



MISSING THE PERFECT PLACE FOR MUSING QIANFAN ZHANG

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I am writing this report on the direct flight to Beijing via Hainan Air, which offers surprisingly good service despite constant rumors about its embroilment in the political power circle. But rumors are much expected if not positively welcomed here. In fact,

contemporary Chinese live on rumors. It is the daily political rumors that provide the amorphous liberal circles with entertainment, dreams, even some hopes that, of course, most often turn out to be false. Aspiring rumors are ringing again just before the day I am heading home, which makes nice company. I wasn't quite sure if I could get out of my country last August; no such uncertainty on my way back. And I look forward to being back after a long departure.

Reflecting on my stay at the Wissenschaftskolleg, the most impressive time is still the first moment when I stepped into my Villa Walther apartment. I was the first one to arrive; no other Fellow was here yet; it was very quiet. I walked from one room to another, looking at the beautiful lake and greenery, congratulating myself for the prospect of staying at such a paradise for the next ten months. Of course, I never thought about leaving, until I received the note about writing this report. What has to come has come.

There isn't really much to be said about my life at the Wiko. Beautiful scenery, excellent service, wonderful people. No reasonable person can possibly have any complaint. My life was simple and my purpose almost singular. Other than occasional academic visits and excursions into special museum events (and 2017/18 is the anniversary of many events: the October Revolution, Martin Luther, and the Weimar Republic, just to name a few major ones), my life was largely limited to two points between the Koenigsallee and Wallotstraße. So I'll keep this note shorter than the other ones, lest it bores you.

My original project was on comparative federalism, a topic broad enough in itself. But it was quickly further broadened to a more general project on comparative constitutional design. I was intrigued to learn from the initial reading that the original meaning of federation (*foedus*) is a compact. The concrete federal institution isn't that important. It's even hard to say how "federal" the *Federal* Republic of Germany is. But the idea of federalism is important – at least for a giant and historically centralized state like China, if not generally for the world. It means equality rather than absolute hierarchy, mutual respect rather than unilateral allegiance, and rule by negotiation and compromise rather than by command and obedience. If a nation is not governed along these lines, it will be trapped in a vertical order that turns everything upside down.

So this turned me to a more thorough study of social contract, the subject of my long-term interest, in connection with constitution-making, the first subject in comparative constitutional design. It was also my weak subject, since it is pre-constitutional, thus not a traditional subject for constitutional law. But it has been a hot subject in China's constitutional law community for some years. Frankly, I didn't like what has been published in this

area, because much of it consisted of false prophecies based on the wrong (i.e., holistic) methodology. If not careful, the constituent power and even social contract theory can be made to defend if not demand the worst type of dictatorship. This means, however, that I shouldn't have simply ignored the subject as insignificant, since it can make a decisive difference at the outset. Anyway, I am happy that I have developed and largely answered my own queries on the subject and delivered what I see as a major blow to the false prophecies, and even got it published – surprising given the deteriorating speech environment in China today. Another article – this time, positively, on social contract as a “meta-constitution” – is coming out, though in China you can't trust “is” until it turns into “has”. There are still holes in the theory, as some Fellows pointed out during my presentation. Capital and the inequality it creates, for example, do pose a challenge to the idea of contract, meaning that certain conditions need to be met to make social contract socially feasible.

In both of these papers and in future papers, I acknowledge the Wiko, particularly its highly efficient library service. As the first Wiko arrival, I borrowed the first (and probably also the last) book from the Wiko library. I apologize for having overworked the library staff and the student assistant(s) who scanned so many book chapters for me. I cannot possibly read all the books and articles, but I have the materials to ruminate on back in China, so that my research and writing can carry on. The main purpose of my visit is really to get the key materials, because of course I'm aware that I won't have nearly as efficient library service back home. Actually, the Wiko management and library expertise can be useful to China and particularly to my institution, which is establishing a center similar to the Wiko, in collaboration with German universities and a foundation. Our library service needs and could be significantly enhanced by learning from the German library system.

The Wiko library workload could possibly have become heavier had I not taken some time off for something else. I do occasionally write op-eds on constitutional issues, though no longer so often partly due to China's tighter restriction on the media in recent years. But my nerve was a bit touched when Beijing sent a Marx statue to Trier for his 200th-birthday ceremony, which the city accepted after some debates. The event prompted me to write a commentary “From Marx to Lenin”. It was less widely appreciated by China's liberals, probably because they think that it understated the evil his theory did to the world, at least to Russia and China. Many people in the West, particularly in Germany it seems, however, are much friendlier to him, detaching him from the disastrous actions taken under the theory bearing his name. I was also surprised to find that a controversial

intellectual on the left is treated here as the representative of China's intelligentsia and perhaps as a comrade of the Western liberals on the left. This is a gross misunderstanding, of course. It is understandable from the perspective that Germany suffered mostly from the Nazis rather than the Communists, and China the opposite. Anyway, I'm happy to supply a sympathetic yet critical analysis of the intellectual foundation of the latter, and its English and German translation since it may be relevant for German public opinion.

The only imperfect incident at the Wiko was that the lovely swan couple failed to hatch little swans this year. I usually took a walk at least once a week around the Herthasee. That poor swan brooded for nearly three months, while a normal hatching should last no more than 40 days. I had to write a note to the lake administration from the information provided by the Wiko reception. A few days later, the swans disappeared. Then I saw them again in the other half of the lake, swimming to the world that belongs to them. I hope to see them again next time I have the chance to visit here.

As I am back home (unfortunately in hot rainy weather) and about to send this note, I find myself obligated to thank the Wiko again, this time to its IT services, whose staff helped me to recover a file I forgot to back up from my apartment computer. I need it for the conference next month in Nepal, which is assessing the efficacy of its federalist constitution, which is just three years old.

In a word: Thank you!