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## CHAPTER 9

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# Gazing Eagle, Hiding Dragon: Transparency and the Sino-American Strategic Rivalry

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One of the key dividing issues between the United States and the People's Republic of China (PRC) is transparency in military-security affairs, the focus of this chapter. For the United States, transparency is a public and global value that is crucial to maintaining peace and stability, allaying suspicions, building trust and confidence, and facilitating mutually beneficial cooperation between countries, and especially the United States and China. It is well understood, however, that military transparency is also part and parcel of the America's preponderance of power. By advancing transparency and employing international institutions as its agents, the United States has sought for many decades to create a global surveillance network as part of a liberal hegemonic order that is at once legitimate in the eyes of many *and* fortifies America's preponderant power.<sup>1</sup>

China recognizes the value of transparency in international politics. Though it lags behind the United States and most of its Asian neighbors, it has taken steps in recent years especially to disclose more about its military matters so as to quell concerns others have about its ambitions. Yet China's leaders are scornful of America's transparency initiatives. They reject America's contention that China's transparency practices are out of sync with global standards. Most troubling to them is the insinuation that China's alleged transparency shortcomings, especially when it comes to details about the content and purpose of China's military modernization, are perhaps indicative of China's aggressive aims in East Asia (and beyond). Chinese leaders interpret this criticism as part of a cynical effort

by the United States—and other countries in the region—to justify measures for the containment of China's rising power and for undermining China's good standing abroad.

We believe that the transparency dispute between the two nations is hardly an accident. The logic of the security dilemma accounts for the competitive nature of the Sino-American transparency dialogue, and yet there is more to this story than the tensions wrought by each country's quest to enhance its security in the anarchic international system. In this chapter, we approach the matter of international transparency from a cultural and experiential perspective: how the concept of transparency differs and overlaps in East and West and how the differences and similarities reinforce mutual suspicions in contemporary Sino-American security affairs. In general, we believe that without a clear understanding of the complex transparency traditions of each country, any single-minded, simplistic implementation of any particular transparency regime between China and the United States is highly unlikely, which itself will inevitably yield greater misunderstanding and thereby exacerbate, not smooth over, the geopolitical rivalry between these major powers. Hence, in this chapter we offer interpretations of each country's transparency traditions, beginning with the United States and following with China, linking them to each country's political beliefs and practices. While we see some similarities, it is the differences in beliefs and practices that inform our pessimism about transparency's place in Sino-American relations in the years to come.

## TRANSPARENCY IN THE ANGLO-AMERICAN TRADITION

### Language

The word "transparency" is paradoxical because it has contrasting literal definitions in the English language. Transparency is defined as that which is "visible" and "invisible." Transparency's precise meaning depends on the context in which it is used—or the relationship involving the observer and the object being observed, and the condition of the medium that stands between them. When we say colloquially that someone's intentions are "transparent" to us, what we are really saying is that we "see through" another's ruse and discover the reality that rests behind it. Hence, transparency is that which is "visible" or "clear" about an object because "light shines through" an intermediate object, rendering that middle object "invisible." Our common usage of transparency speaks to the *visibility* we enjoy (or, at least, claim to have) about one thing by virtue of the *invisibility* of some other thing. So ubiquitous is its usage in the English language that transparency is a catchword of our time. In politics, transparency's meaning is captured in a variety of ways, but central to

most of them is the notion that affairs of state are known to the public, typically through some form of observation of government institutions and agents (e.g., oversight, monitoring, surveillance, disclosure). This meaning carries great symbolic value, in liberal democracies especially, but it is also a misnomer because it conveys a condition—clarity about the workings of government—that is absolute. Corrective measures that provide for gradations of transparency—"low transparency" and "somewhat transparent," for instance—are unwieldy and only muddy the waters. As one observer of language has cleverly written, "Transparency is perfectly clear until you really start looking at it."<sup>2</sup>

### Publicity

Transparency's contemporary meaning in political affairs is rooted in the Enlightenment notion of "publicity." Many thinkers of the Enlightenment advocated publicity as the antidote for the social ills and the abuses of power and privilege that plagued Renaissance Europe. Publicity is the product of the emergence of the "bourgeois public sphere," a term coined by Jürgen Habermas to represent the coming together of private people as a public to deliberate on matters of mutual interest and regulate the conduct of public authorities.<sup>3</sup> Habermas's study is useful for its sweeping survey of the diversity of thinking about the public sphere and publicity over the past 400 years. The institutions of this sphere originated in the form of courts, salons, literary societies, and coffeehouses, drawing together aristocrats, intellectuals, and the bourgeoisie. In time, the public sphere in the world of letters gave rise to a public sphere in the political realm, which engaged in critical public debate about the regulation of civil society and in so doing challenged the established authority of monarchical rule. For Habermas, the bourgeois public sphere is necessary for the success of democracy, which requires the exercise of public reason—the "opinion makers" among the people must be able to freely and openly speak about and debate issues of public importance.

Habermas attributes the prevailing notion of transparency in the Western world to a particular understanding of the relationship between public opinion and legislation in eighteenth-century England. Public opinion came to mean a judgment derived through the exercise of reason about matters of state by competent men through personal reflection and public discussion, for the purpose of preventing the misuse of power by government officials. Habermas gives credit to Jeremy Bentham (1748–1832) for recognizing publicity's importance to public opinion and popular sovereignty. His reading of Bentham leads him to the conclusion that publicity makes "rational-critical speech" among a group of citizens possible. Publicity is also a powerful vehicle for the elite to influence the opinions of the common man who is incapable of reasoned judgment.

By circulating information and promoting understanding, publicity is fundamental to representative government.

Bentham's thinking about publicity receives its most extensive elaboration in his inquiries on legislative government. In *An Essay on Political Tactics* (1791), Bentham describes how publicity should direct the proceedings of political assemblies. He defines tactics as the regulation of a political assembly's "method of acting," directing it toward the greatest happiness of society. "[B]y teaching how to guide [legislators] to the end of their institution, by means of the order to be observed in their proceedings," he writes, political tactics steer an assembly toward doing good and avoiding evil.<sup>4</sup> As a tactic of good government, publicity has a variety of benefits. Among them, publicity helps guard against the abuse of power by government officials. Bentham refers to the people collectively as a "tribunal" whose scrutiny of the legislative chamber has the effect of keeping legislators honest and diligent in their pursuit of the common good. The intentions of legislators are numerous, but even men of impeccable character are tempted to abuse the power granted them by the people. Mistrust in those who exercise power is the foundation of the regime of publicity, and public opinion serves as a "superior force" that keeps in check the power of the legislature. "The eye of the public," says Bentham, "makes the statesman virtuous."<sup>5</sup>

Publicity also has the effect of building confidence among the people in the legislature. Because the people can observe the actions of their representatives (and these actions advance the general good), the people recognize the legitimacy of the laws enacted on their behalf, as well as the authority of legislators to make them. Furthermore, people reward their representatives by looking unfavorably on rebellion as a means to achieve political change. Mindful of these advantages, legislators are themselves committed to publicity. Bentham's application of his publicity principle is hardly limited to the workings of a legislature, however. In fact, surveillance as a form of publicity is found throughout Bentham's work, especially his model of the *Panopticon*, or Inspection House.<sup>6</sup>

### Transparency and American National Government<sup>7</sup>

Transparency is a norm of liberal democratic politics. According to Richard Mulgan, transparency and accountability work in tandem to prevent the abuse of power by public officials, who are "called to account" for their actions and "held to account" for wrongdoing. The "account-holder" (or the general public) has the right to investigate and scrutinize, and the "accountor" (or the public official) has the obligation to inform and explain his actions.<sup>8</sup> Essential to accountability is the accountor's recognition of the account holder's authority over him and his obligation to act in accordance with the account holder's "right to know." Without this

recognition, Mulgan cautions, accountability amounts to "grace-and-favor transparency."<sup>9</sup> As in other liberal democratic polities, there are a variety of political mechanisms of government accountability in the United States, such as elections, legislative oversight, a free press, freedom of information laws, whistle-blower protections, judicial review, offices of auditor generals, and civil society-based government "watchdog" groups. Transparency is accountability's "weapons in the democrat's armoury"<sup>10</sup> to combat the potential misdeeds of those who exercise power on behalf of the people.

The U.S. Constitution does not explicitly provide for transparency of the national government.<sup>11</sup> Nor does the Bill of Rights establish for the people a right to know what the government is doing and why.<sup>12</sup> Public transparency—or open government—is instead embedded in the Constitution's system of checks and balances. Like other disciples of the Enlightenment, James Madison believed that the first task of government is the preservation of human liberty, which requires a republican constitution and limited power to the government. Liberty also demands that these powers are arranged in such a way that the abuse of them by one branch can be averted by the exercise of power by the others. The U.S. Constitution establishes the executive, legislative, and judiciary as separate and co-equal branches of the national government. Each branch must have "a will of its own" and "as little agency as possible" in the affairs of the others. And yet, writes Madison in *Federalist 51*, the "constant aim . . . is to divide and arrange the several offices in such a manner that each may be a check on the other."<sup>13</sup> Hence, the effective operation of government makes deliberation among the three branches—and with the people—a "practical necessity."<sup>14</sup> As a member of the House of Representatives, Madison was a leading proponent of the view that access to executive branch information is essential for Congress to exercise its legislative powers—and yet he also conceded that the president can withhold certain kinds of information from Congress and the people. Therefore, to the extent information flows within the government and between the government and the people, public transparency is, for Madison, part and parcel of the checks and balances system—that is, the ebb and flow of power. In and of itself, however, transparency is not a sure thing even though the checks and balances provides for it.

Madison also championed popular sovereignty, especially in relation to the effective operation of government. He believed that an educated and informed citizenry is the foundation of popular sovereignty and has profound implications for open government, implying that the people have a right to know what the government is doing and why, giving them an obligation to educate themselves so that they can effectively exercise that right.<sup>15</sup> That in America today transparency is widely recognized as a core public value finds its inspiration in Madison's republicanism.

Nonetheless, government secrecy also has a legitimate and well-established place in American national government. Each of the three branches of government asserts the right to practice secrecy and has, since the founding of the republic, conducted certain aspects of its affairs out of the public's view. The withholding from the legislative branch of information in the possession of the executive branch is a common-enough practice. Though predicated on the separation of powers doctrine, there is embedded in it a struggle between the two branches—information is a form of power that the executive employs to advance its interests, not least of which is defending its prerogatives against the encroachment of the legislature. Furthermore, in the United States, national security imperatives compel the government to withhold information from the people.

## TRANSPARENCY IN CHINESE THOUGHT

### Language

In today's China, two main expressions are used to convey the issue of transparency: *touming* 透明 and *kaichengbugong* 开诚布公.<sup>16</sup> Although it is usually not difficult to determine which expression to use in any given situation, the exact meanings of each term are not well understood. Each expression has a long history, and the historical contexts in which they are used have loaded them with multilayered assumptions.<sup>17</sup> These assumptions can amount to a serious communication barrier in a modern setting: when two parties of different cultures (and languages) come together and discuss the issue of transparency under the common English word, these assumptions may drive them to talk past each other, without necessarily understanding the reason why.

As an initial step toward further clarification, we might explain the basic difference between *touming* and *kaichengbugong* in terms of the differences in their targeted object. If the object is information concerning past or ongoing operational details such as military budget numbers or the identity of a true decision-making authority, the applicable expression is *touming*. *Tou* 透 means "to penetrate": light passes through (*touguo* 透过) a surface and thereby allows a person to see the interior. *Ming* 明 means illumination, or the quality of being diaphanous. The term *touming*, which combines these two words, is a neologism. Its arrival seems to have been triggered by the need to translate the English word, "transparency." Because transparency is a matter of degree (some materials are, after all, more transparent than others), *toumingdu* (degree of transparency) is also used, and its meaning is functionally equivalent to *touming*.

The other expression, *kaichengbugong* 开诚布公, literally means "being open, sincere and public," and it originates in Chinese classical literature.<sup>18</sup> The quality refers specifically to the way of gentleman

(*junzi* 君子), covering individual conduct or the conduct of a government: It emphasizes moral self-discipline and the avoidance of trickery and ill will.<sup>19</sup> In this regard, *kaichengbugong* refers to the transparency of one's intent and honor. The locus of transparency is not the tactical and topological details of operation, but rather the global and strategic trustworthiness of one's words and actions. Once a promise is issued, proper behavior and conduct are expected to follow the line. Unlike the past-and-present focused *touming*, *kaichengbugong* is future-oriented transparency and is attentive to possibilities assured to be open, frank, and declared.

### Ming 明: the Paradox of Disclosure

An ostentatious display of information, whether it is in the form of a public statement or open conduct, should invite questioning by a wise observer regarding its truthfulness, reliability, and underlying motive. When something is rendered visible or put on display, even if what is seen is true, it may be used to belie what is unseen.<sup>20</sup> When a fact is being observed, it is not just the fact per se but also includes assumptions supported and encouraged by the fact—assumptions about what is unseen that would influence a person's mind. These assumptions can take the form of logical inferences, the easy and unforced production of which can create a furtive mental encroachment and elude detection. On account of this pitfall, any voluntary disclosure by an interested party shall be *in principle* regarded as untrustworthy because the true motive may not be in the disclosure of facts, but rather in the manufacture of unwarranted beliefs and prejudices.

The traditional Chinese distrust of voluntary disclosure finds its classical expression in the criticism by Han Feizi (d. 233 BCE) of Guan Zhong (d. 645 BCE), a famous advocate of governmental transparency.<sup>21</sup> In his writings, Guan argues that every act of approbation and sanction on the part of a government should be clearly documented and conveyed to the public because public transparency (信於其所見) is the only way to govern effectively (or in his own words, "to govern both what is seen and unseen").<sup>22</sup>

Guan argues that a government must for the sake of its effectiveness transform what is originally a private event (someone is being rewarded or punished) into a public documentation (or witness). As no one can see everything and crimes are committed often in secrecy, law and order can be maintained only through their transparency. Guan calls transparency "[a way of using] the [method of] seeing (or revelation) to regulate the unseen (unrevealed)."<sup>23</sup>

When criticizing Guan, Han Feizi focuses on the fundamental unreliability of what is seen and the *necessary* gap that exists between the seen

and unseen, especially when the situation involves power disparity or conflict of interest. According to Han, it seems to be Guan's naïveté that has led him to prioritize the method of seeing and to think that governmental efficacy is a matter of rendering what is seen into public transparency. "Public transparency cannot be used to illuminate distant wickedness or detect what is hidden and obscure," he writes. "If one builds a system on the foundation of varnished appearance, isn't that a mistake?"<sup>24</sup>

Han makes four points here, and they have left a deep impression on later Chinese thought. First, people behave differently when they know that they are being observed. Second, the gap between the seen and unseen is not just a matter of visual coverage, but a necessary condition created by *power*: it is in the interest of the subordinates to deceive their superiors. Third, the unseen is where truths lay. Fourth, the transparency condition idealized by Guan as a way of governance is based on the false belief that what is seen is true. If a ruler were to reward the good and punish the bad based on appearances, deceptions would be rampant in his government.

Even though one may argue in retrospect that Han underestimates the significance of Guan's argument or perhaps even misses the point entirely, the damage to Guan is nevertheless momentous and historical. The concept of *ming* 明 as a symbol for transparent governance had long since been ignored in Chinese history until its recent revival under the neologism *touming* 透明. In contrast, *ming* comes to represent a different concept, not the transparency of what is seen, but the transparency of the unseen, thanks to Han's influence as well. In Han's view, the crucial task for a ruler is to find a way to observe what lies behind the varnished appearances and to cultivate a particular set of techniques to penetrate the surface and see what is hidden in the interior. In this regard, *ming* no longer signifies a type of *objective* condition of open governance but a secret, *subjective* technique to detect what is normally undetectable. *Ming* comes to designate clairvoyance (*mingcha* 明察 and *mingchajiuhaio* 明察秋毫). In Guan, clarity means self-illumination, whereas in Han it means secretive illumination of the other.

Han calls the technique of secret illumination *shu* (術 the art of power). For him, *shu* must be used in combination with the law to ensure the safety of power. While law governs through openness and clarity, *shu* must be employed surreptitiously, and its success essentially depends on its nondetection. In commenting on the previously quoted passage from Guan about a ruler's voice filling rooms and halls (self-illumination), Han criticizes him for his partial understanding of power in knowing the way of transparency but not the way of secrecy.<sup>25</sup>

### Shu 術: Secret Illumination

Han stresses that a ruler, simply because he rules, must be burdened with this informational paradox: on the one hand, no voluntary disclosure is trustworthy: it is either false or misleading. This includes not only the behavior of the subordinates but also the appearances of a ruler. On the other hand, true information can be obtained from a person against his will and without his knowledge. That is to say, while volunteered information has no genuine value, forced, involuntary disclosure contains all the valuables in a struggle for power.

Han offers rulers his *shu* as practical techniques to mine truths from official conduct. Its content is rich and complex, and we have no space here to cover every aspect. But one key idea centers on the construction of a panopticon-like condition in which everyone believes that he or she is being observed *at all times*. Han illustrates *shu* through numerous examples. Here are several of them. First, a ruler can create the impression that he knows everything by *purposefully revealing the fact that he knows some trifling detail that would have escaped the attention of other people*.<sup>26</sup> The humble servants were probably useless for detecting real secrets, but they were excellent for trivial matters. At a convenient moment, the revelation of a trifling detail can create the impression of omniscience. Second, a ruler pretends not to know what he knows in order to see who is lying.<sup>27</sup> Third, when someone is demoted because of an accident, examine who benefits. The beneficiary may be the real culprit.<sup>28</sup> The spring of all human action is nothing but self-interest, as Han emphasizes throughout his book, and a clairvoyant ruler must understand the situation. There is no common interest between his officials and himself. True transparency is only the transparency of interests—if one understands all interests in a given situation, one has a better chance to detect manipulation.

In these examples, a common feature exists in the way *shu* is exercised: the ruler does not allow others to see the fact that he is employing his *shu* (a wise ruler sees others and does not allow others to see him).<sup>29</sup> All these rulers succeeded because they put themselves in a situation where they observed others and were not themselves observed in turn. Han claims that a wise ruler should model himself after an empty, passive, expressionless idiot and never reveal his feelings and argues that inscrutability itself is the most effective form of intimidation and information strategy.<sup>30</sup> It goes without saying that the ruler does not have to be on the lookout all the time. As long as he is unseen, people will never know whether they are being observed.

### Transparency of the Law

A quintessential legalist, Han Feizi advocates for the supremacy of law. *Shu* is important to him but only serves to complement the law. *Shu*'s

secrecy is effective partly because law is open and clear. The clarity of law and the secrecy of shu provide mutual support.

For Han, the transparency of law serves at least several purposes for a ruler. First, transparency constrains power's arbitrariness. Power has an arbitrary nature because it is subject to the power holder's fancies, which can vary. Because maintenance of power is the power holder's primary interest, a mechanism for creating stability and credibility in his power must be employed. Law allows a stable, predictable, and rational vehicle for expressing the perceived long-term interests of power while distancing itself from the private, daily fancy of a power holder (in other words, law is the publicly declared interests of power; once declared, the power holder should not change them easily). The clarity, credibility, and predictability of law protect the ruler from exercising his power whimsically and based on his moment-to-moment desires. Plus, once the power holder's desires are made public through law, such public language masks his private interest of maintaining his power. His personal thoughts and emotions are unseen by the public through law's clarity and transparency; this illustrates the marriage of law and shu, combining the seen with the unseen to effectively protect the power holder's interests. Second, transparency guarantees the effectiveness of power. The valence of power can be measured only in terms of the efficacy of power's injunctions. The more effective the injunctions are, the greater the power is.

The transparency Han speaks of in the context of law is not the same transparency as that of Guan Zhong. As we mentioned before, Guan's transparency refers to open governance and informational accessibility, and its meaning is similar to the modern concept of touting. In contrast, law's transparency in Han serves to mask the private nature of power interest. While Guan's transparency represents a process of publicly documenting every (important) speech and action on the part of a government, Han's transparency constitutes a shift of mode or a change of strategy, from the private domain of a ruler into the public domain of the state, to truly defend the ruler's interest. It functions rather like grammar for speech making in that it alters the way thoughts are expressed (less arbitrariness, more rigor, and more communicativeness) but not the thoughts themselves. Law is a public document used to defend private interests. Its transparency and rigor serve to mask power's personal nature and protect it from its own daily random musing.

Law also avoids the pitfall of voluntary information disclosure that we discussed earlier. Even though law contains large amount of information, it does not disclose much *factual* information. Its information is primarily lexical, self-referential (what words mean in a given system of *names* 名) or about the intent of the ruler (expressed as injunctions). As such, law does not have an issue of truth in the first place, as there is no issue of truth with definitions and injunctions. Instead, one can only wonder

about the credibility of law: is the law effective, or does the law mean what it says on paper?

While one may wonder about law's effectiveness or credibility, one has no reason to question it in such a manner beforehand, unless a particular law is *in fact* proven to be ineffective or not credible. The reason has to do with the fact that it is in the power's self-interest to maintain law's credibility and effectiveness. If a law is not credible, a ruler's power would be ineffective, and ineffective power is no power. As a result, while a ruler may have suffered a change of heart shortly after the issuance of a legal injunction, it would normally be in his interest to stick to his word and punish the violator. This is the cost of credibility: one must honor his own publicly issued words and ignore or deny a different future possibility to maintain his power.

### Two Meanings of Transparency

Although our focus in the previous section is law, the same dynamic relation between credibility and transparency extends to the strategic negotiations between any two parties. A negotiating party must establish its credibility before it acquires power to make offers and concessions. The method used to accomplish the goal relies on the same linkage of words describing future scenarios and the mechanism of reward and punishment. If "A" promises not to kill the enemy envoy, there is no reason for the other side, "B," to question the promise unless the promise is proven to be false. The transparency of intent on the part of "A" has binding power on both sides because it is in the interest of "A" to maintain that credibility, even if he may actually want to kill the enemy envoy when they finally meet. If "A" violates the promise and kills the envoy, he would jeopardize his power to strike future deals with his opponents.

In Chinese military and political thinking, the transparency of intent, modeled after Han Feizi's transparency of law, falls under the meaning of kaichengbugong. As a concept of transparency, it is usually the more valuable type than touting. As we mentioned in the beginning, kaichengbugong literally means "open, sincere, and public," but it usually just means "frank and sincere," and has nothing to do with being public (a dimension unique to law). During a negotiating process, two parties come together, and each speaks frankly about his intent concerning future and thusly creates a "sincere" and "transparent" environment for further negotiations. For the Chinese, the transparency of intent represents a kind of moral norm or commitment ("gentlemen's agreement"), as it binds future possibilities. The violators would be criticized in moral terms such as "being untrustworthy, sinister, unreliable, or having no uprightness."

A Chinese negotiator often comes to the negotiating table first expecting to lay the foundation for further negotiation by asking both parties

to make transparent each side's bottom lines, things to do and not to do, and so on. This type of negotiations is deemed the initial foundation-building negotiation: its aim is to clearly know everyone's position and declared interests. The parties are expected to bank on that transparency as the capital of credibility for future negotiations, which might include such topics as the disclosure of factual, operational information (to increase *toumingdu*). Without the initial phase, *toumingdu* has little value because it would easily be interpreted as a ruse, or what Sunzi calls *guidao* 诡道 "the way of deception."

## CONCLUSION

This chapter makes one point and lays the foundation for another. First, both the East and West have their own respective cultures of and experiences with transparency, and the complexity of the cultural traditions needs to be invoked in order to appreciate the complexity of the transparency issue in today's security environment. As seen earlier from the linguistic, historical, and philosophical narratives, transparency is a convoluted, often paradoxical, exercise of power that involves both the disclosure and enclosure of information, tactical and strategic double play of secrecy and openness, surveillance and clairvoyance, and various epistemic postures of trust and distrust, credibility, and deceptivity. Second, in the absence of a clear understanding of these complex transparency traditions, any single-minded, simplistic implementation of any particular transparency regime will inevitably run into trouble and perhaps exacerbate the existing rivalry between major powers.

The complexity of transparency needs to be understood in the larger context of the evolution of power. Historically, the concept of power has undergone two major transformations: one is the separation of power holder from power executor; the other is the separation of account holder from power holder. The Chinese culture of transparency is largely developed under the spurs of the first separation, through Han Feizi's discussions of the importance for the power holder (prince) to employ law and shu to control and manage the power executors (public officials). The Western culture of transparency, from Bentham and Madison on, is largely developed under the spurs of the second separation. The fundamental difference between the two models of transparency lies in the fact that while Madisonian or Benthamite transparency assumes a democratic power framework where the people (account holders) realize their sovereignty over their government (power holder/accountor) through the accountability-transparency regime, the Chinese culture of transparency instead assumes the hierarchical power asymmetry between different interested parties in the premodern political landscape. Ironically, despite its historic, premodern character, it is the Chinese model that

apparently better fits the reality of modern international politics than does the Benthamite model. For instance, when the Benthamite model is applied internationally and hence beyond its democratic framework, to call a country like China to account under a transparency regime will inevitably arouse suspicions of imperialism and trigger defensive mechanisms employed under the name of sovereignty from the would-be accountor.

On the other hand, the fundamental difference shall not be exaggerated. In reality, the difference is practically invisible, hidden in the jungle of terms and imperatives concerning transparency that are shared and familiarized in both traditions. This is where the problem is created—it is where miscommunications or distrusts seep in when both parties speak in familiar languages but carry in them different meanings and expectations. Schematically speaking, in both cultures, transparency has to do with the *efficacy* of power: transparent power means efficacious power. In both cultures, transparency is understood as *projection* of power: gazing is subjugation, and the gazer is the not-to-be-gazed-upon power superior. In both cultures, transparency has to do with the *rationalization* and *management* of power: to exercise power transparently is good to power and helps stabilize it. And in both cultures, transparency is *power* to be bargained with and *power chips* to be used in strategic negotiations between great powers.

## NOTES

1. For more on this argument, see James J. Marquardt, *Transparency and American Primacy in World Politics* (Burlington, VT: Ashgate, 2011).
2. Sarah Boxer, "Transparent Enough to Hide Behind," *New York Times*, December 19, 1998, D7.
3. See Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, MA: MIT Press, 1992).
4. Jeremy Bentham, *Essay on Political Tactics*, in F. Rosen and P. Schofield (eds.), *The Collected Works of Jeremy Bentham* (Oxford: Clarendon, 1999), 15.
5. Cited in D. G. Gaonkar with Robert J. McCarthy Jr., "Panopticism and Publiclicity: Bentham's Quest for Transparency," *Public Culture* 6, no. 3 (1994): 554.
6. Jeremy Bentham, *Panopticon: or The Inspection-House, (with Postscript)*, in John Bowring (ed.), *The Works of Jeremy Bentham*, Vol. 4 (Edinburgh, Scotland: Simpkin, Marshall, and Company, 1843).
7. The following is derived from Marquardt, *Transparency and American Pre-eminence in World Politics*, Chapter 3.
8. Richard Mulgan, *Holding Power to Account: Accountability in Modern Democracies* (New York: Palgrave Macmillan, 2003), 10.
9. *Ibid.*, 11.
10. *Ibid.*, 22.
11. Article I does not give Congress access to executive branch information, but Section 5 requires Congress to report on its activities and keep a record of its votes.



Article II, Section 3 says the president "from time to time" must "give to the Congress Information on the State of the Union."

12. See Harold Relyea and M. Kolakowski, "Access to Government Information in the United States," CRS Report for Congress (Washington, DC: Congressional Research Service, Library of Congress, April 2007), 1. Also lacking in the Constitution is a clause governing secrecy in the executive branch.

13. *Federalist 51*, "The Structure of the Government Must Furnish the Proper Checks and Balances between Different Departments," <http://www.constitution.org/fed/federa51.htm> (accessed June 6, 2006).

14. See Peter M. Shane, *Madison's Nightmare: How Executive Power Threatens American Democracy* (Chicago: University of Chicago Press, 2009), 7.

15. See "James Madison to W. T. Barry," August 4, 1822, in "The Founders' Constitution," Chapter 18, "Epilogue: Securing the Republic," Document 35, <http://press-pubs.uchicago.edu/founders/documents/v1ch18s35.html> (accessed June 16, 2004).

16. We use the two expressions as paradigms, each representing a cluster of expressions related to the issue of transparency. For instance, for *kaichengbugong*, its related phrases can be *gongkai* 公开 (frank and open) and *huxing* (mutual trust) or *huxing jizhi* (mechanism of mutual trust).

17. As we will explain later, touming as a phrase occurs only in modern Chinese, but the concept has deep roots in ancient Chinese classics.

18. See: "as prime minister, *Zhu Geliang* pacifies the people, publicizes rites and standards, simplifies bureaucracy, standardizes rules of governance, and manages government affairs in an open, sincere and public manner": in *Chen, Shou: History of the Three Kingdoms, Annotated by Pei, Song Zhi*, Vol. 4, *Book of Shu*, 5, *The Biography of Zhu, Geliang*, Beijing: Zhong Hua Shu Ju Press (San Guo Zhi, *Pei Song Zhi Zhu, Juan Si, Shu Shu Wu, Zhu Geliang Zhuan*, Beijing: Zhong Hua Shu Ju, 1982, 221). All the translations that appear in this paper are by Rui Zhu. Most of the materials cited in the paper have never been translated into English before.

19. Or if ill will is present and inevitable, one can display it in an open and honorable way.

20. For instance, Sunzi 孙子 (d. 470 BCE) writes, "The way of conducting warfare is through deception. When you are in fact capable, you display yourself as incapable; when you are set to deploy your troops, you display them as idle and inactive." (孙子兵法: 始计第一: "兵者, 诡道也。故能而示之不能, 用而示之不用。" Also see Sunzi, *The Art of War*, trans. Samuel Griffith (Oxford: Oxford University Press, 1971), 68).

21. Han Feizi is a seminal figure in Chinese history, and his influence on Chinese thought rivals that of his teacher, Xunzi, one of the greatest masters of Confucianism.

22. Writes Guan: "When a ruler sees something good, the approval shall be documented in an official approbation. When he sees something bad, his disapproval should be documented in an official sanction. The effectiveness of reward and punishment will be obtained in (the transparency of) what is seen. [Thus,] people will not commit crimes even when they are not seen. If a ruler sees something good and does not render his approval in official approbation or sees something bad and does not render his disapproval in official sanction, the effectiveness of reward and punishment will be lost (in the non-transparency

of) what is seen. In that case, it would be impossible to use what is seen to regulate what is unseen." (管子: 叔修第三: "見其可也, 喜之有徵。見其不可也, 惡之有刑。賞罰信於其所見, 雖其所不見, 其敢為之乎? 見其可也, 喜之無徵; 見其不可也, 惡之無刑; 賞罰不信於其所見, 而求其所不見之為之化, 不可得也。" See *Guan Zi Jiao Zhu* (*Annotations on Guan Zi*), ed. Ni Xiang Feng, Beijing: Zhong Hua Shu Ju (*Zhong Hua Shu Ju Press*), (2004).

23. *Ibid.* "The ruler's standard is like the sun and moon. . . . The way to lead the people is setting up yourself as public examples. . . . Do not hide your mistakes or change your law frequently, otherwise people of talent would not know how to assist you. A sage king is like this: when he speaks in a room, his voice fills the room; when he speaks in a hall, his voice fills the hall."

24. Seated solemnly in a spacious hall, everybody appears dignified. Left alone in a solitary room, [even renowned characters such as] Zeng Sheng and Shi Biao would become irreverent and casual. If one pays attention merely to appearance, he would miss the truths. The ruler occupies a superior position and the officials will for the sake of his power varnish his conduct. If a ruler doles out reward and punishment merely on the basis of what is seen, the officials will necessarily conceal his wickedness and deceive the ruler. Public transparency cannot be used to illuminate distant wickedness or detect what is hidden and obscure. If one builds a system on the foundation of varnished appearance, isn't that a mistake?" (in *Han Feizi Ji Jie* (*Interpreting Han Fei Zi*), ed. Wang Xian Sheng, Beijing: Zhong Hua Shu Ju, 韩非子集解, (清)王先慎, 北京: 中华书局, 1998).

25. *Ibid.* "When Guan Zhong writes 'when he [a sage king] speaks in a room, his voice fills the room; when he speaks in a hall, his voice fills the hall,' he is not talking about a ruler making jokes or frivolous remarks at a banquet. Instead, the ruler must be addressing momentous issues [to his officials]. The momentous issues of a ruler fall into two categories: if they do not fall into scope of law, they must be within the scope of *shu*. Law is codified and instituted at governmental agencies and then publicized to the general public. *Shu*, the technique, is hidden in the ruler's mind and employed to secretly control myriad officials by his studying [the behavior of officials as] signifiers. No law is good unless it is clear and evident, and no *shu* is effective unless it is hidden. Thus, when a clairvoyant ruler 明主 speaks of law, all the lowly and humble within the territory will hear his voice, to say nothing of its filling the hall; when he employs *shu*, even his dear ones and attendants will hear nothing of it. When Guan Zhong writes 'when he speaks in a room, his voice fills the room; when he speaks in a hall, his voice fills the hall,' he does not understand the dialectics of law and *shu*."

26. "During the reign of Marquis Wei the Second, he [secretly] installed some people around a chief country official and they served as his servants. One day when the official flipped over his blanket, the worn, decrepit bedding was shown. Marquis Wei had new bedding sent to him, saying 'I have heard that your bedding was worn and here I bequeath you a replacement.' The official was astonished and thought the Marquis was like a god." (Han Fei Zi, Chapter 31, 260: "卫嗣君之时, 有人于县令之左右。县令发蓐而席弊甚, 嗣公还令人遗之席, 曰: '吾闻汝今者发蓐而席弊甚, 赐汝席'。县令大惊, 以君为神也。")

27. "Marquis Zhao of Han once hid his fingernail in his hand and searched for it urgently. An attendant cut off his own fingernail and gave it to him. Marquis

knew that the person was dishonest." (Ibid. "韩昭侯握爪，而伴亡一爪，求之甚急。左右因割其爪而效之。昭侯以此察左右之诚不")

28. 'When Marquis Xi was taking a hot bath, he was inconvenienced by some pebbles in the tub. He asked the people around him, 'If the bath official were dismissed, would there be another person to replace him?' 'Yes.' Marquis Xi said, 'Bring that person over.' The Marquis questioned the person directly, 'Why did you put pebbles in my hot tub?' The man confessed, 'If the bath official were dismissed, I would replace him. That is why I placed the pebbles.' " (Ibid. "僖侯浴，汤中有砾。僖侯曰：'尚浴免，则有当代者乎？'左右对曰：'有。'僖侯曰：'召而来。'僖侯曰：'何为置砾汤中？'左右对曰：'尚浴免，则臣得代之，是以置砾汤中。'")

29. Ibid., Chapter 24, 198: "明主观人，不使人观己"

30. "It is analogous to someone looking out from a dark room and observing everything outside in broad daylight: [A ruler] should hide what he likes and dislikes and inhabits in his empty heart. . . . [It was as if] the superior person locked himself up in a room and looked out into the hall. Every inch of the ground would be clear to him, and everyone would observe his own proper place." (Ibid., Chapter 8, 48: "故去喜去恶，虚心以为道舍。上固闭内高，从室视庭，咫尺已具，皆之其处。")