

Article

An Engagement With 《美国陷阱》揭露了一个骇人听闻的霸凌主义案例 [The 'American Trap' Exposes a Shocking Case of Hegemonism]

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On June 16, 2019 an article authored by Jiang Shigong appeared on the journal *Qiushi* [求是]. *Qiushi* is a bimonthly journal published by the Central Party School and the Central Committee of the Communist Party of China, and devoted to “policy-making and theoretical studies”.¹ A recurring theme in the issue where Jiang Shigong’s article was published was the need to avoid a clash of civilizations [文明冲突]. Jiang Shigong’s article was in line with this broader theme.

The article was entitled *The “American Trap” Exposes a Shocking Case of Hegemonism*, and reviewed the best-seller book by Frederic Pierucci, a former executive of the French rail transport multinational Alstom SA.² This article appeared at a time dense with events related to the trade friction between the United States and China. In the last three weeks, China made its official stance on the trade friction public through a White Paper, established a strategic partnership with the Russian Federation,³ issued a program on Studying Xi Jinping Thought with Chinese Characteristics in the New Era, and tightened its relations with

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- 1 English Edition of Qiushi Journal, *About Qiushi Journal*, September 19, 2011, available at http://english.qstheory.cn/about/201109/t20110919_110860.htm
 - 2 Tara Patel, *American Trap: A French Executive’s View From a U.S. Prison Cell*, BLOOMBERG, January 15, 2019, available at <https://www.bloomberg.com/news/articles/2019-01-15/-the-american-trap-an-executive-s-view-from-a-u-s-prison-cell>
 - 3 See the joint statement issued on June 6, 中华人民共和国和俄罗斯联邦关于发展新时代全面战略协作伙伴关系的联合声明 [Joint Statement between the People’s Republic of China and the Russian Federation on Developing a Comprehensive Strategic Partnership in the New Era], 人民网 [Renminwang], (June 6, 2019) available at <http://politics.people.com.cn/n1/2019/0606/c1001-31123545.html>

North Korea.⁴ In the meantime, the United States scrapped India's trade privileges under the Generalized System of Preference, to which India responded by imposing retaliatory tariffs.⁵

By now, China's official position on the trade *friction* is widely known. That position has been articulated in a People's Daily column that started on May 7, and in a number of articles and commentaries published since May on the People's Daily, on the Xinhua website, and on various other venues. The various perspectives emerging from those commentaries and articles have been summarized in the White Paper issued on June 2, and illustrated in the press conference that followed the release of the White Paper.

Jiang Shigong's essay, therefore, is more usefully read for what the essay reveals about how Chinese intellectuals are using what may be broadly termed "theory". Such a reading is useful, in that it does not just reveal who is using what theory and how. More importantly, it sheds light on how an hypothetical Western intellectual may read, and understand the use of theory by Chinese authors. In the global marketplace of ideas about China, Jiang Shigong occupies an extraordinarily important position. Jiang is one of the most lucid, subtle and astute contemporary intellectuals. If a bigger truth about China can emerge from the present free and fair competition among ideas, then the ideas of Jiang Shigong are a crucial part of this multi-faceted truth.

Earlier writings produced by Jiang Shigong have mounted a quite vigorous defense of 'Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era' [习近平新时代中国特色社会主义思想] as an ideology that is legitimate for China, and can enable China to occupy a position of centrality in the world.⁶ Jiang Shigong has also authored "intelligent and penetrating"⁷ critiques of liberal democracy, and conceived an alternative path of political development for China.⁸ The developmental path conceived by Jiang is alternative with respect to by now 'classical' arguments and advocacy tactics calling for the adoption of a model of liberal democracy tailored after Western institutions.

4 习近平在朝鲜媒体发表署名文章 [Xi Jinping published a signed essay on the media of North Korea], 新华社 [Xinhuashe], (June 19, 2019), available at http://www.qstheory.cn/yaowen/2019-06/19/c_1124642695.htm

5 Nidhi Verma, Neha Dasgupta, *India to impose retaliatory tariffs on 28 U.S. goods from Sunday*, REUTERS, 15 June 2019, available at <https://www.reuters.com/article/us-usa-trade-india/india-to-impose-retaliatory-tariffs-on-28-us-goods-from-sunday-idUSKCN1TG0H0>

6 See, for instance, 强世功: 中国法律人的新“奥德赛” [Jiang Shigong: the New 'Odyssey' of China's Lawyers], 观察者 [Guanchazhe], (June 26, 2013), available at http://www.guancha.cn/qiang-shigong/2013_06_26_153802.shtml; *Jiang Shigong on 'Philosophy and History: Interpreting the "Xi Jinping Era" through Xi's Report to the Nineteenth National Congress of the CCP'*, THE CHINA STORY JOURNAL, May 11, 2018, available at <https://www.thechinastory.org/cot/jiang-shigong-on-philosophy-and-history-interpreting-the-xi-jinping-era-through-xis-report-to-the-nineteenth-national-congress-of-the-ccp/>

7 *Jiang Shigong on 'Philosophy and History: Interpreting the "Xi Jinping Era" through Xi's Report to the Nineteenth National Congress of the CCP'*, *supra*.

8 Larry Catà Backer, *Jiang Shigong 强世功 on "Written and Unwritten Constitutions" and Their Relevance to Chinese Constitutionalism*, 40(2) MODERN CHINA 119 (2014).

The belief in the existence of multiple paths towards political and economic development, and critiques to existing modes of political, economic and social development are neither recent, nor unique to the writings of Jiang Shigong. In this sense, the ideas expressed in the essay can safely be situated within a broader strand of literature that is, by now, well-established. What makes this essay worthy of a close attention, however, is not the fact its argument can be situated within a specific intellectual tradition.

Upon a deeper reading, this essay is similar to one of those oysters containing a natural pearl. But, to understand where the pearl is, it is first necessary to separate each one of the four different strands of thought Jiang Shigong combines in the essay, then take a quick, seeming detour through the labyrinth of contemporary Italian post-Marxist thought and then – finally – signal how Jiang Shigong's essay can contribute to solving one of the conceptual problems that still plague this body of political thought.

At a first sight, Jiang Shigong's essay is a review of *American Trap*, which was just recently translated in Chinese by CITIC Publishing House. The plight of Mr. Pierucci provides the opportunity to consider that "American Trap" carries a dual meaning. First, there is the "judicial trap". Jiang Shigong locates this trap within the domestic law of the United States. This is the trap of plea bargaining — an institution of US law amply analyzed by legal scholars. Second, there is the "economic trap". This second trap is the extension of US jurisdiction outside of the boundaries of the United States. Jiang Shigong holds that long-arm jurisdiction negates the rule of law ideal because, in practice, it has become a "weapon" to knock down those multinational corporations whose global performance poses a threat to US corporations. These statements, backed with Pierucci's case, set the empirical ground for the article to make its theoretical leap.

On a second level of reading, the essay can be understood as a critique of the American version of capitalism. Jiang Shigong introduces a careful — albeit half-stated — distinction between the United States and what others sometimes dump together as the "West" there where he writes:

Today, the different forms of trade friction the United States is launching against China and even the European Union, Japan, India, and Mexico are in fact determined by the nature of American state capitalism

Then, there is the level of the abstract concepts used by Jiang. Jiang's critique rests upon the use of:

- (a) classical concepts of liberal democratic theories of politics: democracy, free markets, globalization, the rule of law;
- (b) concepts in Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era;
- (c) critiques to liberal democracy moved from the standpoint of left-leaning liberalism;
- (d) the concept of Empire, as found in the works of Toni Negri and Michael Hardt.

Political thought is still to a significant extent based on the use of top-down categories and taxonomies. In the sense that, upon encountering a text by any author, the reader immediately attempts to classify the text into one of the available categories. This attempt at categorization and classification stems from the fact not everyone always attempts to mix and merge widely different, sometimes even contrasting, strands of thought. To many, categories are categories. Schools of thought are schools of thought. More often than not, these categories and schools of thought are non-communicating, or even exclusive. Simply stated: they are conceived as separate and discrete.

The eclecticism that can be found in the writings of highly prominent members of the Chinese intellectual class therefore complicates the work of those who attempt to dissect their texts. All of the different categories into which we classify political thought seem to collapse. A possible solution, then, is to observe a text from the perspective of just one of the intellectual referents used by an author. This solution is defective, in that it can lead to finding contradictions and discontinuities in a text that would be perfectly coherent, if we only renounced the attempt to place the text within this or that tradition, and look at the text from a single perspective. Contradictions and discontinuities sometimes lie only in the eyes of the beholder, and from the perspective of a conventional critique.

Jiang Shigong's essay treats the concepts of rule of law, globalization, democracy and free markets as deontological values, and places those values in opposition to the commixion of the public interest of the state, and the private interest of corporations:

The involvement of the US Department of Justice in the global market transactions of multinational corporations is determined by the nature of state capitalism of the United States, a society in which corporate interests are deeply bound to national interest

Treating rule of law, globalization, free markets and democratic decision-making as deontological values, however, does not mean that those values exist in a single, one-size-fits-all version. Economic globalization and democratic politics have changed through time. The principles of democratic politics used to create the Westphalian system are unlike those embodied in the Charter of the United Nations. Earlier versions of democratic politics were limited to state actors, and were used to achieve equality between states. The version of democratic politics that inspired the United Nations, on the contrary, paid a greater attention to the human person, which Jiang refers to as "all mankind":

If human history is the history of an uninterrupted economic globalization, then the history of this economic globalization is the history of using the principles of democratic politics to break up authoritarian autocracy in global governance. By establishing the Westphalian system, European powers broke the autocracy of the early Catholic Empire of Spain and Portugal and achieved equality between the powers. By founding of the "League of Nations" after World War I, and the establishment of the "United Nations" after World War II, the Soviet

Union, the United States, China, and countries of recent independence jointly broke up the European monopoly of global governance and entered a new era of participation in global governance by all mankind.

The treatment of democratic decision-making, free markets and globalization as values that are good in themselves, and ought not to be treated as means to an end allows the essay to imply that those values belong to all the peoples of all the nations, and that no single country enjoys a monopoly on their definition or their realization.

The idea that deontological values should not be used as means to an end is widely accepted as part and parcel of the eternal philosophical battle between utilitarian and deontological ethics. In simpler terms: if the rule of law and free markets are deontological values, they should be respected in and of themselves, and not be used as means to achieve ends other than the rule of law and free markets. This idea forms the core of the thesis Ugo Mattei and Laura Nader advanced in *Plunder. When the Rule of Law is Illegal*.⁹ And it has echoes also in Jiang Shigong's essay. In their 2008 book, Mattei and Nader explore how rule of law mechanisms have been used by Western countries to legitimize their global extraction of wealth and resources.

Despite some of the reactions it provoked, *Plunder* is a book firmly placed within the liberal and democratic tradition, albeit a left-leaning one. Behind *Plunder*, and other similar works, there lies the broader aspiration to improve the society one lives in without having to recur to paradigm shifts or to similarly dramatic means. While he is known to the English-speaking public thanks to the book *Plunder*, Mattei also uses the notion of "bene comune",¹⁰ an idea with connotations that cannot be fully conveyed by the English translations of "commons". It is doubtful, however, that Jiang Shigong's essay uses concepts and ideas drawn from Mattei's participation in decision-making processes. For instance in 2011 the author of *Plunder* was among those who promoted a popular referendum to avoid that control over water distribution be privatized. But, these and other initiatives belong to local governance processes, so they are not known outside of the confines of Italy.

What shines through Jiang Shigong's essay is rather Toni Negri and Michael Hardt's notion of Empire. Jiang Shigong's use of this idea invites a deeper reflection not on China. But on how a strand of contemporary political thought is grappling with the questions that are normally provoked by the need to somehow organize 'the way in which persons live together in a society'. Let's call this 'how persons live together in a society' politics for the sake of simplicity.

Differently from the work of Mattei and Nader, the books of Toni Negri are more easily identified with Italian post-Marxism. Italian post-Marxism comes in many flavors and

9 UGO MATTEI AND LAURA NADER, *PLUNDER. WHEN THE RULE OF LAW IS ILLEGAL* (2008).

10 Elisa Magri, *Beni Comuni: il Manifesto di Ugo Mattei* [Beni Comuni: Ugo Mattei's Manifesto] *IL CAMBIAMENTO*, August 16, 2012, available at http://www.ilcambiamento.it/articoli/recensione_beni_comuni_manifesto

varieties. Toni Negri is perhaps the most famous representative of its “autonomist” strand. And by no chance, for those who are familiar with his past participation in extra-parliamentary leftist organizations and other vicissitudes. *Empire*, however, is no propaganda pamphlet, but an articulate, multi-volume vision for an alternative politics. The political vision articulated in *Empire* is indeed global, faithful to Karl Marx’s original vision. But, the ways in which Hardt and Negri attempt to solve the ‘contradiction’, the 矛盾 posed by *Empire* has deep roots within Italian post-Marxism, and it is influenced by what authors who have participated in debates in political philosophy see as the ‘main contradiction’. To a large extent, the ‘main contradiction’ 主要矛盾 Italian post-Marxism is grappling with is the very concept of biopolitics, and the intellectual *cul-de-sacs* using this concept leads one into.

Over-simplifying the debate, it is held that the so-called ‘main contradiction’ of biopolitics is produced in the world of ideas first. Then, as ideas are acted upon and produce facts, the contradiction comes to life and exists in the world. Which ideas can be so powerful as to produce a contradiction in the real world? All those ideas that survived the transition from the “autocracy of the early Catholic Empire” and that came to shape Westphalian forms of state sovereignty.

Those ideas are resilient. Still today, they form the main categories of thought we use to think politics, and to construct the abstract concepts we then use to build up theories and models. Does this mean that Italian post-Marxism is running around in circles, trying to find a way out there where no way out exists? Intellectuals as Mattei, but perhaps most importantly Negri and others, are indeed trying to find ideas that can be separated from the concepts we inherited from theocratic sovereignty, and used to improve governance processes.

But, doing so while working within a European tradition is no mean feat. If the entire system of ideas created in Europe to think and theorize politics is directly or indirectly ‘tainted’ by pre-Westphalian notions, then we simply do not have the right tools to create new concepts. Unless, that is, we venture back to classical antiquity, look at the period before the reign of Emperor Constantine I, or take other available roads, include the road that leads outside of Europe.

This latter road, however, carries a definite risk for those educated within the European tradition. We are not equipped with the philological, etymological, historical, philosophical knowledge needed to understand how abstract concepts in Asian, Indian, African philosophies of politics ‘work’ in their native contexts, and through their history. We are not familiar with the genealogies of concepts in those philosophical traditions. The transplant and the reinterpretation of any of those concepts is always possible. But, this transplant can introduce definite connotations and a broader potential that may operate in unexpected ways, without us even being aware of the connotations and potentials we are introducing in our theoretical systems.

Negri attempts to solve the 'contradictions' produced by the emergence of "Empire" by using the idea of the *multitude*, and Baruch Spinoza's view that God and nature are one, interchangeable, and that there is no distinction between the creator and the created. To Negri, this move should provide a solution to the problem of 'vanguardism'. Negri is an autonomist, and from an autonomist standpoint, any attempt to conceptualize the liberation of the 'multitude' from a standpoint external to the lived lives of the 'multitude' ought to look somewhat suspicious. By placing God on the same level with nature – which includes man by the way – Negri is simply attempting to disable one of the central conceptual mechanisms in Western political philosophies. But, the notion of multitude is nothing else than the *turba*, the *multitudo*, the *ochlos* ...aggregates of persons who – in the original texts where those terms are used – are not really secular entities, and due to their moral limitations need some kind of leadership. And if a person is not morally autonomous it cannot fully govern or determine herself. The concept of 'multitude' as used by Negri carries all of these connotations and mechanisms into Empire.

Jiang Shigong's essay, however, avoids this aspect of the work of Toni Negri. The essay only uses the notion of Empire. It is precisely at this point in the essay that the difficulties, for the Western reader, begin. Whenever the idea of Empire is invoked by an author, any author, it carries with itself its remaining half – the notion of Multitude. Empire cannot exist without the Multitude. And the Multitude is in turn produced by Empire. This dialectical mechanism is, in a sense, the very basis of Toni Negri's books. But, where is the idea of Multitude in Jiang Shigong's indirect use of Toni Negri? There is no such idea. In Jiang Shigong's essay, Empire exists in the absence of a Multitude.

A conventional critique of Jiang Shigong's essay would portray the essay as 'truncated', on grounds one of the two essential halves of Toni Negri's dialectical mechanism is not present in Jiang's essay. But that criticism would see discontinuities and gaps there where there is continuity. What seems to emerge from this essay, if my interpretation of authorial intention is correct, is simply that Jiang Shigong sees Empire and Multitude as detachable and mutually independent, rather than – as we Europeans do – conceive of them as two sides of the same coin. So Jiang can freely invoke notions of "Empire" without bringing ideas of Multitude into manifestation. Neither in the text nor in the minds of its Chinese readers.

Whereas when the same operation is performed by a European, before an academic audience of Europeans, any invocation of Empire achieves the opposite results. Empire manifests, and with it come along the Multitude, Baruch Spinoza, and the search for a concept not prone to the difficulties caused by the ideas of *ochlos*, *turba*, *multitudo*.

In fact, a concept that may not cause the same difficulties as *ochlos*, *turba* and *multitudo* lies before our eyes. We do not see that concept in Jiang Shigong's essay, because we have precise ideas about how concepts in political philosophy ought to be born, and where they ought to be found. I will not further elaborate on the specific concept used by Jiang Shigong, and on the genesis of this concept. But, I invite the reader to read Jiang Shigong's essay with an open mind.

