Civil Service Law in the People’s Republic of China: A Return to Cadre Personnel Management

Despite the outward appearance of depoliticization, the civil service in China today is actually being repoliticized. This paper compares the 1993 Provisional Regulations on State Civil Servants with the Civil Service Law approved by the Standing Committee of the National People’s Congress of the People’s Republic of China (PRC) in April 2005. The 2005 reform formalized what had been a historical pattern—the Communist Party holds tight control over leadership change and management at various levels. The Civil Service Law has turned the Communist Party of China into a political institution that has become the source of both civil service empowerment and control. Although civil service reform in China differs markedly from approaches adopted elsewhere, China is clearly expanding its political control to ensure greater leverage over the bureaucracy. In this regard, China is in line with the global trend. That said, civil service reform in China has focused on structural elements and formal reorganizations, whereas most industrialized democracies have engaged in a dialectic between individualist and corporate responses to managerial questions. An understanding of the Chinese ability to adopt reforms—while strengthening its traditional hold—provides key perspectives not only on the world’s largest nation and a rapidly emerging force in global political and economic relationships but also on the Chinese experience with important public sector reforms that have occurred in many other countries over recent decades.

The civil service is partly a legal construction. A key task in developing civil service law is to define the scope of civil service status and the rights and responsibilities of civil servants. There is a rich literature in English on the development of civil service systems in some countries, particularly in the United States (Ingraham 1995; Rosenbloom 1971; Van Riper 1958) and in Western Europe (Chapman 1959). However, there has been little research on the legal construction of the civil service in the context of communist regimes. The world’s largest country, the People’s Republic of China (PRC), established its civil service in 1993 when it promulgated the Provisional Regulations on State Civil Servants. Twelve years later, on April 27, 2005, the Standing Committee of the National People’s Congress (NPC) approved the Bill of State Civil Service Law (CSL), which became effective on January 1, 2006. Communist China’s approach to civil service law contradicts some long-held assumptions that scholars often make regarding civil service elsewhere. That contrast is explained in this article. It is derived not from the manner in which the law was introduced but from the character of the law itself.

Civil service reform is a worldwide phenomenon. For countries that are enthusiastic about New Public Management, the main thrust of reform has been that market and network forms of coordination—especially market forms—should be substituted for hierarchical coordination whenever possible. Decentralization and marketization, instead of centralization and hierarchical control, have become positive in connotation. New Zealand, Australia, the United Kingdom and, to a lesser extent, Canada, Sweden, and the United States have adopted many of the measures of contractualism and quasi–market coordination (Pollitt and Bouckaert 2000, 62–96). Chinese leaders have not easily adopted these international vocabularies of management reform, which carry a definite normative charge. Recent administrative reforms in the PRC have focused on structural elements and formal reorganizations. The Chinese administrative reforms contrast sharply with the reforms of most industrialized democracies, which tend to center on the dialectic between individualistic and corporate responses to managerial questions (Peters 2002, 39–51). In some important respects, civil service reform in the PRC has departed markedly from the approaches adopted elsewhere.

Nonetheless, this article does not argue that Chinese civil service reform is entirely unique. To the extent that the Communist Party can be equated with politics, China is clearly expanding its political control to ensure greater leverage over the bureaucracy. This is a common characteristic of reforms around the world.
secured through a unified personnel management system that the CSL has sought to revitalize. This unified personnel management system integrates the existing cadre personnel management with the state civil service system. Some see a fusion of politics and administration as a threat to—and incompatible with—a modern, permanent, and competent bureaucracy (Heady 2000). Officials in the PRC, however, consider this landmark combination of politics and administration a positive step toward developing a stable, adaptable, highly competent, rule-based, and legitimacy-enhancing administration.

This analysis compares the 1993 Provisional Regulations with the CSL. It focuses on the positions encompassed by the definition of the civil service and discusses the criteria for inclusion. It examines the legal intentions underlying the CSL. It also analyzes China’s unified personnel management structure and illustrates how it recasts the jurisdictional relations in personnel management between the Communist Party and the state. In evaluating the importance of the CSL, the paper examines whether the legislation will produce important changes in the management of China’s cadre personnel. It concludes with a discussion of what we can learn from the enactment of this legislation in the PRC.

The analysis draws on many sources. Several internal documents and reports have helped to define the main thrust of the CSL since 2001. But the research also draws on a number of interviews, conducted mainly in Beijing in 2005. The interviews provided information that supplemented inadequacies in the documentary record and helped to sharpen and refine our interpretation. In table 1, we categorize the units and organizations in China that fall within the scope of the state civil service. The table also includes those units and organizations that will be managed by the state civil service regulations. The table should facilitate a general understanding of China’s state civil service.

The Scope of the Civil Service: From a Restricted to an Expanded Definition

The 1993 Provisional Regulations sought to develop a management framework that would differentiate civil servants from cadre personnel serving in service entities such as hospitals, libraries, schools, and research organizations or in state enterprises (Lam and Chan 1996). Article 3 stated that the regulations apply to all personnel in administrative organizations

Although civil servants in China are not given “lifelong tenure” as understood in the West, they do, ordinarily, have a permanent job.

Although civil servants in China are not given lifelong tenure as it is understood in the West, they do, ordinarily, have a permanent job.
Table 1 The Scope of China’s Civil Service

(I) Units to Be Part of Civil Service (96)

(A) Organizations under the Central Committee (18)

(1) Departments and Offices of Central Committee (10)
   - Central Discipline Inspection Commission
   - Central General Office (including Central Institute of Archives, Central Office of Secrecy)
   - Central Organization Department
   - Central Publicity Department (including General Office for Central Spiritual Civilization Construction Commission)
   - Central United Front Work Department
   - Central International Liaison Department
   - Central Political Science and Law Commission
   - Central Policy Research Office
   - Central Taiwan Affairs Office
   - Central Office for Overseas Propaganda

(2) Consultation and Coordination Agencies (4)
   - General Office of the Leading Group of Central Financial and Economic Affairs
   - General Office of the Leading Group of Central Foreign Affairs
   - General Office of Central Establishment Commission
   - General Office of the Leading Group for Preventing and Handling Evil Cult

(3) CCP Dispatched Agencies (4)
   - Party Work Committee for Organs directly under Central Committee
   - Party Work Committee for Central State Organs
   - CCP Hong Kong Work Committee
   - CCP Macau Work Committee

(B) Organizations under the National People’s Congress (NPC), Chinese People’s Political Consultative Conference (CPPCC), Supreme People’s Court, and Supreme People’s Procuratorate (4)

(1) NPC
   - General Office of Standing Committee of NPC
   - Work Committee on Legal Affairs of the Standing Committee of NPC
   - Budgetary Work Committee of the Standing Committee of NPC
   - Offices of the various special committees of the Standing Committee of NPC

(2) CPPCC (2)
   - General Office of CPPCC
   - Offices of the various special committees of CPPCC

(3) Supreme People’s Court

(4) Supreme People’s Procuratorate

(C) Organizations under the State Council (66)

(1) Ministries and Commissions of the State Council (29)
   - General Office
   - Ministry of Foreign Affairs
   - Ministry of National Defense
   - State Development and Reform Commission
   - Ministry of Education
   - Ministry of Science and Technology
   - Commission of Science, Technology and Industry of National Defense
   - State Ethnic Affairs Commission
   - Ministry of Public Security
   - Ministry of State Security
   - Ministry of Supervision
   - Ministry of Civil Affairs
   - Ministry of Justice
   - Ministry of Finance
   - Ministry of Personnel
   - Ministry of Labor and Social Security
   - Ministry of Land and Natural Resources
   - Ministry of Construction
   - Ministry of Railways
   - Ministry of Communications
   - Ministry of Information Industry
   - Ministry of Water Resources
   - Ministry of Agriculture
   - Ministry of Commerce
   - Ministry of Culture
Ministry of Health
State Population and Family Planning Commission
People's Bank of China
National Audit Administration

(2) Special Organizations under the State Council (1)
State-owned Assets Supervision and Administration Commission

(3) Organizations under the State Council (18)
General Administration of Customs
State Administration of Taxation
State Administration for Industry and Commerce
General Administration of Quality Supervision, Inspection, and Quarantine
State Administration of Environmental Protection
Civil Aviation Administration
State Administration of Radio, Film, and Television
State Press and Publication Administration (State Copyright Bureau)
State Sports General Administration
National Bureau of Statistics
State Forestry Administration
State Food and Drug Administration
State Administration of Work Safety Supervision
State Intellectual Property Office
National Tourism Administration
State Bureau of Religious Affairs
Councilor's Office of State Council
State Administration for the Affairs of State Council Organizations

(4) Offices of the State Council (4)
Overseas Chinese Affairs Office
Hong Kong and Macau Affairs Office
Law Office
Research Office

(5) State Bureaus under Ministries/Commissions (8)
State Letters and Complaints Bureau
State Grain Administration
State Bureau of Foreign Experts
State Oceanic Administration
State Bureau of Surveying and Mapping
State Bureau of Cultural Relics
State Administration of Traditional Chinese Medicine
State Administration of Foreign Exchange

(6) Consultation and Coordination Agencies of the State Council (6)
General Office of Three Gorges Project Construction Committee
General Office of State Information Work
General Office of the Leading Group for Poverty Alleviation and Development
General Office of the Leading Group for Western Region Development
General Office of the Leading Group for Construction Committee for South-to-North Water Diversion Project
General Office of the Leading Group for Revitalizing the Old Industrial Bases in North-East Regions

(D) Offices of the various democratic parties (8)
Revolutionary Committee of Chinese Kuomintang
China Democratic League
China Democratic National Construction Association
China Association for Promoting Democracy
Chinese Peasants’ and Workers’ Democratic Party
Chinese Zhi Gong Dang (Party for Public Interests)
Jiusan (September 3) Society
Taiwan Democratic Self-Government League

(II) Units to be managed by referring to the Civil Service Law (33)

(A) Institutes Directly under the Party Central (5)
Central Party School
Central Party Literature Research Center
Central Party History Research Center
Central Bureau of Translation
China Foreign Publication Distribution Affairs Bureau
Table 1 Continued

(B) Institutes directly under the State Council (6)
   - State Seismological Administration
   - China Meteorological Administration
   - China Banking Regulatory Commission
   - China Securities Regulatory Commission
   - China Insurance Regulatory Commission
   - State Electric Power Regulatory Commission

(C) State Bureaus under Ministries/Commissions (1)
   - State Tobacco Monopoly Bureau

(D) Offices of Mass organizations (21)
   - All-China Federation of Trade Union
   - Chinese Communist Youth League
   - All-China Federation of Women
   - China Federation of Literary and Art Circles
   - Chinese Writers’ Association
   - China Association for Science and Technology
   - All-China Federation of Returned Overseas Chinese
   - China Law Society
   - Chinese People’s Association for Friendship with Foreign Countries
   - All-China Journalists’ Association
   - All-China Federation of Taiwan Compatriots
   - China Council for Promotion of International Trade (China Chamber of International Commerce)
   - Chinese Federation of the Disabled
   - Red Cross Society of China
   - Chinese People’s Institute of Foreign Affairs
   - Song Qingling Foundation
   - Huangpu (Whampoa) Military Academy Alumni Association
   - Association of Returned Students from West
   - China Association of Policy Science
   - China Vocational Education Service
   - All-China Federation of Industry and Commerce

(III) Units adopting either Institute or Enterprise Personnel Management System (25)
(A) Institutes directly under Party Central (5)
   - Renmin ribao (People’s Daily)
   - Qiushi (Seeking Truth)
   - Guangming ribao (Bright Daily)
   - China Daily
   - Jingji ribao (Economic Daily)

(B) Agencies of the State Council (20)
   (1) Institutes directly under State Council (8)
      - Xinhua News Agency
      - Chinese Academy of Sciences
      - Chinese Academy of Social Sciences
      - Chinese Academy of Engineering
      - Development Research Center of State Council
      - National School of Administration
      - National Social Security Foundation
      - State Natural Sciences Foundation
   (2) Financial Institutes (10)
      - State Development Bank
      - Import and Export Bank of China
      - China Agricultural Development Bank
      - Industrial and Commercial Bank of China
      - Agricultural Bank of China
      - Bank of China
      - China Construction Bank
      - Bank of Communications
      - China CITIC Group
      - China Everbright Holdings Company Limited
   (3) Other Units (2)
      - Beijing Olympic Organizing Committee
      - China Academy of Engineering Physics
of the state at all levels, except for manual workers. According to the 1993 regulations, “state civil servants” referred only to the personnel employed in administrative organizations that hold administrative power and conduct public service according to law (Zhao 1995, 13).

In 1995, the Administrative Office of the Policy and Law Bureau within the Ministry of Personnel provided a detailed report on the scope of civil service (PRC 1995). The report made two points at the outset. First, the 1993 Provisional Regulations had adopted a restricted definition of civil service to reflect the transitional nature of the regulations. They were transitional because China was then in the midst of extensive economic restructuring, and the 1989 Tiananmen Square protests deterred the central party from making any groundbreaking moves at that time. Second, hindsight showed the 1993 definition to be too narrow to truly reflect the rapidly evolving realities of China. The report further explained that the definition in fact excluded many service “institutes” that, to various degrees, hold administrative power and, by legal definition, engage in public service. The constricted 1993 definition also excluded personnel in offices related to state power, as well as judicial and procuratorial organizations that hold administrative power and conduct public business as defined by law but are managed only by reference to the Provisional Regulations. The report proposed several ways to redefine the scope of the civil service, but none considered including party organizations as part of the state civil service. On December 12, 1991, Premier Li Peng, who had authorized the launch of the state civil service, had specifically instructed that its scope be limited. He said, “About the scope of civil service, my view was that other organizations, including the Party, the people’s congresses, the people’s political conferences, the judiciary, the procuratorate, and the democratic party organizations, must be managed separately from but with reference to the civil service system” (PRC 1993a, 205). Because Li Peng did not specifically demand that these organizations be included in the civil service, he effectively endorsed the adoption of a restricted definition of civil service.

On June 23, 2000, another important paper, “Outline for Deepening Cadre and Personnel Management” (referred to as the 2000 Outline) specifically demanded that action be taken to develop a civil service law. Zeng Qinghong, the most senior party official in charge of cadre and personnel management, gave a specific instruction on August 19, 2000, that opened the door for party organizations to be incorporated into the state civil service. He made two main points. First, he argued that the scope of the state civil service must truly concretize the principle of party control of cadres, and second, the CSL must integrate the civil service and the existing cadre personnel management system (interviews in Beijing, April/May 2005). These points led to the adoption of an expanded definition of the civil service.

In response to Zeng’s instruction, on December 18, 2001, the Leading Group on Drafting the CSL, composed of senior officials from the Central Organization Department and the Ministry of Personnel, submitted a paper titled “Request for Instruction about the Problems of Developing a State Civil Service” to the Standing Committee of the Politburo. The paper proposed using lists of categories to define the scope of the civil service. Subsequently, personnel other than manual workers in the following seven types of entities were listed: party organizations, people’s congresses, administrative bodies, people’s political consultative conferences, judicial bodies, procuratorial bodies, and democratic parties (PRC 2001, 3).

The Politburo approved these categories in principle on December 27, 2001, and the Leading Group on Drafting the CSL initiated the drafting process in early 2002. The Ministry of Personnel later circulated two drafts of the CSL. The first, the Draft Bill for Soliciting Opinion of the CSL (referred to as the 11th Draft), was circulated nationwide on November 8, 2003. After incorporating the changes proposed by all stakeholders, the group submitted the Draft Bill for Examination of the CSL (referred to as the Examination Bill) to the State Council on March 9, 2004. The proposal to include the seven additional types of personnel in the civil service found expression in Article 2 of both drafts.

Although recognizing the need to make the inclusions, the Law Office of the State Council and the Work Committee on Legal Affairs of the Standing Committee of the NPC found the listing method unsatisfactory. Several issues were raised. First, would the extensive references to the party’s role in what is, after all, a state law, create a problem? Would the politicization of the civil service tarnish China’s image, both abroad and at home? Second, might the inclusion not subject personnel in party organizations to litigation in court? Third—and perhaps most important—would the inclusion effectively place party organizations under the people’s congresses, because, as a matter of constitutional principle, the administrative enforcing agencies are answerable to people’s congresses in China (interviews in Beijing, April/May 2005).

In July 2004, the Working Group, under the Leading Group on Drafting the CSL, responded to these issues with a paper titled “Report on the Problem of Expressing the Scope of Civil Service.” This paper adopted a new approach—the definitional approach—to map the scope of the civil service. According to the report, the civil service refers to personnel other than
manual workers who are brought into (naru) an established post, are paid by state funds, and exercise policy making, executive, and supervisory powers in state and public affairs (PRC 2004b, 1–2). The new definition did not limit the scope of the civil service to administrative organizations, and it contained three criteria to determine which positions fall within the purview of the civil service: (1) the performance of public duties (i.e., the exercise of policy-making, executive, and supervisory powers), (2) placement in an established post, and (3) payment by the state of all wages and benefits.

Based on these three criteria, the Leading Group on Drafting the CSL revised the Examination Bill and produced an “Explanatory Note of the Scope of Civil Service” (referred to as the Explanatory Note), which it sent to the Law Office of the State Council for further deliberation on August 23, 2004. With the consent of the Law Office to make the change in the definition of the civil service, the State Council accepted the CSL and officially sent it to the Standing Committee of the NPC for a first reading on December 14, 2004. After the bill passed this first reading, the Leading Group made some final changes, and the bill was presented for a second reading in April 2005. The Standing Committee of the NPC finally approved the bill on April 27, 2005.

The adoption of the new criteria was based on comprehensive research. Between 2001 and 2004, the Leading Group on Drafting the CSL sent study groups to more than 20 countries and conducted workshops nationwide to study the scope of the civil service (interviews in Beijing, April/May 2005). In China’s particular context, the personnel in the seven types of organizations listed exhibit features that meet the three criteria, thus providing a basis for justification.

In light of the new definition, the Leading Group classified the organizations of the central party and the State Council into three categories:

1. Units that fall with the civil service system
2. Units to be managed by reference to the Civil Service Law
3. Units that can adopt either the institute or the enterprise management system

In all, 96 entities fall into the first category, 33 fall into the second category, and 25 fall into the third category (PRC 2004c, 9–17). Following the definition of the 1993 Provisional Regulations and using statistics from 2003, there were about 4.9 million civil servants nationwide before the reform. With the adoption of the new definition, the number jumped to 6.3 million. The additional personnel break down as follows:

- 720,000 personnel in party organizations
- 120,000 personnel in the people’s congresses
- 60,000 personnel in the people’s political consultative conferences
- 450,000 personnel in judicial and procuratorial organizations
- 90,000 personnel in democratic party organizations

Again, based on 2003 statistics, about 470,000 of these individuals work in central party and central government organizations, 530,000 in province-level organizations, 1.5 million in municipal-level organizations, 2.8 million in county-level organizations, and 1.06 million in township- or village-level organizations (interviews in Beijing, April/May 2005).

The Legal Intention of the Civil Service Law

The 2004 Explanatory Note sent from the Ministry of Personnel to the Law Office of the State Council on August 23, 2004, made it patently clear that by re-drawing the boundaries of the civil service, the CSL was seeking to expand its scope and absorb personnel in the proposed additional seven types of entities (PRC 2004c, 2). Setting aside the question of the listing method versus the definitional approach, the law simply strove to give resonance to Zeng Qinghong’s instruction—to concretize the principle of party control of cadres (interviews in Beijing, April/May 2005). There are two ways to illustrate this.

Unifying the Personnel Management System

On the basis of the 1993 Provisional Regulations and the existing cadre personnel management system, the CSL sought to unify the personnel management system. To do so necessarily meant diminishing the distinction between cadres and civil servants. For example, the CSL recategorized leading and nonleading positions in order to bring this about (Article 16). Now, five positions are included in the “state-level head position” (guojiaji zhengzhi) category: (1) president of the PRC, (2) general secretary of the party, (3) premier, (4) chairman of the Standing Committee of the NPC, and (5) chairman of National Committee of the Chinese People’s Political Consultative Conference.

Ten positions are included in the “state-level deputy position” (guojiaji fuzhi) category: (1) vice president of the PRC, (2) members of the Standing Committee of the Politburo, (3) members and alternate members of the Politburo, (4) secretariats of the Communist Party Secretariat, (5) vice premiers, (6) state councilors, (7) vice chairmen of the Standing Committee of the NPC, (8) vice chairmen of the National Committee of the Chinese People’s Political Consultative Conference, (9) president of the Supreme People’s Court, and (10) procurator general of the Supreme People’s...
In one sense, the 1993 Provisional Regulations sought to deconstruct and partially eliminate the concept of cadre in order to create a relatively distinct public sector—the civil service. For its part, the CSL has collapsed the distinction between cadre and civil servant. There are now three kinds of cadres in the PRC: party and state, service institute, and enterprise cadres (PRC 2004a, 34–35; 2004b, 30–31). Collapsing the distinction between civil servants and cadres is a prerequisite for creating a unified, standard regulatory structure in Chinese personnel management (PRC 2004b, 30–31; 2004d, 4).

**Streamlining Jurisdiction and Accountability**

The second way to actualize Zeng Qinghong’s instruction was to tidy up jurisdictional authority and responsibility among party committees and their organizational departments and state personnel departments at various levels. This was done to develop a framework for the division of labor. The Examination Bill applied the distinction between two types of cadres created in the 2000 Outline (PRC 2001, 58–70; Chan 2003, 407–8). Based on this distinction, civil servants are now divided into two types. The first kind includes the leading cadres of party committee organizations; organizations of the people’s government, people’s congresses, people’s political consultative conferences, and their working offices; and agencies at various administrative levels. Party committees and their organizational departments at the appropriate administrative level manage this category of cadres. The second kind encompasses the personnel staff of party and state departments and offices. It mainly includes the ordinary staff of an organization’s internal departments and offices. The party committee (core group) and the personnel department of the particular organization manage them (PRC 2004a, 36).

**Leading Cadres and Ordinary Cadres**

With respect to obligations and rights, discipline, position and grade, and wages and fringe benefits, the CSL provided a common regulatory framework for managing both the leading cadres and the personnel staff of party and state departments and offices. Regarding selection and appointment, evaluation, change of position, and supervision, the constitution, the Organic Law, the party constitution, and other principal and subsidiary rules and regulations promulgated by the Communist Party and the Central Organization Department will be used to manage the leading cadres of party and state departments and offices (PRC 2004a, 36–37). The Regulations on Selection, Appointment, and Promotion of Party and State Cadres, released by the central party on July 23, 2002—and replacing the 1995 provisional version—provided the key regulatory framework for managing cadres in all these respects (PRC 2002). By collapsing the distinction between cadres and civil servants, the CSL comprehensively instituted a two-layer unified personnel management framework.

**Giving Legal Status to Party Control of Cadres**

The second intention of the CSL was to give legal expression (faluhua) to the principle of party control of cadres. According to Article 4 of the CSL, the civil service system shall take Marxism-Leninism, Mao Zedong thought, Deng Xiaoping theory, and the concept of “Three Representatives” as its guidelines; follow the basic premises of the primary stage of socialism; adhere to the party’s line, guiding principles, and policies concerning cadres; and adhere to the principle of party control of cadres.

Article 4 in effect provides party committees and their organizational departments at various levels with the legal authority to manage cadres—authority that was absent in the 1993 Provisional Regulations. Throughout the drafting process, the Leading Group on Drafting the CSL made several arguments to convince all stakeholders to accept Article 4 and other extensive references to the party.

The first argument was that given the widespread, specific references to the party’s leadership and the status and usefulness of its organization in many laws that had recently been promulgated, the inclusion of the principle of party control of cadres in the CSL was not problematic (PRC 2001, 42). Furthermore, even if extensive references were needed, they would be proportional, necessary, and appropriate (interviews in Beijing, April/May 2005). To that end, two changes were made. The first was to adopt the definitional approach, which replaced the listing method of defining the scope of civil service. The second and more drastic change was not made until the last minute. Chapter 17 (Articles 89–91) of the 11th Draft and Chapter 18 (Articles 94–96) of the CSL both create a separate section on managing organizations. Article 89 of the 11th Draft stipulates,

Party Central and the Party committees and their organization departments, the State Council and state personnel departments at various levels are the civil service comprehensive managing departments. Based on the respective lines of authority and responsibility and division of labor, the Central Organization Department and the personnel executive department of the State Council are charged with the overall work of managing civil service. Article 94 of the CSL presents a more simplified version. It reads, “Central-level [zhongyang yiji]
civil service overall managing departments are responsible for civil service comprehensive managing work.\textsuperscript{7}

The Civil Service Law passed on April 27, 2005, deleted entirely the section on managing organizations. Instead, the entire section was reduced to one article (Article 10), which reads, “Central civil service supervisory departments [zhongyang gongwuyuan zhuguans bumen] are responsible for nationwide civil service comprehensive work.”\textsuperscript{8}

The reduction evidently sought to conceal reference to the party, even though it is crystal clear that “central civil service supervisory departments” refer to both the Central Organization Department and the Ministry of Personnel (interviews in Beijing, April/May 2005). Moreover, although the political status of the party and its organizational divisions at various levels are beyond dispute, its legal status has yet to be pronounced. Extensive highlighting of the direct, specific role of the party and its organizational divisions in the CSL was opposed because “there is no law yet in China that can hold the Party and its organizational divisions legally responsible” (interviews in Beijing, April/May 2005). The Leading Group on Drafting the CSL finally agreed to revise Article 94 of the bill because the Work Committee on Legal Affairs of the Standing Committee of the NPC threatened to oppose the legislation if appropriate action was not taken to diminish (danhua) the extent to which the party was highlighted (interviews in Beijing, April/May 2005).

The second argument advanced by the Leading Group was that China’s situation showed that the party, together with the people’s congresses, the people’s political consultative conferences, the judiciary, and the procuratorial organizations, constituted principal and indispensable parts (zhuti he buke queshao bufen) of the political system (PRC 2003, 33; 2004b, 33). Since the promulgation of the 1993 Provisional Regulations, the party has continued to lead on cadre personnel management, which the state civil service is an integral part. When one glances through the archives on personnel work issued since 1993, almost all definitive documents have been promulgated by the Central Organization Department (Chan 2003, 407). All drafts point to the need to maintain continuity in the civil service. Continuity here means two things. First, all of the successful technical measures (such as performance appraisal, open recruitment, and internal competition for posting) introduced by the 1993 Provisional Regulations must be maintained and further developed. Second, the continued leading role of the party in personnel management must remain unchanged (interviews in Beijing, April/May 2005).

Based on these arguments, the Leading Group advanced a third one. If reference to the party in the CSL is unproblematic as a matter of law, and if the party and its organizational divisions are the principal and indispensable parts of the political system, then it is a natural progression to take action through legislation to fit description with facts (mingfu qibhi) (interviews in Beijing, April/May 2005). The CSL simply acknowledged reality and unequivocally underscored the leading role of the party and its organizational divisions at various levels in cadre personnel management, in effect bridging the gap between law and reality.

Furthermore, unlike the 1996 abortive attempt to pass a bill,\textsuperscript{9} the time was ripe, the Leading Group believed, to turn the principle of party control of cadres into “state and legal will” (guojia he falu yizhi)—that is, state policy and legal intention—because there was then consensus on the main thrust of the CSL (in its scope, for example, and its objective of unifying the personnel management system) (PRC 2001, 1). Once supplementary laws, rules, and regulations on the various aspects of civil service have been promulgated, it is hoped that the CSL will build a rule-based administration, as well as strengthen the administrative capacity building\textsuperscript{10} of the ruling regime (PRC 2004a, 28–29).

At the press conference held immediately after passage of the CSL, the deputy team leader of the Leading Group, Hou Jianliang, explained the main reason for enacting the CSL: “Passing it adheres to the direction of governing the country in accordance with law and follows the basic line of managing cadres in accordance with law” (Ministry of Personnel 2005). He added that “lacking a proper law in cadre personnel management is an outstanding problem. The 1993 Provisional Regulations are transitional in nature and, in fact, a lower-level law (since they are only administrative regulations promulgated by the State Council). What is more, we must overturn the tendency to make management of cadre personnel a secretive business.” In other words, what was formerly hidden should now be conducted in full view.

**Personnel Management in the People’s Republic of China**

In contemporary public personnel management, it is generally assumed that managerial authority includes the power to nominate, confirm, veto, transfer, rotate, temporarily reassign, evaluate, appoint, and remove personnel. Such managerial authority and power, it is assumed, should rest with the appointing authorities, although civil servants may enjoy significant legal and contractual protections against arbitrary or discriminatory treatment (Ban 1995; Shafritz et al. 2001). In China, despite the fact that the NPC appoints all ministers of the State Council, it does not have the

---

\textsuperscript{7}Civil Service Law in the People’s Republic of China (PRC 1993).

\textsuperscript{8}The leading role of the party in personnel management (Pinian: jianjuzhi) is an outstanding problem. In 1993, the party and its organizational divisions scored the leading role of the party and its organizational divisions at various levels in cadre personnel management, in effect bridging the gap between law and reality.

\textsuperscript{9}The CSL was opposed because “there is no law yet in China that can hold the Party and its organizational divisions legally responsible” (interviews in Beijing, April/May 2005).

\textsuperscript{10}Administrative capacity building refers to building the administrative capacity of the ruling regime in China that can hold the Party and its organizational divisions at various levels in cadre personnel management, in effect bridging the gap between law and reality.
power to manage them (interviews in Beijing, April/May 2005).

**Authority to Appoint and Remove**

In China, the authority to appoint and remove (*renmian quan*) does not coincide with managerial power (*guanli quan*). That is to say, the prescribed procedures for appointing and removing personnel (leading cadres or personnel staff of the party and state departments and offices) who serve in organizations of the people’s congresses, people’s political consultative conferences, people’s governments, people’s courts, and people’s procuratorate do not in any way confer upon the appointive organizations the power to manage. Space does not permit a detailed elaboration, but the following example briefly illustrates this point.

A county people’s congress cannot hold an election or proceed to appoint or remove cadres from an elective position of its standing committee, for example, unless procedures for approval are first conducted through party channels. An election can occur only with a preapproved list of potential candidates to fill or vacate positions. Once the superior party committee has approved a list of potential appointees or people to be removed, the list is returned to the standing committee for decision. After the standing committee approves the appointment or dismissal, the request is submitted to the superior government for its approval. Under the one-level-down principle, the superior party organization analyzes the situation and makes decisions about leadership changes in lower-level standing committees.

In the same fashion, before a county people’s government can propose to the county people’s congress, for example, a list of candidates who will serve as directors (heads) of its component divisions or as director of the general office (all nonelective positions), a list of potential candidates must first be screened and cleared by the appropriate same-level party channels. The list is then submitted to the next highest party committee for approval. With its approval, the superior party committee makes the official leadership change for the lower-level government office.

The one-level-down principle actually enforces two levels of party authority over leadership changes. The overlap extends control of the appointment and removal authority. Party authority over leadership changes covers both elective and nonelective (appointive) positions and certainly covers positions that are appointed on a contract term, as proposed in the CSL (Chapter 16, Articles 95–100). Proposals for leadership change must originate from a party committee, either the superior or the lower one. The authority to change leadership does not actually reside in the “appointing authorities,” as stated in the Constitution or the Organic Law. No leadership change can occur without the approval of the appropriate party committee (Manion 1985).

**Managerial Power**

There has been limited information on how personnel management systems actually operate in the PRC because the party carries out these activities very secretly. Although Articles 59 and 86 of the 1993 Provisional Regulations briefly mentioned the term “managerial power jurisdiction” (*guanli guanlian quanxian*) of the state civil service, it was, in fact, misused. This term can be understood properly only in reference to the party cadre personnel management system. The term and its usage have never had common currency within the civil service since the promulgation of the 1993 Provisional Regulations (interviews in Beijing, April/May 2005).

Managerial power jurisdiction now finds expression in the CSL in Articles 33 (on performance appraisal), 40 (on appointment and removal), 44 (on promotion and demotion), 57 (on discipline), 64 and 67 (on transfer and avoidance), 85 (on resignation and discharge), and 101 (on legal responsibility). This expression is entirely apt in the CSL, given the explicit legal intention to unify the personnel management system, legalize the principle of party control of cadres, and make specific reference to the party.

Managerial power jurisdiction means that all cadres are placed in a management matrix. Horizontally, each cadre is placed within one functional system (*xitong*). Each system takes care of one specific portfolio of party affairs. Depending on the level of economic growth, population size, the number of administrative units, and so on, there are at least nine systems in each locality (interviews in Shanxi Province, April 2005). A standing committee member of the local party committee is in charge of administering each system. The nine systems are as follows:

- Cadres working in units directly subordinate to the party
- Cadres working in units directly subordinate to the government
- Cadres working in cultural and educational units
- Cadres working in industry, trade, and commerce units
- Cadres working in health units
- Cadres working in urban construction and transportation units
- Cadres working in agricultural units
- Cadres working in political and legal units
- Cadres working in local units (village, town, or street offices)

Each system sets up its own party agency and has its own jurisdiction over cadres within it. Except for those who are placed in dual systems (i.e., those who
are subordinate to both the immediate system and the next highest system), cross-system personnel management is rare and prohibited. It is not difficult to see that each party committee adopts a system capable of administering interlocking and multiple layers of personnel management. Hence, this is a multiple-principal cadre management structure. Given the huge number of party cadres in the PRC—approximately 43 million in 2004—party committees at various levels have to draw on support from agencies in different systems and charged with different portfolios.

In addition to this system, cadre personnel management in the PRC also relies on a rank-equivalent method to control cadres. Each cadre is managed by the pertinent party committee in accordance with his or her personal rank. For example, a division-level cadre in a province-level government is managed by a party core group of his or her organization. The superior party committee—that is, the province-level party committee—manages all cadres at or above the bureau level. Using the multiple-system and rank-equivalent management methods extending one level downward, we should be able to construct the party's personnel management system at various levels. It is important to point out that the cadre personnel management system is nonstatutory in the following sense: Senior officials of the Central Organization Department and the Ministry of Personnel Ministry agree that the operative modes of cadre personnel management have developed mostly according to conventions and norms (yueding sucheng)—that is, they are established by usage and accepted by common practice (interviews in Beijing, April/May 2005). Although party committees and their organizational divisions have promulgated rules, regulations, instructions, and decisions, they are all internal (neibu) or intraparty (dangnei) documents.

Civil Service Law: A System That Formalizes a Historical Pattern
What is intriguing about the CSL is that the legislation was intended to merge a statutory civil service law with a nonstatutory personnel management system. But the legislation has not changed the old principal–agent relations. Party committees and their organizational divisions still hold absolute managerial power over both cadres and civil servants. The CSL did not seek to replace the operative rules and regulations that were in place. The unified personnel management scheme has simply expanded the realm of politics and blurred the identity of civil service. Although there is a division of labor between the civil service regulatory framework and the cadre personnel management system, as indicated in the Examination Bill, it must strictly adhere to the principle of party control of cadres. The comments of one party official best illustrate the significance (or insignificance) of the CSL: “The CSL does not aim to change the principal managing relations (between the Party and state). Nor does it seek to change the rules of the game. It aims to clarify how to rule in a unified personnel management system” (interviews in Beijing, April/May 2005).

Coexistence of Permanent Employment and Political Loyalty
Developing a distinct realm of administration supported by two particular strengths, permanence (i.e., security of tenure) and impartiality, was central to defining the boundaries of civil service in China. The notion of impartiality was struck out when Li Peng

---

**Figure 1** Personnel Management in the People’s Republic of China

*Inspectors are at the bureau-level administrative rank.*
and his protégé, Luo Gan (then secretary of the State Council and now a standing committee member of the Politburo), met Zhao Dongwan, then personnel minister, in December of 1991. At this important meeting, Luo explicitly stated that the basic guiding principle of a state civil service system was “first not to depoliticize [personnel management]. It must adhere to the four insistences and the principle of party control of cadres. This aspect is important in developing a state civil service” (PRC 1993a, 202).

It is clear that the CSL aims to develop rule-based administration. Yet the CSL is politically charged—that is, it is replete with political referencing and riddled with vows of party loyalty. The law aims to develop a rule-based administration, but only in combination with continued and stronger political control. The multiple-system and rank-equivalent management methods extending one level downward place all cadres and civil servants in a political hierarchy. Within such a system, only adherence to party tenets permits upward mobility. Impartial competence is secondary to political allegiance in the PRC.

System layering is a tool designed to develop two distinct career paths in the civil service. One layer reflects the political realm and creates a career path for political appointees. Because the flow of one’s political career depends on the vicissitudes of political fortune, political careers are inherently changeable and insecure. In contrast, the existence of career layers in a purely administrative realm provides career appointees in that layer with a stable working environment. Their security of tenure is protected by statutory law. These two realms do not overlap.

The expanded definition of civil service in the PRC shows that the concept of civil service in China has become tainted. One can see a similar trend taking place elsewhere. In the United States, for example, the federal civil service is gradually decomposing. It is becoming more and more agency based rather than centralized under the authority of the Office of Personnel Management. Some departments, such as the Departments of Homeland Security and Defense, are moving away from the policy of traditional civil service job protections for their employees (Mullins 2002). The states of Florida, Georgia, and Texas have taken the same approach in the state civil service (Walters 2002; West 2002). The trend is for civil servants to identify with their agencies, not with the civil service per se (Ingraham 1995). Civil servants in the PRC identify not with their own agencies but, depending on their rank, with either the party core group of their own organization or the superior party committee.

China’s civil service also relies on system layering to create two kinds of civil servants, an effort aimed at unifying personnel management or—to put it directly—concentrating power in the party. This layering has effectively collapsed the realms of politics and administration. Like the 1993 Provisional Regulations, the CSL fails to mention security of tenure, and performance criteria based on politics are developed alongside criteria based on competence (Articles 4 and 33). As explained before, the CSL makes party committees and their organizational divisions the personnel regulatory authority. Nowhere does the CSL establish a statutory framework for civil service job protection. That is to say, the legislation does not institute a lifelong tenure system that is entirely regulated by civil service law or immune to political interference.

Because the flow of a political career depends upon the vicissitudes of political fortune, a political career is inherently changeable and insecure.

In China’s particular contexts a unified personnel management system does, in fact, offer a wide spectrum of work types or position categories and broad scope of career mobility. Moreover, both cadres and civil servants usually enjoy de facto (but not statutory) permanent jobs. Despite the absence of a statutory tenure system, employees serving in party and state organizations, regardless of whether they are categorized as civil servants or cadres, can move from an appointive to an elective position. For example, a minister of the State Council (an appointive position) can move to an elective position (such as a vice chairmanship) in the Chinese People’s Political Consultative Conference. Conversely, the governor of a province (an elective position), who is equivalent in rank to a minister of the State Council, can become head or deputy head of a specialized committee of the NPC (an appointive position).

In China’s particular contexts a unified personnel management system does, in fact, offer a wide spectrum of work types or position categories and broad scope of career mobility.

Article 63 of the CSL now gives party committees and their organizational divisions the long-overdue statutory authority to change cadres’ positions. In other words, career mobility is built in among units that fall within the scope of the civil service system, which are managed by reference to civil service law and can adopt either service or enterprise personnel management (see table 1). In fact, all three of these general sectors are
governed by many different party agencies, each responsible for managing one specific system. Mobility within the system is a regular feature, making the three-sector division immaterial so far as career mobility is concerned. Each system regulates positions that straddle organizations across all three sectors.

This unified personnel management system provides de facto permanent jobs to cadres and civil servants in China, partly because such a wide variety of position categories exists but also because of the ease of changing positions within one system. Common practice merely requires those who receive unsatisfactory performance appraisals to attend training sessions in order to improve their work attitude or job competence. After such retraining, most are allowed to retain their jobs. Those who are actually removed from their jobs are typically reassigned to lower-level positions or granted early or regular retirement.

Conclusion

China is running its own affairs at its own pace. The CSL shows that politics in China circumscribes the institution of a civil service. The legislation has also turned the Communist Party of China into a political institution that is the source of both civil service empowerment and control. The civil service system in the PRC has become a completely different creature from its counterparts elsewhere. China's peculiar political system best explains not only the ways in which it differs but also the route traveled toward administrative reform. Nonetheless, what lessons can we learn from the institution of the civil service in China?

First, political will is important in trying to make government reform measures stick (Peters and Savoie 1998, 5–7). Like Margaret Thatcher in the United Kingdom, Zhao Ziyang and Deng Xiaoping stayed the course and took a personal interest in the implementation of reform measures. Even after the June Fourth Incident (the Tiananmen Square protests), Deng Xiaoping was instrumental in relaunching the drafting of the Provisional Regulations of State Civil Servants in 1992. Hardliners such as Jiang Zemin and Li Peng had to adhere to Deng's instruction to relaunch the drafting after Deng made his Southern Tour speech, in which he threatened to withdraw support for the central party leadership—particularly the general secretary of the party and the premier—if the group opposed the civil service leadership (interviews in Beijing, April/May 2005). As shown earlier, Zeng Qinghong really mastered the drafting process. There is no substitute for political will in the PRC when tough decisions are called for to make crucial changes and maintain the momentum of change.

Second, features of the existing politico-administrative regimes are likely to exert a significant influence over both the choice of reforms adopted and the feasibility of implementing certain types of reform (Pollitt and Bouckaert 2000, 39–61). The configuration of some political systems makes implementing reform more difficult. This can be seen most easily in the United States, where the combination of federalism and presidentialism makes it nearly impossible, both politically and practically, to push through any systemic reform (Kettl 2003). A democratic regime, such as that of the United States, whose political system is characterized by a separation of powers, has difficulty putting forward comprehensive systemic administrative reform. As a communist regime whose political system features a high level of autocratic control, China also has difficulty launching a substantive reform. Despite its extreme degree of centralization, the Chinese regime might not experience greater success than such countries as the United States, which have more dispersed and less powerful central agencies.

This paper throws some light on the fact that successful administrative reforms must, at least, demonstrate the capacity to adapt to the historical and cultural specifics—the properties of the system as a whole (Clark 1998, 32)—that facilitate or impede change. The CSL has not eliminated all the problems of cadre personnel management. It has dealt with some, but others persist. With the repoliticization of cadre personnel management, the political centralization of the party has been strengthened. Yet greater political centralization has further diffused accountability between the party and the government and aggravated the problem of fragmented government. Sooner or later, Chinese reformers must confront the key issues of policy and administrative coordination, an exercise that might require a new round of role clarification in the state civil service.

Sooner or later, Chinese reformers must confront the key issues of policy and administrative coordination, an exercise that might require a new round of role clarification in the state civil service.
78–197). The expanded definition of the state civil service blurs the distinction between cadre personnel and professional administrators. In a way, the CSL has simply formalized what has been a historical pattern—the party holds tight control over leadership change and management at various levels. In another way, this is a “thickening” (Light 1995) designed to serve an important political and legal objective—giving legal status to party control of cadres. The thickening in the form of blending cadres and civil servants seems predictable in the PRC’s peculiar context. According to one account, if the civil service reform proposed by Zhao Ziyang had been successfully implemented, less than 1 percent of the 4.2 million cadres in 1988 would have been designated “political civil servants” and hence managed by the central party (Burns 1989). Zhao’s proposal sought to abolish the party core groups in departments and offices of the State Council and, by extension, in the province-level cities, governments, and autonomous regions. This proposal would likely have reduced the role of territorial party committees and various system committees responsible for specific portfolios of party affairs. The decontrol of civil service staffing would have meant a net loss of control over individuals by the party. As early as 2000, Chinese reformers divided civil servants into leading and ordinary cadres, respectively, thus officially placing the civil service within the purview of the cadre personnel management system. This constitutes evidence of a prudent plan that actually made it easier later on to blend cadre personnel and civil servants.

Hindsight shows that opposition to Zhao’s reform proposal came from many quarters. Foremost among them was the Central Organization Department and territorial party committees. Jiang Zemin and Li Peng, who joined forces to unseat Zhao Ziyang, clearly did not support further restrictions on the party’s role in its most traditional arena: control of organizational structure and staffing (Burns 1989, 769–70). When the Central Organization Department was given the task of drafting the CSL, it was only natural that it would speak louder and fight harder for the entrenched interests. The Ministry of Personnel, which was set up in 1988 to give institutional expression to and take ownership of the state civil service, could on no account challenge the status and power of the Central Organization Department. Reform ideas that lose the support of entrenched forces of the status quo are unlikely to endure.

Acknowledgments
The authors are grateful to the three anonymous PAR reviewers for their comments on the earlier version of this manuscript. They would also like to acknowledge the financial support of the Faculty of Humanities and Social Sciences, City University of Hong Kong. The authors are responsible for any errors.

Notes
1. It is essential to make clear that the legislation passed in 2005 was different from the bill as it was understood in December 2004. The differences will be elaborated in the text.
2. “Cadre” originally referred to personnel with leadership and authority as distinct from workers, peasants, and ordinary people. Since the 1950s, this term has been applied to an increasingly larger group of people (Barnett 1967, 39). As both a concept and a practice in China, cadre represents a status conferred upon an individual by the party state. The acquisition of cadre status is a prerequisite for appointment in the public sector. The premier at the pinnacle of the hierarchy and the clerk at the base are both called cadres.
3. Zeng Qinghong was an alternate member of the Politburo of the Communist Party of China’s Central Committee, member of the Secretariat of the Central Committee, and head of the Central Organization Department from 1999 to 2002. He was elected vice president of the People’s Republic of China on March 15, 2003.
4. See Article 3 of the constitution of the PRC, which states: “All administrative, judicial and procuratorial organizations of the state are created by the people’s congresses to which they are responsible and under whose supervision they operate.”
5. The Leading Group on Drafting the CSL cited a number of laws to convince the Law Committee of the State Council and the Work Committee on Legal Affairs of the Standing Committee of the NPC to accept Article 4 of the CSL, including the following: the Industrial Enterprises Owned by the Whole People Law of the People’s Republic of China (effective April 13, 1988), the Trade Union Law of the People’s Republic of China (effective April 3, 1992), the Company Law of the People’s Republic of China (effective December 29, 1993), the National Defense Law (effective March 14, 1997), the Higher Education Law of the People’s Republic of China (effective August 29, 1998), the Legislation Law of the People’s Republic of China (effective July 1, 2000), the Law on the Chinese People’s Liberation Army Officers in Active Service (revised October 28, 2000), and the Law of the People’s Republic of China on Regional National Autonomy (revised on February 28, 2001) (interviews in Beijing, April/May 2005).
6. The full version of Article 89 includes two additional clauses: “Based on their respective line and authority and division of labor, Party committees and their organization[al] divisions and state personnel departments and offices at or above county-level are responsible for all civil service work within their jurisdiction. Superior civil
service departments give instruction to subordinate civil service departments for their work."

7. Article 94 of the CSL includes the two additional clauses that appear as Article 89 of the 11th Draft.

8. In addition to including the two additional clauses found in Article 89 of the 11th Draft and Article 94 of the CSL bill, Article 10 of the Civil Service Law passed in April 2005 introduces one further clause: “The civil service departments in charge at the various levels give instructions regarding civil service work to all organizations responsible for it at the same administrative level.”

9. The main reason for not passing a bill in 1996 was that the Standing Committee of the NPC believed there was no consensus as to the scope of the civil service (interviews in Beijing, April/May 2005).

10. Here, “administrative capacity building” means the ability of the government to cope with increasing pressure borne by economic development.

11. An interview conducted in Shandong Province in June 2004 indicated an average of 13 systems in the counties under the province. They include village, town, and street cadres; party and mass cadres; propaganda and united front cadres; government cadres; planning, economic, and construction cadres; political and law cadres; finance and trade cadres; agricultural cadres; cadres under shared nomenklatura, vertically managed and with administrative responsibility; cadres under shared nomenklatura, vertically managed and with entrepreneurial (commercial) responsibility; people’s congress cadres; people’s political consultative conference cadres; and state-owned enterprise cadres.

12. This is generally the case, except for division-level cadres who are responsible for personnel management work. Party organization departments at the various levels are responsible for making appointment and removal decisions for these cadres.

13. The “four insistences” refer to the obligations to keep to the socialist road, uphold the people’s democratic dictatorship, support leadership by the Communist Party of China, and adhere to Marxism-Leninism and Mao Zedong thought. See http://english.people.com.cn/200211/18/eng20021118_107014.shtml.

14. Article 63 of the CSL stipulates that a civil servant can change positions within the civil service corps to a position in an enterprise or institution or to a position that conducts public affairs in a mass or people’s organization. A change of position can take the form of a transfer, rotation, or temporary assignment.

References