

行政院國家科學委員會專題研究計畫 成果報告

聯邦制、地方控制與財產權

計畫類別：個別型計畫

計畫編號：NSC94-2415-H-032-009-

執行期間：94年08月01日至95年07月31日

執行單位：淡江大學經濟學系

計畫主持人：艾德榮

報告類型：精簡報告

處理方式：本計畫可公開查詢

中 華 民 國 95 年 10 月 25 日

行政院國家科學委員會補助專題研究計畫  成果報告  
 期中進度報告

(聯邦制、地方控制與財產權)

計畫類別： 個別型計畫  整合型計畫

計畫編號：NSC 94 - 2415 - H - 032 - 009

執行期間：94 年 8 月 01 日 至 95 年 07 月 31 日

計畫主持人：艾德榮

共同主持人：

計畫參與人員：

成果報告類型(依經費核定清單規定繳交)： 精簡報告  完整報告

本成果報告包括以下應繳交之附件：

- 赴國外出差或研習心得報告一份
- 赴大陸地區出差或研習心得報告一份
- 出席國際學術會議心得報告及發表之論文各一份
- 國際合作研究計畫國外研究報告書一份

處理方式：除產學合作研究計畫、提升產業技術及人才培育研究計畫、  
列管計畫及下列情形者外，得立即公開查詢

涉及專利或其他智慧財產權， 一年 二年後可公開查詢

執行單位：淡江大學經濟系(所)

中 華 民 國 95 年 10 月 25 日

## Abstract

An important issue in federalism is: “What factors of a constitution determine the enforcement of property rights?” Two such factors that have received scrutiny are the separation of powers within the central government and protest by social groups over what they view as a transgression of their rights. I argue that a third factor is at least as important in terms of enforcement: the distribution of authority in the regional governments and the nature of regional appointments significantly affect the incentives of key regional officials, which in turn affect the bargaining power between the central government and regional governments. I argue regional decisions to follow or not to follow central government orders are influenced by distribution of regional authority and the nature of appointments. My theory is supported by case studies in Chinese and Roman institutional history.

Keywords: Federalism, institutions, constitution, political economy and property rights.

## 摘要

聯邦制的一項重要議題為：「憲法之何種因素決定財產權的執行？」對此，已有兩種因素受到廣泛的討論，分別是中央政府內之分權，以及社會群體對其權利遭逾越之反對。就執行的角度來看，本研究提出另一個至少與此二者同等重要的因素，即地方政府中權力的分配以及地方官員任用的本質，其會對地方主要官員的誘因產生重大的效果，進而影響中央政府與地方政府間之議價能力。我認為地方對是否要遵循中央政府命令的決定，受到地方權力分配以及官員任用本質的影響。此理論可以得到中國以及羅馬制度史案例研究的支持。

關鍵詞：聯邦制、制度、憲法、政治經濟、財產權

## **1. Introduction**

Over the past year, my research has been supported by a grant from the NSC (NSC 94 – 2415 – H – 032 – 009). Much progress has been made. My theory relates both the authority structure and the nature of appointments in the regional governments to the bargaining power between the central government and its regional governments. This theory has improved by a more detailed comparison of institutional features across the Han and Tang dynasties in China and the Roman Empire. It should also be mentioned that the comments of one of the referees of my grant application proved very helpful by noting that reforms under emperor Han Wudi are also relevant to my analysis. Indeed, research over this past year on this topic proved this suggestion to be true and very beneficial.

My research project is entitled, “Federalism, Regional Control and Property Rights.” This research addresses an important topic in constitutional theory – a country’s property right system. Little is known about the factors that determine the system of property rights. Analysis often begins with the state and proceeds to include the relationship between the state and individuals. Two factors have been identified and well studied. First is the separation of powers within the central government, a political organization that issues orders to the regional governments, which in turn issue orders to local residents and provide enforcement. Through competition, the separation of powers places constraints on the orders that can be issued. Second is protest by social groups that view government actions as transgressing their rights. Social protest or the threat of social protest places limits on what rules can be enforced.

My research emphasizes a third factor – the authority structure of the regional governments and the nature of the appointment system for key regional government officials. These features determine the bargaining power between the central government and its regional governments. In this context the relative bargaining power works to determine enforcement of rules in the regions where conflict of interest between the central government and the regional governments exists. Many important issues are relevant. What share of taxes do regional governments forward to the central government? If the central government issues a rule to be enforced in the regions, is the rule enforced as directed? By focusing on the balance of power between the central government and its regional governments, we can see how social resistance to the central government play an important role in determining property right enforcement throughout the country. The results of this research project will

include a journal article, which will subsequently appear as a chapter in a book.

This final report presents descriptions of aspects of my research as well as the results and conclusions reached this past year. The remainder of this report is organized as follows. Section 2 presents a literature review, section 3 presents an outline of the research project's goals, section 4 describes the research methodology used and section 5 presents the results and conclusion.

## **2. Literature Review**

Constitutional theorists have defined features of the design of state institutions that limit the ability of the state to expropriate wealth. Political scientists and political economists have focused most of their attention on a three factors: (i) the separation of powers, (ii) social protest, and (iii) regional policy competition. First, there is the separation of powers within the central government. The argument is that checks and balances within the central government will limit the capacity of the state to intrude on rights of citizens. This is an established theory going back at least two centuries to Montesquieu's *The Spirit of the Laws* and the *American Federalist Papers*.<sup>1</sup> Some modern work in this area by political economists includes Greif (1998) and North and Weingast (1989). Greif (1998) argues that in the historical case of twelfth century Genoa, a balance of power among clans checked the state. North and Weingast (1989) argue that the separation and balance of powers within the central government are the main checks on the government.

Second, a large body of literature argues that groups in society check the state by various means of social protest against what they interpret as transgressions of their rights, characterized by coordination costs among groups in society and the general agreement of beliefs as to what constitutes a transgression. Recent work in this field includes Ferejohn (1991), Shapiro (1993) and Weingast (1995, 1997). Ferejohn (1991) argues that the distribution of beliefs of citizens over what constitutes a transgression determines the ability of groups to act in concert in limiting intrusive state behavior. In other words, coordination costs increase as the distribution of beliefs diverges. Shapiro (1993) argues that political elites play a more important role than do the masses in limiting state policies. Weingast (1995) argues that group challenges to state policy transgressions are central. Weingast presents much political history to support his case. He describes the political history of seventeenth century England and argues

---

<sup>1</sup> See Montesquieu (1989) and Hamilton, et al. (1999).

that a coincidence of beliefs on the legitimacy of the actions of the king was the key to constraining the central government. In the case of America, he argues that after the acceptance of the United States Constitution, citizens were generally in agreement as to what constituted a policy transgression. Weingast (1997) argues that groups of elites play an important role in checking transgressions of the state and in initiating transitions to democracy. English political history is presented to support his arguments.

Third, there is a large literature that emphasizes the role of regional policy competition in the constraint of the choice of policy. The seminal paper in this field is Tiebout (1956), where regional tax competition is argued to be a constraining force. A large literature in local public finance has developed this argument.

Another related literature is in the general field of federalism. Important works in this field include Riker (1964, 1975).<sup>2</sup> The theory developed over the past year differs from the work on federalism in an important way. Modern work on federalism has proposed few specific mechanisms that constrain the state in a federal union. In general, the work neglects to highlight specifically that in a federal system which keeps the central government in check. In contrast, my theory focuses on a specific mechanism of the constitution and outlines how it operates.

My research this past year addressed an important question: “What features of a constitution determine the choice of policy and the property right system?” The separation of powers of the central government clearly plays a role, but is not a complete answer. The central government is located in a capital city. Its orders are issued to regional governments for enforcement. The separation of powers in the central government places constraints on the type of orders that are issued. In focusing exclusively on the central government, the issue of enforcement is completely neglected. How are the policies of the central authority enforced throughout a vast country? Clearly the regional governments enforce the orders. However, the incentives of the key regional officials play an important role. This has been the focus of my research. The separation of powers is also related to my theory in the sense that it may affect the incentives of regional officials to enforce central government directives. Also relevant is the social groups check on regional governments.

In my view a complete analysis of the checks on the state, must include all three factors: (i) separation of powers in central government, (ii) structure of authority in

---

<sup>2</sup> Some aspects of North (1990) also related.

regional governments, and (iii) the restraint on transgressions of the state created by social groups. The first and third factors have been studied extensively. There has been relatively little on regional government role in policy determination and very little work has identified specific features of regional governments in the context of the constitution that work to constrain the state. Lastly, this work distinguishes itself from much of the related literature in that it presents numerous historical case studies to show the relevance of this factor in determining policy and property right enforcement.

### **3. Research Goals**

My research this past year has been the systematic study of the reforms of particular emperors in Chinese history and one major reform of the Roman Empire. Studying this institutional history was done in the context of theory. Before describing further the methodology and results, it will be helpful to first describe the theory.

My theory focuses on an institutional factor of regional governments: the structure of authority. By the structure of authority I mean the distribution of authority among key regional officials and the nature of regional official appointments. I argue that the structure of authority in regional governments has major influence on the choice of policy and the property right system. The authority structure affects the incentives for key regional officials to follow the orders of the central government. The range of policies that the central government can enforce is limited by the capacity of the regional governments to follow orders and their willingness to enforce central directives. The rights enforced by the regional government are determined by the susceptibility of key regional officials to the influence of regional interest groups. I argue that the structure of authority in the regional governments affects the degree to which key officials can be influenced by regional vested interests.

Regional or provincial governments such as China's Fujian province or America's state of California are political-military units. A fundamental function of these organizations is to support an army for the security of people in the region. These political-military units are the building blocks of large countries, which are unions of such regional governments. These regional governments have two main levels of administration – upper and lower. The upper level has considerable authority over the lower units. In the case of California for example, the state administration seated in Sacramento manages the affairs of lower level administrations – the counties

and cities of California. These regional governments retain their cohesion from the level of military threat. During civil wars countries break into groups of these provinces and use their armies to determine the outcome. One does not see such countries break into a thousand counties or cities to fight a civil war because, given the level of military threat, the resources of a county or city are insufficient to provide security. Thus the military threat provides a natural motivation for lower level administrations to yield authority to upper level provincial administrations. This arrangement reduces coordination costs in military defense and allows fiscal and judicial services, among others, to be performed by the upper level administration. Thus the provincial officials play an important and pivotal role. They control the administrative apparatus that supports a large coercive force that checks external threats, which includes an excessive central government, and plays an important role in maintaining law and order within the province. I shall focus on the role of the key provincial officials and the factors that shape their incentives to follow the directives of the central government and to enforce rules within the province.

Consider two extreme examples which demonstrate how the distribution of authority among the key regional government officials plays an important role. Suppose one all-powerful military governor has the authority to order the provincial officials to follow him in an act of rebellion.<sup>3</sup> Is this in the interests of the military governor? As the leader of a successful rebellion, he will be rewarded handsomely with honors and wealth within the region. Although the focus is on the threat of rebellion, it must be recognized that the act of rebellion is a part of the endgame in a conflict with the central government. While this threat may not always be realized in practice, it underlies the bargaining power of the regional government in determining what central government directives are enforced. In this sense it is similar to the influence of a threat of a labor union strike on wage contract negotiations between management and a labor union.

At the other extreme, consider a regional government with ten powerful governors of equal rank. Suppose the provincial institution is such that for major policy decisions all ten governors must agree. Now the act of rebellion requires the consent of ten key regional officials. If the region successfully rebels, honors and wealth will be bestowed upon all ten. The rewards for each are now less than when there was one all-powerful military governor. The expected rewards may not now be larger than expected costs. The incentives of the key regional officials in enforcing

---

<sup>3</sup> Note that even the military governor faces some political constraints in ordering his subordinate officials to rebel with him as well as constraints of key social groups within the region. But for the sake of clarity, we abstract from these political constraints here.

central directives are shaped in part by the distribution of authority. The central government may wish significant taxes forwarded to the capital, but the orders actually issued may vary with the type of regional government institutions. The central government may feel free to order a regional government with ten governors to forward a large sum of tax revenue, but when facing a single military governor may not dare risk such an order. Thus the range of enforceable central government policies varies with the distribution of authority among the key regional officials.

This mechanism also links the distribution of authority among key regional officials and property rights. The number of key officials is related to the ability of local groups to influence the enforcement of property rights. Assume that one all-powerful regional military governor receives an edict from the central government to enforce monopoly rights in the region. Property rights may be restricted by the enforcement of this edict. Knowing the stakes involved, those affected may seek to influence the enforcement decision by lobbying the military governor to resist enforcement of monopoly rights, possibly with the offer of payments or benefits. In contrast, consider the case where there are ten governors of equal rank. Now the interested group must influence the decisions of all ten. Given the same resources as in the previous case to influence the outcome, they may be unable to secure the needed support. Thus, given that the directives from the central government restrict the property rights of some group in a region, the distribution of authority among key regional officials affects the ability of the interested group to interfere with their enforcement. In sum, the distribution of authority among key regional officials affects the bargaining power of regional interests over policy enforcement through the threat of rebellion and the ability of interested parties to influence officials.

The second feature I consider is the nature of regional appointments, here defined as the relationship between the key regional officials and those who have the authority to appoint, promote, punish and replace them. Regional officials are concerned with the influence of their current decisions on their future well being. Thus they will strongly consider the concerns of those who may promote or punish them in the future. Regional officials appointed by the central government will have a strong incentive to please the central government in enforcing its edicts. If, on the other hand, groups in the region appoint the key regional officials, the incentive to enforce central government directives is diminished. The nature of regional appointments is clearly a fundamental factor. Indeed, wars are fought over the right of regional appointment. When a central government encounters resistance, one of the first things it does after conquest is to appoint a military governor in charge of

regional affairs, e.g. in Indian provinces and American colonial states in the British Empire.

My constitutional theory can be summed up as follows. The process of determining enforcement of various central government edicts and rights, including property rights, in a region is largely influenced by the distribution of authority among regional officials and the nature of regional appointment. The distribution of authority affects the bargaining power of regional interests through the threat of rebellion and the ability of local groups to generate support for enforcement of favorable rights among the key regional officials. The nature of regional appointment plays an important role in shaping the incentives of the key regional officials by tying their future well being to an evaluation of their current decisions.

This research distinguishes itself from other theoretical constitutional analysis in that its major thrust is to present examples from both Chinese and Roman institutional history that support these theoretical arguments. Next I shall describe the methodology used and finally the results and conclusions.

#### **4. Research Methodology**

The method of study required systematically researching numerous books and articles that discuss aspects of Chinese and Roman institutional history. This was an extremely labor intensive project and the help of research assistants was much needed. I am grateful for the support provided by the NSC.

Research topics covered included the early Qin/Han federal relations, a Han Dynasty reform, a major reform of the Tang Dynasty, reforms of the Song Dynasty, and a major reform in the Roman Empire. The findings of this year's work will be outlined next.

#### **5. Results and Conclusion**

This past year's research has been very productive and has led to a draft article which has already been solicited for submission by the editor of the *Pacific Economic Review*, an SSCI journal. The article will be submitted to this journal around the end of this year.

The basic findings of this year's work include a comparative analysis of various reforms in the Spring & Autumn / Warring States period, Han Dynasty, Tang Dynasty, Song Dynasty and the Roman Empire. It should be noted that a particularly helpful comment by one of the referees of my NSC grant application suggested that I look into some of the reforms of the emperor Han Wudi. Indeed, the reforms under this emperor proved to be similar to the ones previously identified. This suggestion is gratefully acknowledged.

During the Spring & Autumn / Warring States period, contiguous regional governments composed of counties (縣) and commanderies (郡) formed. This process of regional government formation culminated in the first unification of China in 221 B.C. by Qin. During the 8<sup>th</sup> to 3<sup>rd</sup> centuries B.C. numerous reforms included the creation of counties. A comparison of these reforms suggests some fundamental functions of a regional government. In particular, a regional government is a political-military unit and the key officials in the upper level influence government decisions within the region.<sup>4</sup>

During the Han Dynasty, the emperor Han Jingdi introduced some centralizing reforms. During this period the regional governments had developed into a three-level administration, kingdom (國) – commandery (郡) – county (縣). A kingdom had several commanderies, which were composed of numerous counties. The head of the kingdom's administration was a king (王). After the suppression of the Seven Kings Rebellion in 154 B.C. the central government stripped some of the commanderies from the authority of the kingdoms. Kings were allowed to keep their titles and privileges but were removed from kingdom administration. The independent commanderies were appointed separate officials and a key official of the reduced kingdom was appointed by the court. The central government, at the end of a civil war, gained a measure of control over the regional governments by diffusing regional authority, previously in the hands of the king, among several key regional officials. Similar reforms were carried out under emperor Han Wudi, who allowed relatives of the kings to take up lower-level positions in the counties, but acknowledged the authority of an adjacent commandery. In other words a trade was struck where sons of kings could take up county posts, but the kingdom would lose this county.<sup>5</sup>

---

<sup>4</sup> Referencenes used for this period include 田昌五，安作璋 (1993), 姜文奎 (1987) and 商文立 (1980).

<sup>5</sup> References used for the Han Dynasty reforms include 田昌五，安作璋 (1993), 楊樹藩 (1963) and 嚴耕望 (1997).

Similar reforms were carried out by the emperor Tang Xianzong (805 – 820 A.D.). After the An Lushan Rebellion (755 – 763) regional military governors established themselves as regional governors throughout the country. During this period, there were essentially three-level regional governments, military governors (藩鎮) – prefectures (州) – counties (縣). A typical military governor had three to five prefectures under his control. Emperor Tang Xianzong successfully stripped many military governors of many of their prefectures, particularly in military affairs. In effect, military governors were restricted to the resources of one prefecture to support their army. The other prefectures previously under their control became militarily independent and reported to a different official. We can see the diffusion of regional authority clearly at work. In 977 the emperor Song Taizong implemented a similar reform in northern China that effectively removed prefectures from under the control of regional military governors.<sup>6</sup>

Finally, the case of the Roman Empire was considered. After civil war in 284 A.D. the Roman emperor Diocletian implemented a major reform of the provinces throughout the Roman Empire, creating one hundred provinces where there had previously been fifty. Because there was no change in the amount of land or people in the empire, the effect of this reform was to split the typical province into two. The resources originally under the control of one provincial governor now came under the authority of two. Thus China is not the only country in pre-modern times to use the technique of authority diffusion in order to control the regional governments.<sup>7</sup>

A very clear pattern emerges from this comparative analysis. Central governments spread regional authority among numerous key regional officials in order to gain control of the regions. This, pattern supported with numerous examples in Chinese and Roman institutional history, has produced the foundation for a paper that makes a compelling case for a simple theory in the important and fundamental field of federalism. The research assistance provided by funds from the NSC was invaluable and is gratefully acknowledged.

---

<sup>6</sup> References for the Tang and Song dynasties include 王壽南 (1969), 李天石 (1995), 周寶珠 (1985), 竺沙雅章 (1988), 張其凡 (1991), 張國剛 (1987), 賈玉英 (1989) and 韓國磐 (1979).

<sup>7</sup> References for the Roman Empire include Jones (1964), Millar (1977) and Williams (1985).

## References

### (一) 中文部分

- 王壽南 (1969) ,《唐代藩鎮與中央關係之研究》, 台北: 嘉新水泥文化基金會。
- 田昌五, 安作璋主編 (1993),《秦漢史》, 北京: 人民出版社。
- 李天石 (1995),《唐憲宗》, 吉林: 吉林文史出版社。
- 周寶珠 (1985),〈北宋統一和集權〉, 收入周寶珠、陳振主編,《簡明宋史》, 北京市: 人民出版社。
- 竺沙雅章 (1988),《宋太祖与宋太宗》, 方建新譯, 西安市: 三秦出版社。
- 姜文奎 (1987),《中國歷代政制考》, 台北: 國立編譯館。
- 商文立 (1980),《中國歷代地方政治制度》, 台北: 正中書局。
- 張其凡 (1991),《趙普評傳》, 北京市: 北京出版社。
- 張國剛 (1987),《唐代藩鎮研究》, 湖南: 湖南教育出版社。
- 楊樹藩 (1963),《兩漢地方制度》, 台北: 國立政治大學。
- 賈玉英 (1989),〈太宗的官制改革〉, 收入鄧廣銘、漆俠編,《宋史論文集》, 第 94-106 頁, 河北: 河北教育出版社。
- 韓國磐 (1979),《隋唐五代史論集》, 北京: 新華書店。
- 嚴耕望 (1997),《中國地方行政制度史》, 台北: 中央研究院歷史語言研究所。

### (二) 英文部分

- Ferejohn, John (1991), "Rationality and Interpretation: Parliamentary Elections in Early Stuart England," in *The Economic Approach to Politics*, edited by Kristen Monroe, New York: Harper Collins Press.
- Greif, Avner (1998), "Self-enforcing political systems and economic growth: Late medieval Genoa," *Analytic Narratives*, edited by R.H. Bates, A. Greif, M. Levi, J.L. Rosenthal, B.R. Weingast, pp. 23-63, Princeton: Princeton University Press.
- Hamilton, Alexander, James Madison and John Jay (1999) *The Federalist Papers*, edited by Clinton Rossiter, with a new introduction and notes by Charles R. Kesler, New York: Mentor.
- Jones, A.H.M. (1964), *The Later Roman Empire 284-602. A Social, Economic, and Administrative Survey*. Volumes 1 and 2. Oxford: Basil Blackwell.
- Millar, Fergus (1977), *The Emperor in the Roman World*. Ithaca: Cornell University Press.
- Montesquieu, Charles (1989) *The Spirit of the Laws*, edited by Anne M. Cohler, Basia C. Miller and Harold S. Stone. Cambridge: Cambridge University Press.
- North, Douglass C. (1990), *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.

- North, Douglass C. and Barry R. Weingast (1989), "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-century England," *The Journal of Economic History*, 49: 803-832.
- Riker, William H. (1964), *Federalism: Origin, Operation, Significance*. Boston: Little, Brown and Company.
- Riker, William H. (1975), "Federalism," in *Handbook of Political Science, Volume 5*, edited by F. I. Greenstein and N.W. Polsby, pp. 93-172, London: Addison-Wesley.
- Shapiro, Ian (1993), "Democratic Innovation: South Africa in Comparative Context." Review article, *World Politics* 46 (1): 121-50.
- Tiebout, Charles (1956), "A Pure Theory of Local Public Expenditures," *Journal of Political Economy* 64: 416-424.
- Weingast, Barry R. (1995), "The Economic Role of Political Institutions: Market Preserving Federalism and Economic Development," *Journal of Law, Economics and Organization*, 11: 1-31.
- Weingast, Barry R. (1997), "The Political Foundations of Democracy and the Rule of Law," *The American Political Science Review* 91:245-263.
- Williams, Stephen (1985), *Diocletian and the Roman Recovery*. New York: Routledge Press.