokai Zhongguo renmin zhengzhi xieshang huiyi de huiyi" 關於籌備和召開中國人民政治協商會議的回憶 [Recollection of the Preparations and Convening of the Chinese People's Political Consultative Conference], in *Yinglai shuguang de shenghui - Xin zhengzhi xieshang huiyi qin liji* 迎來曙光的盛會——新政治協商會議親歷記, ed. Shi Guangshu 石光樹 (Beijing: Zhongguo wenshi chubanshe, 1987), 6.
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- 61 According to Qin Lihai it included ten DPGs. Qin Lihai 秦立海, "1949 nian xin zhengxie choubei jishi" 1949年新政協籌備紀事 [Record of the Preparatory Work for the New Consultative Conference of 1949], *Wenshi jinghua* 文史精華, no. 183 (2000): 4.
- 62 Revolutionary Committee of the Chinese Guomindang (12 representatives), Chinese Democratic League (15), Chinese Association for Promoting Democracy (3), Chinese Workers' and Peasants' Democratic Party (6), National Salvation Association (7), Chinese Guomindang Association for the Promotion of Democracy (1), and the Federation of Comrades of the Three Principles of the People (8). "Ba ge minzhu dangpai de paixu shi ruhe queding de" 八個民主黨派的排序是如何確定的 [How the Sorting Order of the Eight Democratic Parties and Groups Was Determined], Renmin zhengxie wang 人民政協網, February 2, 2016, <http://www.rmzxb.com.cn/c/2016-02-15/697897.shtml>; Qin Lihai, "1949 nian xin zhengxie choubei jishi," 4.
- 63 Yang Jianxin 楊建新 and Shi Guangshu 石光樹, eds., "Guanyu zhaokai xin de zhengzhi xieshang huiyi wenti de xieyi" 關於召開新的政治協商會議問題的協議 [Agreement on Questions Concerning the Convening of a New Consultative Conference], in *Wuxing hongqi cong zheli shengqi - Zhongguo remi zhengzhi xieshanghui dansheng* 五星紅旗從這裡升起——中國人民政治協商會議誕生 (Beijing: Wenshi ziliao chubanshe, 1984), 212–214; Fung, "Recent Scholarship on the Minor Parties and Groups in Republican China," 482–483.
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- 68 Ye Jiefu, “1949 nian xin zhengxie daibiao shi ruhe chansheng de,” 45.
- 69 Roger B. Jeans, *Democracy and Socialism in Republican China: The Politics of Zhang Junmai (Carsun Chang), 1906–1941* (Lanham: Rowman & Littlefield, 1997), 305–306.
- 70 Fang Qingqiu 方慶秋, *Zhongguo minzhu shehuidang* 中國民主社會黨 [Chinese Democratic Socialist Party] (Beijing: Dang’an chubanshe, 1988), 491–493.
- 71 Ye Jiefu, “1949 nian xin zhengxie daibiao shi ruhe chansheng de,” 44; Peter Ivanov, “The Miscellany of China’s Political Spectrum, 1945–1950,” in *Roads Not Taken: The Struggle of Opposition Parties in Twentieth Century China*, ed. Roger B. Jeans (Boulder, CO: Westview Press, 1992), 171–188.
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