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State Ownership and Corporate Governance in China: An Executive Career Approach

Li-Wen Lin*

Abstract

China's state-owned enterprises (SOEs) now comprise over 60 percent of the largest 500 companies in China and more than 10 percent of Fortune Global 500 companies in the world. Despite their importance to China's domestic economy and foreign investment strategy, many governance characteristics of the SOEs remain a black box, one of which is the SOEs' executive composition and recruitment development. This Article shifts away from the typical focus on how the things function (e.g. ownership structure and board of directors) to who the people in charge are, which is an important approach to understanding corporate governance and economic development in countries with weak legal institutions. It investigates the legal guidelines of SOE executive recruitment and the evolution of educational, political and career attributes of the CEOs of China's large SOEs over the past decade. This Article utilizes legal, historical, sociological, and comparative methods to explain the change and stability of the executive composition in China's large SOEs. The executive recruitment shows an orientation toward politically-bounded and firm-specific professionalism as well as some faint potential of bottom-up and competition-driven marketization. The recruitment guidelines and empirical findings in this Article raise questions about the adequacy and capacity of existing international laws and enforcement in coping with the rise of Chinese SOEs, the challenges to improving Chinese corporate governance, and the underlying forces that form apparent similarities in elite composition across countries.

I. Introduction

China's once dilapidated state-owned enterprises (SOEs) have grown into powerful giants. After three decades of reform, China's SOEs now comprise over 60 percent of the largest 500 companies in China and more than 10 percent of Fortune Global 500 companies in the world.¹ Pervasive state ownership continues with no sign of vanishing as a salient feature of Chinese corporate governance.

When approaching China's SOEs, scholars have typically measured their governance attributes against international standards of corporate governance and have generally come to a

* Assistant Professor, University of British Columbia Faculty of Law. Helpful comments on earlier drafts were received from Curtis Milhaupt, Bruce Carruthers, Martin Höpner, James Mahoney, Saskia Freye, David Stark, Josh Whitford, Gil Eyal as well as participants at Max Planck Summer Conference and workshops at the University of British Columbia Faculty Of Law and the Wharton School of the University of Pennsylvania.

¹ *Global 500 2013*, CNNMoney.com, http://money.cnn.com/magazines/fortune/global500/2013/full_list/ (last visited Oct. 6, 2013).

conclusion that the governance institutions are lacking or dysfunctional in China.² This typical approach tends to focus on the function of *things* (i.e. rules and structures) and overlook the character of *humans*. A philosophy underlying this approach is to seek corporate governance by the rule of law in lieu of the rule of man. This approach promises a functional legal regime of corporate governance that can minimize arbitrariness exercised by human agents. The flipside of this underlying philosophy, however, implies that the personal attributes of corporate leaders can play a significant role in affecting the quality of corporate governance—especially when legal institutions are weak, such as the case of China. As a result, simply focusing on rules or structures without probing into leadership is an insufficient approach for grasping the full picture of the governance of China’s SOEs.

The importance of leadership attributes in SOE governance is further complicated by the political institutions in China. The Chinese state-owner is not an ordinary controlling shareholder. The Chinese Communist Party is the real hand in the glove of state ownership in China. As the single-ruling party, it controls all the important institutions in politics, business, media, academia, and every sphere of public life in China. The chief control mechanism is the Party’s sophisticated but opaque personnel management over key positions in important institutions, including SOEs.³ As one commentator notes, “[t]he Party’s control over personnel was at the heart of its ability to overhaul state companies, without losing leverage over them at

² See Sonja Opper & Sylvia Schwaag-Serger, *Institutional Analysis of Legal Change: The Case of Corporate Governance in China*, 26 WASH. U. J.L. & POL’Y 245 (2008); Zhong Zhang, *The Shareholder Derivative Action and Good Corporate Governance in China: Why the Excitement Is Actually for Nothing*, 28 UCLA PAC. BASIN L.J. 174 (2011).

³ On the party personnel system generally see John P. Burns, *Strengthening Central CCP Control of Leadership Selection: The 1990 Nomenklatura*, 138 CHINA Q. 458 (1994); Hon S. Chen, *Cadre Personnel Management in China: The Nomenklatura System 1990-1998*, 179 CHINA Q. 703 (2004).

the same time.”⁴ The Party’s management of executives’ careers directly shapes managerial incentives and in turn influences the corporate behavior of China’s SOEs.

Recent studies have insightfully suggested that the Party’s executive career management is a fundamental explanation for why many of Chinese SOEs’ practices diverge from the principles of corporate law or securities regulation. For example, scholars have found that in addition to monetary executive compensation, political promotion acts as another important incentive mechanism to address the agency problems of China’s state-owned companies.⁵ Moreover, empirical evidence shows that stock options granted to the executives of China’s state-owned companies are forged simply to fool foreign investors because such a compensation scheme is incompatible with China’s indigenous executive career management system.⁶ The institutionalized personnel rotations between China’s SOEs and other government units restrict the exercise of stock options, which can drastically enlarge the pay gap between the SOEs and the civil servant system. Relatedly, Professor Katherina Pistor argues that in China’s financial industry the Party’s tight control over the financial cadre’s careers appears to be the dominant governance mechanism over ownership ties and legal rules.⁷

Although scholarship to date has recognized that the Party’s control over executive careers plays a significant role in shaping the governance of China’s SOEs, the personnel management of the visible hand remains obscure to outsiders.⁸ A fundamental question

⁴ RICHARD MCGREGOR, *THE PARTY: THE SECRET WORLD OF CHINA’S COMMUNIST RULERS* 69 (2010).

⁵ See Jerry Cao, et al., *Political Promotion, CEO Incentives, and the Relationship between Pay and Performance* (Wharton Fin. Inst. Ctr. Working Paper No. 11-53, 2011).

⁶ See Zhihong Chen et. al., *Are Stock Option Grants to Directors of State-Controlled Chinese Firms Listed in Hong Kong Genuine Compensation?*, ACCT. REV. (forthcoming).

⁷ Katherina Pistor, *The Governance of China’s Finance*, in *CAPITALIZING CHINA* 35 (Joseph P.H. Fan & Randall Morck eds., 2013).

⁸ A number of prominent sociologists have noted the business elite composition as an important but missing area of studies on Chinese corporate governance and national economy. See Andrew G. Walder, *From Control to Ownership: China’s Managerial Revolution*, 7 *MGMT. ORG. REV.* 19 (2009); Neil Fligstein & Jianjun Zhang, *A New Agenda for Research on the Trajectory of Chinese Capitalism*, 7 *MGMT. ORG. REV.* 39 (2009).

regarding the Party's executive management is who the top managers really are. Specifically, by which career pathways have the top managers of China's SOEs come to power? What kinds of attributes are advantageous and sought after in the executive labor market of China's SOEs? How cohesive is the elite at the highest echelon of China's largest companies? How has executive recruitment evolved over time? Have corporate governance reforms such as the introduction of the board of directors changed the executive composition? From a perspective of comparative corporate governance, how do Chinese executives differ from their counterparts in other countries? Is the composition of the Chinese business elite converging toward that of the shareholder-oriented model or the stakeholder-oriented model?

Answering these questions requires a method for tracing the backgrounds and career paths of executives, briefly called an "executive-career approach" in this Article. Following this approach, this Article conducts a systematic investigation of the biographies of the CEOs of China's large non-financial SOEs between 2002 and 2010.⁹ The emphasis on CEOs assumes that the managerial culture of Chinese companies is highly hierarchical and paternalist, with decision-making power concentrated in the highest echelon of the corporate hierarchy.¹⁰ Moreover, many large Chinese SOEs have not yet established a board of directors and the management power remains concentrated in the top leader ("yibashou") of the corporate entity. The period of investigation (2002-2010) in this Article was chosen to evaluate the dynamics in executive composition under recent institutional reforms.

⁹ Financial and non-financial SOEs are governed by different regulatory regimes in China. This Article is focused on non-financial SOEs.

¹⁰ C.J. Zhu et al., *Development of HR Practices in Transitional Economies: Evidence from China*, 19 INT'L J. HUMAN RES. MGMT. 840 (2008); S.H. Kong, *An Empirical Investigation of Mainland Chinese Organizational Ideology*, 5 ASIAN BUS. & MGMT. 357 (2006); GORDON REDDING & MICHAEL A. WITT, *THE FUTURE OF CHINESE CAPITALISM: CHOICES AND CHANCES* (2007); Michael A. Witt, *China: What Variety of Capitalism?* (INSEAD Working Paper, 2010).

Over the past decade, the Chinese government has introduced a variety of rules and guidelines that are supposed to professionalize and marketize executive recruitment. These executive recruitment rules and guidelines help shed light on Chinese corporate governance, but they remain unexplored in the existing literature. The executive recruitment guidelines provide a roadmap for identifying potential changes in executive attributes including educational credentials, political qualities, and career experience. In addition to using the regulatory schemes as the basic analytical framework, this Article draws upon three sources of knowledge to analyze the empirical findings on executives' educational, political, and career attributes. The first source of information comes from China's political and business organization history, which aims to provide a contextualized interpretation of the findings. Because climbing to the top echelon of the corporate hierarchy usually takes decades, the contemporary elite composition is largely a consequence of institutional changes accumulated in the past. The second source of knowledge derives from sociological theories which have been frequently used to explain career patterns and achievements. In particular, this Article applies sociologist Ronald Burt's idea of "brokerage and closure" in network theory to explain the comparative advantages of certain executive career pathways and the implications for Chinese corporate governance and the national economy.¹¹ The third source of knowledge draws from executive career studies in the literature of comparative corporate governance. The reference to comparative studies shows how Chinese executives differ from the executives of other corporate governance regimes. The comparison helps to solve the puzzle of how China fits in the taxonomy of comparative corporate capitalism.¹²

¹¹ RONALD S. BURT, *BROKERAGE AND CLOSURE: AN INTRODUCTION TO SOCIAL CAPITAL* (2005).

¹² Recent scholarship has been trying to understand how China fits in the standard comparative capitalism paradigms. Witt, *supra* note 10; Lin & Milhaupt, *infra* note 13.

With this analytical framework, this Article shows that China's executive composition over the past decade indicates some stability and some change under institutional reforms. And this combination of stability and change has mixed signals for Chinese corporate governance development. On the whole, executive recruitment is oriented toward politically-bounded and firm-specific-knowledge professionalism and indicates a potential trend of bottom-up and competition-pressure-driven marketization. It is a system that strongly favors insiders over outsiders and presents a high degree of closure and cohesion. While high elite cohesion may be helpful to national policy implementation, it poses challenges to corporate governance improvement due to an increased tendency of groupthink and perpetuation of old practices, which usually undermine the implementation of governance reforms envisioned in the corporate law. Moreover, through the comparative analysis of the business elite, this Article finds that China looks similar to countries of the stakeholder-oriented model and obviously different from the shareholder-oriented model. However, the apparent similarities in the elite composition among China and countries of the stakeholder-oriented model are probably formed by different country-specific underlying causes.

This Article proceeds as follows. Section II gives a brief description of the ownership and governance structure of China's large non-financial SOEs. It provides an organizational blueprint to contextualize executive recruitment practices and to construct the executive career pathways discussed in the following sections. Section III discusses the executive recruitment reform rules over the past decade and the implied changes in executive attributes. Section IV traces how executives may have come to power by constructing six types of career pathways based on organizational structure and relational distance. This Article hypothesizes the potential development patterns of each career pathway under institutional reforms and discusses the

corporate governance and individual career attainment implications of each career pathway.

Section V empirically examines the evolution of executive attributes under formal institutional reforms. It draws upon the specific institutional setting, social network theory, and comparative corporate governance literature to analyze the empirical findings. Section VI concludes with the legal implications for international regulators as well as the challenges and future research directions of executive recruitment and corporate governance in China.

II. The Organization and Governance of China's SOEs

China's large state-owned non-financial enterprises are typically organized as vertically-integrated corporate groups. Each corporate group has a holding company (known as "core company") standing at the top of the ownership hierarchy. The Chinese state-owned non-financial companies on the Fortune Global 500 list, such as China National Petroleum Corporation, China Mobile Communication Corporation and China Datang Corporation, are all the core company of a corporate group. Below the core company are a large number of subsidiaries including listed companies, finance companies, research institutes, and many other related firms along the production chain.¹³ The ultimate controlling shareholder of the core company in the corporate group is an ownership agency of the central or local government known as the State-Owned Assets Supervision and Administration Commission ("SASAC"). Other than the central SASAC, there presently are 31 SASACs at the provincial level and 331 at the lower-government levels.¹⁴ The core company acts as an intermediary between SASAC and group firms that engage in production. This Article focuses on executive recruitment of the core company in the corporate group.

¹³ For a detailed analysis of the corporate group structure in China see Li-Wen Lin & Curtis J. Milhaupt, *We are the (National) Champions: Understanding the Mechanisms of State Capitalism in China*, 65 STAN. L. REV. (2013).

¹⁴ Unless specifically referring to "the central SASAC" or "the local SASACs", this Article simply uses "SASAC" to refer generally to this type of ownership agency in the Chinese government system.

SASAC, established in 2003, is legally tasked with consolidating the shareholder control rights formerly dispersed among various government agencies.¹⁵ In practice, SASAC's controlling shareholder status is often overshadowed by the persistent old power structure. SASAC's appointment right is eclipsed by a deep-rooted institutional practice in China—that is, the Organization Department of the Chinese Communist Party controls the human resources management of all the important organizations, including SOEs.¹⁶ As a result, SASAC and the Party's Organization Department often jointly release executive management regulations and personnel announcements.

In cooperation with the Party's Organization Department, SASAC has introduced many regulatory rules stated to improve the quality of SOE executive teams. In 2008, the Chinese government passed landmark legislation on SOE governance, the Law on State-Owned Assets of Enterprises (“SOE Assets Law”).¹⁷ The SOE Assets Law formally defines how SASAC, as the agency authorized to exercise controlling shareholder rights, should manage SOE matters like executive personnel management.

According to the SOE Assets Law, SASAC can appoint and evaluate the SOE's directors and top managers, including CEOs, vice CEOs, CFOs and other executives.¹⁸ This appointment authority blatantly strips away the most important power of the board of directors—selecting and evaluating top managers. SASAC officially advocates corporate governance reform in the form of establishing SOE boards of directors. However, the SOE Assets Law, coupled with other related regulations, bears virtually no sign that SASAC (and, ultimately, the Party) has any intent

¹⁵ For a brief discussion on the role of SASAC, see Lin & Milhaupt, *supra* note 13, 734-745.

¹⁶ See, e.g. Burns, *supra* note 2, at 462-63.

¹⁷ [Law of the People's Republic of China on the State-Owned Assets of Enterprises] (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 28, 2008, effective May 1, 2009) 2008 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. XXX (China) (“SOE Assets Law”).

¹⁸ Article 22, SOE Assets Law. The core companies of the large state-owned business groups in China are typically 100% owned by the national or local government with SASAC exercising the shareholder control rights.

to relinquish authority to appoint the top positions in the most important business enterprises.¹⁹ Lack of the ability to use appointment authority as a monitoring weapon raises doubts that an SOE board of directors can play any meaningful role in improving the quality of executive management teams. Observers note that, even with the appearance of boards of directors, the Party truly orchestrates SOE governance in China.²⁰

III. Institutional Reforms and Executive Recruitment

Since 2003, the SASAC and the Party's Organization Department have introduced rules and guidelines stated to improve the quality of SOE executive teams. These executive reform policies aim to professionalize executive teams and open the executive labor market.²¹ As executive recruitment reforms proceed, the composition of the business elite may change. This Section discusses how professionalization and marketization reforms may cause changes in three dimensions: political attributes, educational backgrounds, and career pathways. Section IV discusses career pathways in-depth, due to the topic's complexity.

Professionalization. State ownership often raises concerns over politics overriding professionalism. Seniority, personal connections (“*guanxi*”), and political loyalty are important

¹⁹ “In 2008, [the central] SASAC and the Organization Department of the Communist Party promulgated Guidance Opinions on Top Manager Appointments by the Board of Directors of Central Enterprises. These Opinions for the first time gave some appointment power to boards. However, the CEOs of the top fifty-three central enterprises are not covered by the Opinions. Even with respect to other enterprises, the nomination committee of the board is required to ‘fully consult’ with the Party Committee and SASAC before nominating a CEO. The preliminary appointment must be filed with SASAC before the appointment becomes final.” Lin & Milhaupt, *supra* note 13, at 739 n.122.

²⁰ See Nicholas Howson, *China's Restructured Commercial Banks: Nomenklatura Accountability Serving Corporate Governance Reform?*, in CHINA'S EMERGING FINANCIAL MARKETS: CHALLENGES AND GLOBAL IMPACT 123, 140 (stating that, despite the use of boards of directors, the Party Committee, which is subject to control of the Party system, is the “real power” in China's largest state-owned commercial banks) (Zhu Min, Cai Jingqing & Martha Avery eds., 2009); Lin & Milhaupt, *supra* note 13 at 737 (noting that SASAC exercises its power to select and compensate top managers “in the shadow of party control”).

²¹ Rather than reviewing in detail each regulatory scheme on executive recruitment, this Article gives a summary of key points from the relevant rules. See, e.g. Provisional Rules on Corporate Leaders of Central SOEs (2009); Provisional Measures on Comprehensive Evaluation of Corporate Leadership Teams and Leaders of Central SOEs (2009); Guidance on Public Recruitments for Senior Managers of Central SOEs (2004). Local SASACs also have similar rules.

factors in job chances and promotion opportunities in China, especially for state-affiliated organizations like SOEs.²² This Section addresses the dimension in which professionalization reforms would take place and how these factors would subsequently change.

SASAC executive reform rules suggest that professionalization will occur in a politically bounded fashion because political allegiance to the Chinese Communist Party remains a paramount quality in selecting and evaluating top managers of China's SOEs.²³ The corporate governance system fortifies the political quality control. Chinese SOEs have two parallel systems in personnel management: the regular corporate management system and the party system.²⁴ Corporate management system positions, similar to those commonly found in firms elsewhere, include CEO, vice CEO, chief accountant, and—if the company has a board of directors—board chairman and independent board members. Party system leadership teams includes the secretary (and several deputy secretaries) of the party committee, a secretary of the discipline inspection commission (an anticorruption office), and other members of the party committee. Formal policy overlapping the party and corporate leadership teams dictates that a corporate manager of a given rank typically holds a position of equivalent rank in the party system.²⁵ The link between the corporate and party leadership teams aims to ensure consistency

²² See Andrew G. Walder, *Career Mobility and the Communist Political Order*, 60 AM. SOC. REV. 309, 309 (1995) (discussing the communist party's role in executive promotion within China's divided career path system, and noting that the path that considers political credentials leads to positions with greater authority and more material privileges than the path that only considers educational credentials); See also Yanjie Bian, *Getting a Job Through a Web of "Guanxi" in China*, in NETWORKS IN THE GLOBAL VILLAGE: LIFE IN CONTEMPORARY COMMUNITIES [pin, pin] (Barry Wellman ed., 1999).

²³ Article 4(1), Provisional Rules on Corporate Leaders of Central SOEs (2009); Provisional Measures on Comprehensive Evaluation of Corporate Leadership Teams and Leaders of Central SOEs (2009).

²⁴ Article 9, Provisional Rules on Corporate Leaders of Central SOEs (2009).

²⁵ "In 2004, the Organization Department of the Chinese Communist Party and the Party Committee of SASAC released *Guanyu Jiaqiang he Gaijin Zhongyang Qiyedang Jian Gongzuo de Yijian* (<chinese law name>) [Opinions Concerning Strengthening and Improving the Party Construction Work in the Central Enterprises] (promulgated by the Org. Dep't Communist Party of China & Party Comm. SASAC, Oct. 31, 2004). A key principle of the Opinions is the policy of 'bilateral entries and cross appointments.' The term *bilateral entries* means that members of the Party Committee can serve on the board of directors, the supervisory board, and the top management team, while board members and top managers who are party members can join the Party Committee. The term *cross*

between corporate decision-making and party policy. Political loyalty to the Chinese Communist Party as a primary requirement suggests that the Party has no intention to relinquish control over the largest economic organizations in China. Professionalism is unlikely to touch on areas requiring or triggering sensitive political reforms. Rather, permissible reforms are expected to occur in less politically sensitive areas such as age, education, specialization, work experience, and moral integrity, as envisioned in SASAC's executive reform guidance.²⁶

Part of the professionalization scheme is to bring young managers into, and retire old managers out of, the leadership teams.²⁷ Young managers are desirable because they may be more active and innovative, and less influenced by old traditions. The professionalization reform also sets educational requirements. As academic credentials are an approximate indicator of intellectual ability, the executive reform rules require executives to have a minimum of a bachelor's degree.²⁸ Moreover, while Chinese elites have traditionally been trained in engineering,²⁹ non-engineering-trained executives are expected to be on the rise as the division of labor becomes complex in large business organizations.

In terms of career experience, organizations should prefer business-related work experience over political career experience. In the old days, China's SOEs were managed

appointments means that, if the company has a board of directors, the secretary of the Party Committee and the board chair can be assumed to be the same person. If the company does not have a board of directors, then the secretary of the Party Committee can be assumed to be the CEO, and the vice-CEO can be assumed to be the deputy secretary of the Party Committee." Lin & Milhaupt, *supra* note 13, at 737 n.118 (citation omitted).

²⁶ See *infra* notes 27-31 and accompanying text.

²⁷ In December 2004, the central SASAC issued a regulatory order to the most important 53 central SOEs regarding the mandatory retirement age of the top managers. According to the order, the ministerial-rank managers were strictly required to retire upon reaching the age of 65 and the vice-ministerial-rank managers upon reaching the age of 60. Local SASACs made even more aggressive requirements. For example, according to the Provisional Rules on Corporate Leaders of SOEs under Hefei City SASAC, the chief-position executives such as the board chairman and CEO should not exceed the age of 50, and the vice-position executives such as vice-CEO should not exceed 45 years old. The reappointed chief-position executives should not exceed the age of 55 and the reappointed vice-position executives should not be older than 52.

²⁸ Article 5, Provisional Rules on Corporate Leaders of Central SOEs (2009).

²⁹ CHENG LI, CHINA'S LEADERS: THE NEW GENERATION 37, 40 (2001) (noting that, of the college-educated Chinese elites who received promotions in the 1980s, most were trained in engineering and natural sciences, including 78.3% of ministers and vice ministers in 1988 and 74.6% of mayors in 1986).

similarly to other government units, and incompatibly with modern business management. To address this concern, SASAC's reform rules require executives to have at least ten years of work experience in business organizations.³⁰ Besides the general requirements of age, education, and work experience, moral integrity is a specific quality that needs significant improvement. Because China's SOEs have been plagued by corruption, executive reform policies repeatedly emphasize that executives should have rectitude, a law-abiding nature, and a good public image.³¹

Marketization. The SOE executive headhunting process, from beginning to end, used to take place in complete darkness. Job information and opportunities were available only to people inside the system. As a result, applicants perpetuated old habits because they lacked access to new management skills. To address this problem, the central and local SASACs, with the Party's endorsement, have openly solicited job applications for hundreds of executive positions since 2003.³² These positions include CEOs, vice CEOs, and chief accountants (equivalent to CFOs) of the core companies under their supervision. Those who are interested in the executive openings may submit their applications and go through paper-based qualification reviews, standardized written examinations, and face-to-face interviews.³³ This executive headhunting targets not only China's domestic labor market, but also overseas talent. The political, educational, and work experience requirements discussed above are relaxed for executives recruited from overseas through this process.³⁴ In 2010, thirty-one senior managers of central

³⁰ Article 5, Provisional Rules on Corporate Leaders of Central SOEs (2009).

³¹ Articles 1, Provisional Rules on Corporate Leaders of Central SOEs (2009); Provisional Measures on Comprehensive Evaluation of Corporate Leadership Teams and Leaders of Central SOEs (2009); Regulations on Honest and Ethical Business Practice Behavior of SOE Corporate Leaders (2009).

³² SASAC's Press Release on Central State-Owned Enterprises' Public Recruitment for Top Managers, June 14, 2006.

³³ Guidance on Public Recruitments for Senior Managers of Central SOEs (2004).

³⁴ Articles 6, Provisional Rules on Corporate Leaders of Central SOEs (2009).

SOEs, out of 1,410 applicants worldwide, were successfully recruited through this process.³⁵

This new recruitment strategy is praised by the Chinese government as a process of “openness, fairness, competitiveness, and meritocracy.”³⁶

In theory, marketization of the recruitment process suggests that political affiliation with the Chinese Communist Party (the “Party”) may become a less important factor for executives recruited through this process because the value of professional experience accumulated outside the state system may compensate for a lack of political affiliation. In other words, it opens up opportunities for outsiders—professionals who build up their careers in private or foreign companies—to parachute directly onto the top of the SOE system. This public recruitment process also suggests a potential increase in the number of executives who have been educated abroad.

IV. A Typology of Executive Career Pathways

Tracing executive career pathways is a useful method to investigate how executives have come to power and what aspects of career experience have changed under the professionalization and marketization reforms. This Article constructs six types of career pathways based on the prevailing organizational structures of China’s SOEs and the organizational distance between the SOE of concern and the organizations that the executive has worked for prior to being appointed CEO. The distance is defined by whether the prior organization is related to the concerned SOE in terms of supervisory authority in the government system and whether the prior organization is an institution outside the state system (*i.e.*, private or foreign companies). Organizations that fall outside the supervisory line or the state system are considered more distant from the SOE in

³⁵ Press Release, The First Bureau of Corporate Leader Management of SASAC of the State Council (April 1, 2011) (on file with author).

³⁶ Press Release, Recruitment decisions by SASAC of the State Council, May 10, 2005, Aug 28, 2006, and May 22, 2007.

question. This typology allows for evaluation of the degree of personnel integration between SOEs and other government units, as well as the degrees of professionalization and openness of the executive labor market. Based on this typology, this Article proposes the features of each career pathway in securing the CEO position and the implications for corporate governance. Moreover, rather than simply focusing on how CEOs came to power, this Article considers what they do after leaving their executive positions. Tracking the post-CEO status helps get a more complete picture of the degree of SOE personnel integration with other government units. Furthermore, analyzing post-CEO status helps to better understand managerial incentives and evaluate the role of the legal system in punishing top managers' illegal behavior.

A. Pathways to CEO

The Single-Group Track. China's large non-financial SOEs are typically organized as corporate groups registered with the state.³⁷ A corporate group is legally required to be comprised of a parent company and at least five controlled subsidiaries. When an executive spent his or her whole career within one corporate group before being appointed CEO of that group, the executive's career follows a single-group track.

The single-group track is based on climbing the corporate ladder from the bottom to the top. If this track is the mainstream route, it suggests that a group-based seniority system operates to select the top managers of China's SOEs. According to social network theory, executives coming to the top through the single-group pathway possess a high volume of firm-specific knowledge and insider network resources.³⁸ When firm-specific knowledge is valued and insider

³⁷ Provisional Rules on Business Registration (1998). In order to form a group, the parent company must have registered capital of at least 50 million RMB (about \$7.5 million) and at least five subsidiaries. The total registered capital of the parent and its subsidiaries must be at least 100 million RMB (\$15 million).

³⁸ For the early leading literature in explaining the importance of social networks to job opportunities see generally MARK GRANOVETTER, *GETTING A JOB: A STUDY OF CONTACTS AND CAREERS* (2d ed.1995) (arguing that the best jobs are found through personal contacts and developing a causal model to explain the acquisition of job information through personal contacts).

social connections are important, managers following the single-group track have great advantages in attempting to reach the CEO position. From a corporate governance perspective, the single-group track assures some professionalism due to the CEO's possession of rich firm-specific knowledge. However, it also presents an increased risk of excessive power concentration, especially given that the board of directors is usually dysfunctional (or absent) as an internal monitoring mechanism and China's external governance institutions remain weak.

The Multi-Group Track. This career pathway refers to a route in which the executive has worked in other state-owned business groups prior to CEO appointment. At first brush, the SOE executives following the multi-group track look similar to those changing jobs across employers in other executive labor markets. But unlike other labor markets normally governed by the invisible hand, China's SOE executive market is centrally managed by the party-state. Thus, job movements across organizations are not as free as in other labor markets. Leaving aside personal reasons for job change across organizations, an important institutional reason for forming the multi-group track is the party-state's personnel rotation management system.

Personnel rotation is a legally institutionalized system in managing civil servants in the Chinese government units; because the boundary between the government units and SOEs is porous, the system in practice spills over into SOEs.³⁹ The party-state frequently rotates top managers across business groups of the same industry. For example, in April 2011, the state-owner rotated the CEOs of the three central petroleum SOEs in China, each of which is a Fortune Global 500 company. In the eyes of the party-state, executive rotations perform two institutional functions. First, given that institutionalized corporate oversight organs such as the board of directors have yet to be fully developed, executive rotations can help reduce excessive

³⁹ According to the Provisional Measures on Rotations of Civil Servants, enacted in 1996 and still effective today, a civil servant who has served in a leadership position for five or more years should rotate. According to the regulation, personnel rotation facilitates operation efficiency and prevents corruption.

concentration of managerial power in a business group. Second, personnel rotations facilitate management skills sharing among SOEs.⁴⁰ Personnel rotations allow executives who gained useful skills in one business group to share such experience with another group. For instance, one purported reason for Mr. Chengyu Fu's rotation from CNOONC to Sinopec in the recent CEO rotations among China's three petroleum giants is that Mr. Fu's rich overseas business experience from CNOONC can alleviate Sinopec's frustrations with overseas expansion.⁴¹

The Supervisory-Bureau Track. A SOE executive comes to power through the supervisory-bureau pathway when the executive develops his or her career mainly in the SOE's supervisory bureau(s). China's large SOEs were carved out of industry-based government ministries or bureaus in the corporatization process, which transformed governmental organs into joint-stock companies. These corporatized SOEs remain supervised by government ministries (bureaus) in terms of industrial matters. Because of the historical integration in organizational structures and the continuing supervisory relationships in business, personnel exchanges between the SOEs and their supervisory bureaus are quite frequent.⁴² Government officials can gain firm-specific knowledge and build social connections with employees in the supervised SOEs through supervisory relations. In addition, supervisory government officials tend to have industry-wide information and social connections. This social and informational capital can increase the usefulness of the supervisory-bureau track in securing executive positions.

Anecdotal evidence indicates that many government officials take top-echelon positions in SOEs in preparation for retirement. Transferring to an SOE is economically attractive because the large SOEs usually offer better monetary compensation than other government units. It is

⁴⁰ Pistor, *supra* note 7 (making the same point for the managerial rotations among the state-owned financial institutions in China).

⁴¹ Yiming Zhang, *Sinopec and CNOOC Welcome New Heads, Top Leader Rotations Facilitate Cooperation*, CHINA ECON. TIMES, April 11, 2011.

⁴² Lin & Milhaupt, *supra* note 13.

especially practicable for senior officials in the supervisory bureaus to adopt this retirement strategy because they have accumulated relevant social and knowledge capital. Due to the late-stage nature of retirement, executives coming through the supervisory-bureau pathway are expected to be senior in age. This retirement pattern, in fact, is not unique to China. In Japan, there is an institutionalized practice known as *amakudari*, where senior bureaucrats retire to join private companies or SOEs linked with or under the jurisdiction of their ministries or agencies when they reach mandatory retirement age, usually between 50 and 60.⁴³ Such personnel practices in Japan have often been criticized as corrupt and obstructive to regulatory reforms.⁴⁴ The implication from the Japanese experience for China's SOEs seems to be that the supervisory-bureau pathway should be restricted in order to further executive professionalization and corporate governance reform.

The Unrelated-Government-Units Track. An executive follows the unrelated-government-units track when the executive's career mainly develops in government-affiliated organs other than for-profit SOEs and supervisory bureaus prior to CEO appointment. Such government units are relatively irrelevant to the focused SOE in terms of the type of organizational identity or the nature of business matters. For example, Mr. Biting Chen first worked his way up in the Party system to become the Party Secretary of the Youth League Committee of Anhui Province. He later became the mayor of a city in Jiangsu Province, chief secretary of Jiangsu Province, and later became the vice-governor of the province. Finally, he was appointed as the CEO of Shenhua Group, one of the largest energy SOEs in China and also a

⁴³ Ulrike Schaede, *The "Old Boy" Network and Government-Business Relationships in Japan*, 21 J. JAPANESE STUD. 293, 293 (1995). See generally Richard A. Colignon & Chikako Usui, *AMAKUDARI: THE HIDDEN FABRIC OF JAPAN'S ECONOMY* (2003).

⁴⁴ See, e.g., Lonney E. Carlile & Mark C. Tilton, *Is Japan Really Changing?*, in *IS JAPAN REALLY CHANGING ITS WAYS? REGULATORY REFORM AND THE JAPANESE ECONOMY*, 197, 197-218 (Lonney E. Carlile & Mark C. Tilton eds., 1998); Elizabeth Norville, *The 'Illiberal' Roots of Japanese Financial Regulatory Reform*, in *IS JAPAN REALLY CHANGING ITS WAYS? REGULATORY REFORM AND THE JAPANESE ECONOMY*, 111, 111-14 (Carlile & Tilton eds., 1998).

Fortune Global 500 company. Executives with this career pathway tend to possess more skills in political operation than firm-specific or industry-specific knowledge. If the unrelated-government-units track is the prevailing career pathway, it suggests the management logic of China's SOEs is oriented more toward political than business purposes. Under professionalization reform, the unrelated-government-units track will likely decline in use.

The Multi-Sphere Track. A SOE executive comes to power through the multi-sphere track when an executive's career spans multiple types of organizations such as unaffiliated SOEs, supervisory bureaus, and other unrelated government units. For example, Mr. Shulin Su first worked his way from an entry-level technician of a subsidiary up to the vice CEO position in the core company of Sinopec Group (a giant petroleum SOE). He was then transferred to the Party Standing Committee of Liaoning Province and was later appointed as the CEO of China National Petroleum Corporation, one of the largest oil companies in China. This type of career pathway is essentially a combination of the previous four types. Compared to the single-group executives, multi-sphere executives are more likely to have system-wide knowledge and diverse personal connections, which can be an advantage in career advancement. The prevalence of the multi-sphere track would suggest high personnel integration between SOEs and other government units. This phenomenon may be detrimental to corporate governance because the SOEs would be at a higher risk of being managed in a way similar to other government units. Nevertheless, the multi-sphere track may create greater elite cohesion through shared career experiences among political and business leaders, which can facilitate economic coordination and policy implementation at the national level.

The System-Outsider Track. All the career pathways discussed so far meander strictly within the boundaries of the state system. Executives travelling on these pathways are system

insiders, savvy with the operation of the state system. In contrast, system outsiders accumulate their career experiences in organizations unaffiliated with the state such as private or foreign companies.

Unlike system insiders embedded in a closed network, system outsiders have brokerage ties of connectivity outside the state system that provide access to new ideas and resources.⁴⁵ Executives coming from the system-outsider path are institutional brokers importing new management knowledge into the SOEs which tend to be trapped in an outdated mentality. The participation of system outsiders in the SOE system presents a good sign of improvement in corporate governance.

While system outsiders can use their brokerage advantages to break into the SOE system and win the top management positions, it is uncertain whether these advantages can overcome the “liability of foreignness” – the competitive disadvantages of foreigners when entering into a local system.⁴⁶ China’s SOEs have a strict hierarchy of ranks in employee administration, which parallels the government’s civil service administration. It is a persistent tradition despite several attempts to abolish it in the past. A system outsider’s parachuting onto an executive post would disrupt internal promotion expectations based on administrative ranks. It would also cause a legitimacy problem when diverging from institutionalized expectations. Moreover, system outsiders often lack local personal connections such as *guanxi* to gain access to job information and opportunities of the state-affiliated organizations. As a result, system outsiders may need to build up outstanding external reputations in professionalism in order to overcome their liability of foreignness.

⁴⁵ For the leading analysis of the idea about brokerage ties outside a closed system see Burt, *supra* note 11. In a simple sense, brokerage means connection between two or more unrelated agents or groups.

⁴⁶ The term of “liability of foreignness” is commonly used in business literature. It refers to foreign firms that are less competitive compared to local firms when entering into a local market.

SASAC's marketization reform of the SOE executive labor market is expected to recruit more executives from the system-outsider path, particularly in industries where competition depends on innovation and efficiency. Competition pressures may increase the likelihood of breaks with conformity with old recruitment practices and the adoption of new strategies.⁴⁷ But due to suspicion of outsiders, the system-outsider track may be less likely to occur in industries of critical national security. Rather, the Chinese SOEs that are likely to embrace system outsiders tend to be in industries relatively open to the private sector such as steel, automobile manufacturing, and light industries.

B. Post-CEO Career Development

The government's executive recruitment guidelines set forth not only criteria for selecting SOE executive candidates but also standards for removing executives. The grounds for dismissal include, for example, failing to meet performance targets in the absence of objective causes, reaching mandatory retirement age, having health problems, committing serious violation of law such as corruption, or undertaking other job responsibilities.⁴⁸ The dismissal standards raise questions about post-CEO career development, which is an important dimension of the executive personnel system. For instance, what types of CEOs are more likely to step down due to legal liabilities? Is there any path-dependent effect—i.e. staying in the same pathway after the CEO post—in the executive training system of China's SOEs? The existence of path-dependent effects signals some predictability in how the state-owner manages its top managers while the absence increases the complexity of understanding the executive training system.

As explained previously, the single-group track CEO has firm-specific knowledge and insider social connections. This intellectual and social capital can help not only to secure the

⁴⁷ Christine Oliver, *The Antecedents of Deinstitutionalization*, 13 *ORG. STUD.* 563, 574 (1992).

⁴⁸ Chapter 8, Provisional Rules on Corporate Leaders of Central SOEs (2009).

CEO position but also other leadership positions in the same group, such as the chairmanship of the board. Thus, the single-group CEO may be likely to stay in the same group after leaving the CEO position. If so, there is a path-dependent effect in the single-group track on later career development. Similarly, the multi-group track and the unrelated-government-units track may also have path-dependent effects as CEOs of these types possess intellectual and social capital across multiple groups or spheres, which may give them advantages in moving across spheres in the government system. The path-dependent effect may also happen in the supervisory-bureau track. However, since CEOs of the supervisory-bureau track tend to be senior in age, retirement would be another common career outcome.

The post-CEO status of the system-outsider track is uncertain. It may depend on how the system-outsider survives in the state system. Anecdotal evidence suggests system-outsider managers often leave the SOEs very soon after arrival due to poor acclimation to the state system. Because system-outsiders often quickly retreat from the SOE system, it poses a great challenge to efforts to improve SOE governance through reliance on external human resources.

Finally, in addition to staying in the same path or switching to a different trajectory, the post-CEO career development can be disrupted and miserable. As discussed in Section III, corruption control is a major theme in executive reform schemes. The Chinese party-state has the power not only to promote CEOs to other, higher positions in the government system but also to punish them severely through its judiciary machinery. While the probability of ending up in jail seems low, the possibility remains quite real as evidenced in a number of recent cases where high-profile executives of China's leading SOEs were ousted and presented with serious criminal liabilities related to their executive duties.⁴⁹

⁴⁹ Prominent cases include: Tonghai Chen, the former CEO of Sinopec Group, was sentenced to death penalty for corruption by the Beijing's Second Intermediate People's Court in July 2009; Rixin Kong, the former CEO of China

Because career outcomes are often an accumulation of previous experiences, CEOs coming to power through different career pathways may be at different risks of criminal behavior such as corruption. For example, an intuitive concern of corporate governance is that the unrelated-government-units track may be more likely to produce corrupt CEOs due to their more politics-tainted backgrounds and lack of business management experience. In this regard, the single-group track with its rich, firm-specific knowledge may seem less problematic. However, the single-group track may still be susceptible to corruption because it may have the problem of excessive concentration of authority and power abuse, especially when there is no effective internal monitoring mechanism such as a board of directors.

V. Rules and Realities: Empirical Analysis

Sections III and IV above propose the potential changes to current executive recruitment reforms. But as always in China, formal institutional reforms do not guarantee actual changes. To assess the real development of China's SOE executive recruitment under the institutional reforms, this section examines the CEO biographic backgrounds of the SOEs among the largest 500 companies (by revenue) in China, according to annual ranking by the China Enterprise Confederation and China Enterprise Directors Association. More than 60% of the largest 500 companies in China are SOEs. An advantage of this ranking is that it takes into account the fact that large enterprises in China are organized as business groups in which core companies control a large number of subsidiaries including listed firms. The CEOs of the core companies in the large state-owned business groups are the focus of this section. In order to track the effects of the institutional reforms over the past decade, this section examines data of three years (2002, 2005, and 2010) spanning a period before and after major reform measures. The graph in

National Nuclear Corporation, was sentenced to life in prison for corruption by the Beijing's First Intermediate People's Court in November 2011.

Appendix I illustrates the sequence of the data years and the important institutional reform events discussed in Sections II and III. The CEO biographic information is manually collected from multiple sources including corporate prospectuses, annual reports, corporate websites, government documents and websites, industrial association websites, and news reports. After excluding missing data, the sample size of CEO biographical profiles is 272 in 2002, 274 in 2005 and 273 in 2010.⁵⁰ The total sample includes 612 distinct CEO profiles.

A. Descriptive CEO Attributes

[Table 1] summarizes the descriptive attributes and patterns of change in education, political affiliation and career pathways from 2002 to 2010.

[Insert Table 1 here]

The data show that the professionalism reforms have had noticeable effect in the educational dimension. The percentage of the CEOs with a graduate degree significantly increased from 37.5% in 2002 to 57.1% in 2010. The percentage of the CEOs with a foreign degree also rose, albeit only slightly, to 4.4% in 2010. Those with foreign study experience usually received their degrees from academic institutions in the United States. Regarding academic discipline, more than 60% of the CEOs were still trained in engineering, representing a slow diversification in specialization areas. The dominance of engineering-trained CEOs is a result of China's industrial structure and political history. The Chinese government has been aggressively seeking technological upgrades to move up the value chain. This technological advancement cannot be achieved by financial or marketing management. Moreover, when China's education was battered by the storms of Maoism, engineering was a politically safer field of study than most. These factors increased the tendency of students to study engineering. As to elite school education, while the number of the CEOs who graduated from the C9 League

⁵⁰ If no missing data, there would be 352 observations in 2002, 333 in 2005, and 301 in 2010.

(a.k.a. the Ivy League of China)⁵¹ declined to 11.4% in 2010 from 15.8% in 2002, the Tsinghua alumni network expanded, accounting for 5.5% in 2010. Thus, while the elite school network has shrunk overall, it has simultaneously become more concentrated in Tsinghua, the leading engineering school in China.

Regarding political membership, the data show that in 2010 more than 80% of the CEOs were members of the Chinese Communist Party (CCP). This number is significantly higher than the overall employee party membership rate (around 30%) throughout the SOE corporate hierarchy.⁵² While it may seem that CCP membership has declined, this is an unsupported interpretation given the increase in unknown/missing data.⁵³ The CCP-affiliated executives joined the Party at a quite early age, around 25 or 26. This suggests an early pledge of political loyalty is helpful for later career development in the state system. Early party membership signals a higher degree of political commitment and also allows for a prolonged process of scrutiny, cultivation, and training, which increase the likelihood of subsequent promotion into elite positions.⁵⁴ While most of the CEOs are CCP members, a very minimal number of the remaining CEOs are affiliated with another political party, the China National Democratic Construction Association, which is an ally of the CCP. The marginal representation of non-CCP party members in the SOE elite adds more symbolic than real importance of political diversity in the SOE system.

⁵¹ C9 League, formed in 1998, is an alliance of nine prestigious universities handpicked by the Chinese government, including Fudan University, Harbin Institute of Technology, Nanjing University, Peking University, Shanghai Jiao Tong University, Tsinghua University, University of Science and Technology of China, Xi'an Jiao Tong University and Zhejiang University.

⁵² SASAC, CHINA'S STATE-OWNED ASSETS SUPERVISION AND ADMINISTRATION YEARBOOK (2010) (one-third of the employees in the national SOEs are members of the Party; as of the end of 2009, 3.03 million of the 9.36 million employees of the central SOEs were party members).

⁵³ When a CEO's party affiliation cannot be clearly identified in the multiple information sources, the political affiliation of the CEO is coded as unknown.

⁵⁴ Bobai Li & Andrew G. Walder, *Career Advancement as Party Patronage: Sponsored Mobility into the Chinese Administrative Elite, 1949-1996*, 106 AM. J. SOC. 1371, 1395 (2001).

In addition to the predominance of CCP affiliation, the executive personnel integration into China's political system seems to be on the rise. The Chinese government has an institutionalized practice in selecting top managers into its representative national political bodies including the National People's Congress (the government's symbolic legislative body), the National People's Political Consultative Conference (an advisory body composed of representatives of different social and political groups) and the National Congress of the Chinese Communist Party (the Party's general assembly). While members usually lack substantive power, memberships in such political bodies represent a social/political status or a mark of legitimacy recognized by the party-state. The data show that the number of CEOs who were members of these national political bodies increased from 8.1% in 2002 to 19.4% in 2010. The increased representation suggests the growing importance of the SOEs in China's national political system, but it also deepens the concern about the SOE management's autonomy in terms of corporate governance. Overall, the political attributes here confirm that political loyalty to the CCP remains a paramount requirement and the SOE executive personnel has become more integrated into the national political bodies. The rising political integration diverges from the principle of separation SOEs from the government declared in many Chinese corporate governance reform laws.⁵⁵

Next, turning to career attributes, the CEOs on average came to power when they were around 46 years old—relatively young compared to executives in other corporate governance regimes.⁵⁶ This junior CEO phenomenon confirms the party-state's executive professionalization rules as discussed in Section III – intentionally to appoint young executives, who are more enthusiastic and less constrained by old traditions. “Technician” has been the most common

⁵⁵ See, e.g. Law on the State-Owned Assets of Enterprises Art. 6 (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 28, 2008, effective May 1, 2009) P.R.C. Laws.

⁵⁶ See *infra* Part V.B.

initial job title in the CEOs' careers, though it has declined from 35% in 2002 to 27.2% in 2010 due to more diversity in job titles. This observation is closely related to their educational training, mainly in the engineering discipline.

With respect to career pathways, the single-group track has constantly been the mainstream path. More than 50% of the CEOs came to power through climbing the corporate ladder. The stable majority of the single-group track CEOs suggests that firm-specific knowledge is valued in China's SOE management and insider connections are helpful to secure CEO positions. The second most common career pathway is the multi-group track, making up for more than 20%. The single-group and the multi-group tracks combined account for more than 75% of the sample observations. In other words, most of the CEOs developed their careers completely within the SOE system rather than moving around in different government spheres. It suggests that the party-state maintains a certain degree of separation in human resources training between the political and business spheres within the state system.

The supervisory-bureau track is the next most popular pathway, followed by the multi-sphere track and the unrelated-government-units track. Note that there is only a marginal and declining percentage of CEOs coming to power through the unrelated-government-units track. It suggests the party-state does not favor executive candidates who are unfamiliar with the business matters of the SOE, which is consistent with its professionalization reform rules.

None of the CEOs in 2002 and 2005 followed the system-outsider track. A sign of change emerged in 2010, however, when one CEO came to power through the system-outsider track: Mr. Dazong Wang, the CEO of Beijing Automotive Industry Corporation, a SOE under Beijing SASAC's supervision. After completing his PhD at Cornell University, Mr. Wang joined General Motors (GM) and swiftly worked his way up to the top-level position (Senior Staff) of

engineering design in GM. After working at GM for 21 years, Mr. Wang became vice president of SAIC Motor Corp., a publicly traded subsidiary of Shanghai Automotive Industry Group, a SOE owned by the Shanghai SASAC. In 2008, after less than two years in office at SAIC Motor Corp, Mr. Wang parachuted into the CEO position of Beijing Automotive Industry Corporation. This case has several noteworthy implications. First, this case happened in the automobile industry, an industry not monopolized by the state but relatively open to the private sector and foreign companies. Consistent with the expectation in Section IV, competition pressure in the non-monopoly industry can drive SOEs to recruit system-outsiders to improve innovation capacity. Second, it is a local rather than central SOE that took the initiative to embrace a system-outsider. A partial explanation is that the central SOEs are usually of national security importance and thus less open to system-outsiders. It also reflects a typical institutional reform pattern in China – experiments starting from the local.⁵⁷ Third, the details of this case provide insights into what incentivizes a system-outsider to join SOEs and by which mechanism a system-outsider can break into the state system. As Mr. Wang explained, personal sentiment, family education and patriotism play a significant role in his decision to join the SOE system.⁵⁸ His internal aspirations were realized with the help of external opportunities. As GM sought rapid expansion in China, Mr. Wang seized the opportunity of transferring to a GM joint venture in China and worked there for 3 years until 1997. During his work in China, he became

⁵⁷ See ANN M. FLORINI ET AL., *CHINA EXPERIMENTS: FROM LOCAL INNOVATION TO NATIONAL REFORM* (2012).

⁵⁸ A detailed interview reported in Qichen (Autobots, a magazine of China's automobile industry), Nov. 2008 (reporting Mr. Wang's explanation : "A man should not forget his own roots. A man who does not know his own roots is a pathetic one. ...I am a traditional Chinese. ... From a personal perspective, I am really grateful to my father. My life philosophies are all inherited from my father. I seldom see any person who is as patriotic as my father. I always remember my father said repetitively at his death bed that we should learn in the United State and apply in China. ... My father studied in Japan. Upon returning to China he established the first ceramics high school and the first ceramics factory for home appliances in China, becoming the founder of China's contemporary ceramics industry. The old intellectual's scientific patriotism is deeply passed down to his next generation. What leads me is such philosophy. Like my father said, I can contribute by applying in China and simultaneously broaden my career horizon.")

acquainted with the then vice president (Mr. Maoyuan Hu) of Shanghai Automotive Industry Group and thereafter kept contacts with Mr. Hu. This social connection paved his way into the Chinese SOE system.⁵⁹ Mr. Wang's experience indicates system-insiders' endorsement is very helpful to system-outsiders' entry into the state system, which supports the common finding that personal connections (*guanxi*) play an important role in the Chinese government system.⁶⁰

The average tenure is about 8 years. Since the CEOs on average came to power around 46 years old, they would be only in their mid-50s at the end of the CEO tenure, an age still capable of active work. Thus, it raises a question about where they would go after the CEO tenure. [Table 1] shows that about a quarter of the CEOs in 2002 and 2005 followed the so-called "apprentice model" in which the CEOs were promoted to the chairman, director or other executive positions of the same business group. The apprentice model allows the CEOs to continue contributing their firm-specific knowledge and to guide their successors before transitioning to retirement.

A featured post-CEO status is transfers to other government units, usually as ministers, governors, or government committee members. But this post-CEO career status seems to be on the decline, down from 9.2% in 2002 to 4.7% in 2005. Close to 6% of the CEOs took up senior manager positions in other business groups, which suggests the government's personnel rotation practice is at work in post-CEO careers.

As SASAC's executive recruitment reform rules repetitively emphasize executives' moral integrity, the post-CEO status shows how many CEOs ended up in jail on charges related to their executive positions and duties. The data show that 4% of the CEOs in 2002 and 2.6% in 2005 were faced with criminal liabilities in relation to their executive duties. The typical criminal

⁵⁹ *Id.*

⁶⁰ See Walder, *supra* note 22, at 309; Bian, *supra* note 22.

charges were corruption and embezzlement. The decline in criminal convictions seem to suggest some improvement in moral integrity, albeit inconclusively because many factors such as politics could affect the prosecution probabilities in China.

While there were a number of CEOs held liable for corruption or embezzlement under the Chinese criminal law, none of the CEOs in the dataset ever became defendants in litigations involving the breach of fiduciary duties under the Chinese corporate law. The Chinese government as the controlling shareholder seems to govern the top managers in a way similar to government bureaucrats, who are subject to liabilities under public law such as criminal law.

As of the end of data tracking, 15.8% of the CEOs in 2002 and 39.1% in 2005 were still in office. Finally, this Article identifies at least 13.6% in 2002 and 6.2% in 2005 were inactive retirees or decedents while 23.9% in 2002 and 17.2% in 2005 were with unknown post-CEO status. The unknown status is due to the fact that biographical information tends to become obscure when the CEOs left office, especially for those not moving to prominent positions.

In summary, the executive educational quality shows some improvement but the political and career attributes generally remain stable under the professionalism and marketization reforms. While the marketization reform in particular relaxes political affiliation and welcomes career diversity, the empirical evidence suggests that executive labor market openness is more of the laws on the books than the law in action. The executive labor market remains a game for system insiders who have the right political and social connections.

B. Executive Attributes in Comparative Perspective

Scholars of comparative corporate governance have well recognized that corporate governance regimes may differ in not only their legal arrangements but also elite composition.⁶¹

⁶¹ See MAIRI MACLEAN, CHARLES HARVEY & JON PRESS, *BUSINESS ELITES AND CORPORATE GOVERNANCE IN FRANCE AND THE UK* (2006).

Different legal rules can produce different corporate elites and different corporate elites can also generate different legal rules. It thus raises a question about how the CEOs of the Chinese large SOEs are different from corporate executives in other countries. Based on the descriptive findings in [Table 1], this Article compares Chinese SOE CEOs with executives of the archetype countries in comparative capitalism and comparative corporate governance literatures, including France of the state activism camp, Japan and Germany of the coordinated market and stakeholder-oriented model, and the UK and US of the liberal market and shareholder-oriented model.⁶² A general summary of the executive attributives in comparative perspective is reported in [Table 2].

[Insert Table 2 here]

[Table 2] shows that CEOs of the state activism and the stakeholder-oriented models are commonly trained in engineering while those of the shareholder-oriented model tend to be in business-related disciplines. The dominance of engineering-trained CEOs is most salient in China and Germany. With respect to the alumni network, China and Germany both are on the low end of elite school concentration while France and Japan are on the high end, with US and UK in between.

As to career pathways, the prevailing career route in China, Japan, and Germany is climbing the corporate ladder to the top within a single-business group while the popular career track in UK and US is to follow an external labor market strategy. In France, a significant number of CEOs started their careers in the public sector before transferring to the corporate sector, which means government work experience is quite common in France. In Japan, while many executives follow the so-called *amakudari* career pathway, most of them do not assume

⁶² See VARIETIES OF CAPITALISM: THE INSTITUTIONAL FOUNDATIONS OF COMPARATIVE ADVANTAGE (Peter A. Hall & David W. Soskice eds., 2001); Vivien A. Schmidt, *French Capitalism Transformed, Yet Still a Third Variety of Capitalism*, 32 *ECON. & SOC'Y* 526 (2003).

CEO positions. Chinese SOE CEOs seem closest to French CEOs in terms of their career connections with the government.

As to the average age of appointment, Chinese SOE CEOs come to power at a younger age (around 46 years old) than CEOs in the other countries, usually in their 50s. But there is no sharp difference in terms of tenure, currently in the range of 6-8 years with a trend of shortening in length. Finally, unlike Japan and US where outgoing CEOs are commonly appointed as the chairman of the same company, China only moderately uses the apprentice model in training and guiding CEOs, more similar to the European counterparts. The moderate use of the apprentice model in China may be partially due to the fact that many Chinese SOEs have not yet established the board of directors.

Overall, [Table 2] shows the Chinese SOE CEOs bear a resemblance to executives in countries of the stakeholder-oriented model and the state activism camp, though the resemblance is probably formed by different underlying historical or political forces. The comparison shows Chinese CEOs share many similar attributes particularly with German CEOs while having the least in common with UK and US counterparts. This comparison clearly places China far outside the category of the liberal market economy or the shareholder-oriented model.

While the Chinese SOE executives present many characteristics dissimilar to Western executives, a more fine-grained data analysis suggests some convergence in terms of the nature of career pathways. Scholars find that in Europe and in the United States, CEOs with in-house careers (i.e. staying in the same company) spent significantly less time climbing to the top compared to those adopting external labor market strategies (i.e. moving across multiple

employers). With ordinary least squared regressions, [Table 3] finds that the nature of Chinese executive career pathways shows signs of converging toward the Western findings.⁶³

[Insert Table 3 here]

[Table 3] shows the nature of the career pathways has changed in terms of age when reaching the CEO position. In 2002, the CEOs coming to power via the supervisory-bureau pathway were significantly older at the time of appointment than the CEOs through the single-group pathway,⁶⁴ and the CEOs via the multi-group, unrelated-government-units and multi-sphere pathways were older as well, albeit not statistically significant.⁶⁵ In 2005, the single-group career CEOs reached the executive position at a younger age compared to the CEOs of all other types of career pathways, but the results for the multi-group and unrelated-government-units pathways are insignificant.⁶⁶ The trend became clearer in 2010. The CEOs coming to power through the single-group pathway were significantly younger than the CEOs of all other types of career pathways.⁶⁷ Among all the types, the system-outsiders were the oldest when ascending to power.⁶⁸ The results lend support to the hypothesis that system-outsiders need to have established external reputations and high professional status, usually already senior in age, to overcome their liability of foreignness when entering into the state system. Finally, note that the CEOs of the supervisory-bureau track were constantly older as they landed in the executive position, which can be explained by the retirement strategy as discussed in Section IV.⁶⁹ In short,

⁶³ See *infra* app. II.

⁶⁴ See Table 3, the supervisory-bureau track coefficient is 3.903 ($p < .01$) in Model 1, and 3.549 ($p < .01$) in Model 2.

⁶⁵ See Table 3, in Model 2, the multi-group track coefficient is .950, the unrelated-government unit track coefficient is 1.630 and the multi-sphere track coefficient is 1.462.

⁶⁶ See Table 3, In Model 3, the supervisory-bureau track coefficient is 3.766 ($p < .05$) and the multi-sphere track coefficient is 2.264 ($p < .05$). In Model 4, the supervisory-bureau track coefficient is 3.029 ($p < .05$) and the multi-sphere track coefficient is 2.109 ($p < .10$, marginally significant).

⁶⁷ See Table 3 All the career pathway coefficients in Models 5 and 6 are positive and statistically significant.

⁶⁸ See Table 3 (using a system-outsider track coefficient of 11.105 ($p < .001$) in Model 5 and a system-outsider track coefficient of 11.465 ($p < .001$) in Model 6).

⁶⁹ See Table 3 (using both positive and statistically significant supervisory-bureau track coefficients in Models 1–6).

the career pathway results suggest that firm-specific knowledge and firm-specific social networks have become helpful assets to secure executive positions, similar to the findings about Western executives.

Besides career attributes, [Table 3] shows that elite school attendance was not a significant factor in accelerating to the CEO position.⁷⁰ Neither was an engineering degree a significant factor when controlling for organizational factors.⁷¹ The 2002 data suggest having a graduate degree was helpful to reaching the CEO positions at a younger age, but the 2005 and 2010 data indicate a weakening of that advantage.⁷² It could be because the value of graduate degrees has diminished as more and more executive candidates have such degrees. It could also be because pursuing a graduate degree postponed the entry into the workforce or distracted energy from work and thus delayed promotions.⁷³ For organizational variables, while both recruiting younger executives and establishing the board of directors are important SOE reform measures, [Table 3] shows no significant association between the appointment of younger CEOs and the existence of the board directors.⁷⁴ Moreover, [Table 3] indicates that executives of the SOEs owned by the central government tend to reach the CEO position at an older age compared to those of the SOEs owned by the local governments, though the result is significant only for 2001.⁷⁵ An institutional explanation for this finding is the executive positions of the central SOEs have a higher status in the administrative system and thus it takes longer to reach the higher positions.

⁷⁰ See Table 3 (using all statistically insignificant C9 League coefficients in Models 1–6).

⁷¹ See Table 3.(using insignificant engineering coefficients in Models 2, 4, and 6).

⁷² See Table 3 (using negative and statistically significant graduate coefficients in Models 1–2, insignificant graduate coefficients in Models 3–6).

⁷³ Note that rather than completing all education credentials before entering the workforce, many of the CEOs pursued their graduate degrees while they were at work.

⁷⁴ See Table 3 (using insignificant board of directors coefficients in Models 2, 4, and 6).

⁷⁵ See Table 3 (using an ownership coefficient of 2.973 ($p < .05$) in Model 2, 1.495 in Model 4, and 1.049 in Model 6).

[Table 3] also shows that CEOs of the SOEs with a larger number of employees tend to be older at the time of appointment, which may be because of more competition in the internal labor market.⁷⁶ Other organizational variables including revenues and return on assets do not present statistically significant effects on the executive appointment age.

C. Post-CEO Status and Governance

Using logistic regression models, [Table 4] shows results regarding the post-CEO development discussed in Section IV.B.⁷⁷

[Insert Table 4 here]

The career pathway variable shows that there is no clear path dependent effect in the post-CEO career development. The CEOs of the single-group track are not significantly more likely to stay in the same group.⁷⁸ Meanwhile, the data show that the CEOs of the multi-group group are not more likely to transfer to other groups.⁷⁹ Similarly, the CEOs who had work experience in other government units are not significantly more likely to return to government bureaus.⁸⁰ The lack of clear path dependent effects suggests the complexity and unpredictability in the SOE elite training system.

An interesting finding about the association between the incoming career pathway and the outgoing career status is that the CEOs of the unrelated-government-units track are least likely to be subject to criminal charges at the end of the CEO position compared to CEOs pursuing other career paths, though the results are not statistically significant.⁸¹ This finding might be interpreted in two ways. On the one hand, it might relieve a common concern that

⁷⁶ See Table 3 (using a (log) number of employees coefficient of 1.201 ($p < .001$) in Model 2, .892 ($p < .05$) in Model 4, and .607 in Model 6).

⁷⁷ See 52 app. III (explaining the models in more detail).

⁷⁸ See Table 4 (using statistically insignificant career pathway coefficients in Models 1-2).

⁷⁹ See Table 4 (using all the career pathway coefficients in Models 3-4).

⁸⁰ See Table 4 (showing all the career pathway coefficients are statistically insignificant in Models 5 and 6).

⁸¹ See Table 4 (using the unrelated-government units track coefficient -14.721 in Model 7 and -17.021 in Model 8).

CEOs of the unrelated-government-units track may be more likely to mismanage corporate governance and incur criminal liability for corruption because they have more politically-tainted backgrounds and little business experience. On the other hand, this finding could suggest that such type of CEOs may be simply more politically savvy in managing their careers in the state system and have more political resources to escape legal liabilities, which is not a good sign for corporate governance.

[Table 4] also shows that the CEOs who graduated from the elite schools are more likely to stay in the same group⁸² and less likely to end up in prison.⁸³ Engineering-trained CEOs are also less likely to be criminally convicted after the CEO position.⁸⁴ The CEOs with a graduate degree are also less likely to be imprisoned after the CEO tenure, though the result is insignificant.⁸⁵ Foreign-educated CEOs are more likely to transfer to positions in other business groups⁸⁶ and less likely to be held for criminal liabilities.⁸⁷ In general, [Table 4] shows that better education is negatively associated with criminal liability at the end of the CEO tenure. Thus, improvement in executive educational credentials may be a good sign for the quality of corporate leadership.

An important question in corporate governance is whether the board of directors plays a role in executive career development and behavior. [Table 4] shows that CEOs of the SOEs which have set up the board of directors are more likely to assume the chairman, director, or other executive positions in the same business group.⁸⁸ The result is unsurprising given that the transition to the chairman or director position is only possible when a board exists within the

⁸² See Table 4 (the C9 League coefficient is 1.095 ($p < .05$) in Model 1 and 1.201 ($p < .05$) in Model 2).

⁸³ See Table 4 (the C9 League coefficient is -16.387 in Model 8).

⁸⁴ See Table 4 (the engineering coefficient is -2.170 ($p < .01$) in Model 8).

⁸⁵ See Table 4 (the graduate degree coefficient is -.995 in Model 7 and -1.419 in Model 8).

⁸⁶ See Table 4 (the foreign study coefficient is 3.088 ($p < .001$) in Model 3 and 2.659 ($p < .01$) in Model 4).

⁸⁷ See Table 4 (the foreign study coefficient is -13.847 ($p < .001$) in Model 7 and -14.717 in Model 8).

⁸⁸ See Table 4 (in Model 2, the board of directors coefficient is 1.234 ($p < .01$)).

group. Moreover, the presence of a board of directors reduces the likelihood of a CEO becoming a senior official in government bureaus, which suggests the board might play a role in cutting political connections.⁸⁹ However, there is no evidence that the board of directors plays any effective role in reducing the likelihood of (outrageous) executive criminal behavior.⁹⁰ This finding suggests the monitoring function of the board of directors may not be properly at work. Finally, [Table 4] shows that CEOs of the central SOEs are less likely to transfer to government bureaus after tenure, compared to CEOs of the local ones.⁹¹ The post-CEO personnel integration between the SOEs and other government units seems higher at the local than the central level.

D. Implications, Challenges and Future Research

This Article analyzes the executive composition and recruitment evolvement of China's large non-financial SOEs. It shifts away from the typical focus on how the *things* operate to who the *people* in charge are, which is an important approach to understanding corporate governance and economic development in countries with weak legal institutions. This Article shows some improvement in educational credentials and general stability in political affiliation and career patterns. The executive recruitment reform of China's large SOEs is oriented toward politically-bounded and firm-specific knowledge professionalism, as well as potential bottom-up and competition-driven marketization. It also shows similarities and dissimilarities between the Chinese SOE executives and their foreign counterparts. Moreover, this Article shows the complexity of the Chinese elite training system, where there is no clear path-dependent effect on the post-CEO status and there is no conclusively bad association between political career experience and executive criminal liabilities. Finally, this Article finds little evidence that the board of directors of China's SOEs plays any significant role in affecting executive career

⁸⁹ See Table 4 (in Model 6, the board of directors coefficient is -1.032 (p<.05)).

⁹⁰ See Table 4 (in Model 8, the board of directors coefficient is .739) [BB Rule 3.5 + 4.1].

⁹¹ See Table 4 (in Model 6, the central ownership coefficient is -1.398 (p<.05)).

development or avoiding serious executive criminal behavior. Based on these findings, this Article discusses the adequacy of existing international legal rules and enforcement concerning SOE governance, the challenges posed to China's SOE governance improvement, and some directions for future research.

1. Implications for International Legal Systems

Chinese SOEs are not only important actors in China's domestic economy but also active players in the global investment market. Their active global expansion raises immediate questions to international regulators about the adequacy and capacity of existing legal rules and enforcement to cope with such unconventional corporate entities. This section demonstrates why an investigation into Chinese SOE executive backgrounds is helpful in reexamining existing legal regimes governing the SOEs' international activity.

One global expansion strategy of Chinese SOEs is to acquire control of foreign companies. Such acquisitions often raise national security concerns and trigger regulatory reviews in the host country. In the United States, for example, parties to a transaction that could result in control of a U.S. business by a foreign person may file a notice with the Committee on Foreign Investment in the United States (CFIUS) to determine whether such transaction would present any national security risks.⁹² This determination is based on several factors: the extent to which the foreign acquirer's investment decisions are based solely on commercial grounds; whether corporate governance structures are in place to ensure management independence from the controlling government; and the degree of transparency in the foreign acquirer's investment purposes, institutional arrangements, and financial information.⁹³ Understanding executive political attributes and career patterns is helpful in evaluating the degree of management

⁹² Guidance Concerning the National Security Review Conducted by the Committee on Foreign Investment in the United States, 73 Fed. Reg. 74,567, 74,572 (regarding 31 C.F.R. pt. 800) (Dec. 8, 2008).

⁹³ *Id.* at 74,571.

independence and the way of government involvement in corporate investment decisions. As this Article shows, although having a board of directors in place makes the SOE governance structure appear closer to international standards, there is little evidence showing better quality in corporate leadership. This Article also shows that there is great complexity in the executive personnel system—having a CEO without prior career experience in government bureaus (e.g. a single-group or a multi-group track CEO) does not indicate more managerial independence from the government because a political career connection can emerge in post-CEO career development. Moreover, although the Chinese government has reduced its ownership stake in many SOEs over the past decade, executive personnel integration with some important government organs has been increasing rather than decreasing at the same time, as revealed in this Article. The size of the ownership stake alone is an insufficient indicator to precisely judge the potential degree of state involvement in SOE management; other factors such as executive personnel management should be considered as well.

The executive characteristics of SOEs also have legal implications for securities regulations in international capital markets. Chinese SOEs have been active in listing shares overseas. Do Chinese SOEs' corporate disclosures to international investors provide an adequate and accurate depiction of their actual governance practices? Chinese SOEs always significantly downplay their connections to the Chinese government and its ruling political party in their corporate disclosures. The role of the government is very often condensed in one simple sentence: the company is owned by the State; and the role of the Chinese Communist Party is virtually never explained. Their prospectuses and annual reports very often omit the top managers' affiliation with the national representative political bodies and never explain their

responsibilities as members of the party committee.⁹⁴ The executive biographies in such disclosures are focused on business experiences but void of political backgrounds, intentionally making the top executives look similar to their Western counterparts. Also, these companies never disclose the fact that the appointment power is held by the Chinese Communist Party, and not the board of directors. Furthermore, there is no disclosure that the top managers are prohibited from freely exercising stock options because of the SOE personnel integration with other government units.⁹⁵ In short, a significant amount of material information is omitted or misrepresented. While the lack of adequate disclosure is mainly a result of the secretive culture of the Chinese government, it is also partly an outcome of calculated advice by Western investment bankers, law firms, and accounting firms to make Chinese SOEs attractive to international investors;⁹⁶ and international securities regulators' generally loose enforcement against foreign companies, whether state-owned or not.⁹⁷ As political interference is a major concern in SOE governance, existing disclosure practices regarding Chinese SOEs' political connections should be reassessed to ensure all material information is adequately revealed to international investors.

2. Challenges for Chinese SOE Governance Improvement

China's Company Law is the central object of study in the literature of Chinese corporate governance. Although the Company Law provides the fundamental legal structure of corporate

⁹⁴ For example, Sinopec, PetroChina, China Mobile, China Telecom, ChinaUnicom, and Huaneng Power are leading Chinese SOEs with shares listed on the New York, London and Hong Kong Stock Exchanges. The chairman of each of these companies is a member of the Party's National Congress, China's Parliament and/or China's National Political Consultative Conference. However, such political affiliation information is not disclosed in the companies' annual reports. See the English annual reports of these companies.

⁹⁵ See Chen et. al, *supra* note 6, at 14.

⁹⁶ See RICHARD MCGREGOR, *THE PARTY: THE SECRET WORLD OF CHINA'S COMMUNIST RULERS* 48 (2010). See also CARL E. WALTER & FRASER J.T. HOWIE, *RED CAPITALISM* (2011); CARL E. WALTER & FRASER J.T. HOWIE, *PRIVATIZING CHINA* (2006).

⁹⁷ See Jordan Siegel, *Can Foreign Firms Bond Themselves Effectively By Renting U.S. Securities Laws?*, 75 J. FIN. ECON. 319, 321 (2004) (finding that U.S. SEC enforcement actions against Mexican firms are practically nonexistent and suggesting that this trend extends to all foreign firms).

entities, including state-owned companies, the SOE governance regime, to a great extent, is built on a set of special laws such as the State-Owned Enterprise Assets Law (2008) and a large body of administrative rules and guidelines in the shadows. The statutory language of the Company Law shows objectivity with no trace of political proclivity toward the Chinese Communist Party. However, the large body of shadow administrative rules and guidelines governing the SOE management unashamedly reveal strong political preferences serving the Party's interests. The executive recruitment guidelines examined in this Article are a great example. The state-owner's dual role as a shareholder and a regulator can easily construct a legal system in favor of its interests.⁹⁸ This is particularly true for the Chinese state-owner as the single-ruling party. Compared to high-profile legislation, such as the Company Law where there is more or less public oversight, the administrative rules and guidelines that specify the detailed implementation of the state-owner's rights and responsibilities have very low transparency and face paltry scrutiny. The low-profile administrative rules can be handy instruments for the state-owner to undercut the corporate governance reform goals stated in the high-profile laws.

Besides the problem of shadow rules, the substantive management of Chinese SOEs may have the problem of excessive closure. The empirical evidence in this Article shows that the business elite of the Chinese large SOEs are a very cohesive group in terms of their educational training, political affiliations, and career experiences. The current executive labor market remains a system-insider's game. The elite cohesion presents some advantages but also challenges to China's corporate governance and national economy. According to sociologist Ronald Burt's analysis of "brokerage and closure" in social structure, while high cohesion can help consensus formation and policy implementation, it runs the risks of closure, groupthink, and

⁹⁸ See Mariana Pargendler, *State Ownership and Corporate Governance*, 80 FORDHAM L. REV. 2917, 2944-2955 (2012) (finding in practice that Chinese corporate law serves to protect the government's interest as a controlling shareholder while denying significant legal rights to minority shareholders).

a lack of creativity.⁹⁹ Building brokerage ties reaching outside the closed system can import new ideas and stimulate innovation. As competition in the global economy has become more dependent on innovation capacity, Chinese SOEs need inputs of new talent and new management skills in order to gain a competition edge. The Chinese government seems aware of the potential closure problem and has adopted some administrative measures to open the SOE executive labor market.

In the eyes of the Party, neither complete closure nor complete openness is desirable because complete closure lacks competitiveness and complete openness runs the risk of losing control. It will take time for the Chinese government to learn how to strike a balance between closure and openness. The openness of the executive labor market probably will start from lower-level managers to high level-managers, from the business groups owned by the local governments to those controlled by the central government, from companies faced with fierce competition pressure to companies in monopolized sectors. But the evidence in this Article suggests that the whole process will develop slowly because personnel management remains a highly sensitive area and the Chinese government still takes it as the most important way to continue to control large enterprises as the government reduces its ownership stake.

Moreover, while China's SOEs have a demand for professionals who are trained outside the state system, the executive reform process can be conditioned by the supply side of talent—whether system-outsiders are interested in joining the SOEs. For example, in several instances, SASAC officials have extended offers to system-outsiders, only to have the candidates decline the offers because the pay was below prevailing market standards.¹⁰⁰ To handle this problem,

⁹⁹ See Burt, *supra* note 11.

¹⁰⁰ For example, Mr. Jigang Jiang, the Director of central SASAC's Second Executive Administration Bureau, explained, "In 2005, there was a candidate who studied abroad and worked in a foreign multinational company and then transferred to the CEO position of the multinational's branch in China. The candidate applied for a vice CEO

the Chinese government is experimenting with a dual system in executive compensation. Under the dual system the compensation of system-insiders, as is tradition, is unilaterally set by the evaluation of the SASAC, while system-outsiders are paid based on market prices through contract negotiation. The latter compensation is usually much higher than the former. It is unclear whether such dualism will work well because anecdotal evidence shows that it can brew resentment among system insiders.¹⁰¹ In addition, the SOE management culture typically tainted with political complexities may make system-outsiders shy away from joining the SOE system. As a result, the executive labor market probably will continue to be dominated by system-insiders for a long time, which increases the risks of perpetuating old practices that deviate from international standards. The lack of substantive openness in the composition of the SOE corporate leadership can be a fundamental cause for the common dysfunction of many corporate governance institutions such as the board of directors and independent directors.

3. Directions for Future Research

To date, scholars of comparative corporate law have paid scant attention to comparative state-owned enterprises.¹⁰² This research lacuna needs to be filled as SOEs continue to play a significant role in many economies. The Organization for Economic Co-operation and Development (OECD) has recognized the importance of this topic and initiated surveys on the

position of a central SOE. He passed the written exam and interviews with the highest scores. We really wanted to hire him, but this hiring was unsuccessful due to compensation gaps. The candidate asked for a pay at least on par with his current pay (\$200,000 USD). The candidate was very sincere and said he was motivated by patriotism and the passion to contribute to the development of the central SOEs, so he did not ask for any pay raise but hoped to stay on his current level. The deal was eventually killed because the asking pay in fact was equal to the total compensation of the other seven top managers of the hiring SOE.” See Beijing News, *Forty Percent of the Central SOE Executives Recruited Worldwide are from Inside the System*, May 2011.

¹⁰¹ See *id.*

¹⁰² Very recently, a small number of corporate governance scholars have begun to approach this topic. See Aldo Musacchio & Sérgio G. Lazzarini, *Leviathan in Business: Varieties of State Capitalism and Their Implications for Economic Performance* (Working Paper 12-108 June 4, 2012) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2070942.

legal frameworks and governance mechanisms of SOEs in the OECD member countries.¹⁰³ It also has adopted the first international standards for SOE governance.¹⁰⁴ The OECD surveys show various cross-country variations and similarities in the SOE governance rules including the executive appointment process.¹⁰⁵ The findings in the OECD reports and in this Article both indicate further investigation of the underlying causes of the SOE governance similarities and differences. For instance, this Article shows that the Chinese SOE executives bear many similarities with executives in countries of the state activism camp and the stakeholder-oriented model, especially German executives. How do we explain the apparent similarities? Are the underlying causes for the prevalence of engineering-trained CEOs in China similar to those in Germany? Also, are the underlying causes for the single-group track as the prevailing career pathway in China similar to those in Germany and Japan? To answer these questions, a context-rich comparison of the legal system, political institution, industrial structure, occupation training system, social organization, and cultural values is required. The investigation into the underlying causes would also help to evaluate the usefulness and appropriateness of the international SOE governance standards proposed by the OECD as the legal transplant literature has warned against adopting internationally standardized corporate governance rules without a context-rich analysis.¹⁰⁶

In addition to comparative study across countries, future research may compare locally the corporate leaders in the state-owned sector with those in the private sector in China. Are they are a cohesive group? If not, by what specific attributes are they different? Moreover, as this

¹⁰³ See ORG. FOR ECON. CO-OPERATION AND DEV., CORPORATE GOVERNANCE OF STATE-OWNED ENTERPRISES: A SURVEY OF OECD COUNTRIES (2005); ORG. FOR ECON. CO-OPERATION AND DEV., State-Owned Enterprise (updating the 2005 survey).

¹⁰⁴ See ORG. FOR ECON. CO-OPERATION AND DEV., OECD GUIDELINES ON CORPORATE GOVERNANCE OF STATE-OWNED ENTERPRISES (2005).

¹⁰⁵ See Org. for Econ. Co-operation and Dev., *supra* note 103.

¹⁰⁶ See Katharina Pistor, *The Standardization of Law and Its Effect on Developing Economies*, 50 AM. J. COMP. L. 97, 98 (2002) (finding that the law must be understood and embraced by law enforcers and legal customers).

Article shows SASAC and the Party's Organization Department have formulated standards on executive qualifications, what sources do they consult to derive such standards? Do they consult the experience in the Chinese private sector or hold any country as the model to emulate? It can be useful to explain the apparent similarities in executive attributes with other countries and find out if there is any diffusion of a specific executive model. Qualitative research methods such as interviews with Chinese government officials and top managers are helpful to gain insights into this inquiry.

Besides comparative study, this Article raises questions for further empirical investigation. Future research may track more data years further back into the past and extended into the future to reveal a bigger picture of the evolution in the elite composition and its impact on micro-corporate behavior as well as macro-institutional changes. For example, a preliminary test by this author (unreported in this Article) on the relationship between types of career pathways and profitability suggests SOEs with CEOs coming to power through the unrelated government units track seem to have the worst performance in return on assets. It needs future research to scrutinize the relationship between executive career attributes and different dimensions of corporate performance. Similarly, if in the future more system-outsiders join the SOE system, there will be a large enough pool of observations (currently, there is only one observation in the sample) to statistically examine what kinds of SOEs are likely to hire system-outsiders and whether such system-outsiders contribute to any corporate behavior such as profitability or organizational culture change.

[Table 1] CEO Attributes of Large State-Owned Non-Financial Enterprises in China, 2002-2010

	2002	2005	2010
General Attributes			
Male	96.7%	96.4%	97.4%
Main Birth Place (i.e. Shandong Province)	13% (N=185)	14.1% (N=206)	11.5% (N=182)
Educational Attributes			
Graduate Degree	37.5%	49.3%	57.1%
Foreign Degree	2.9%	3.3%	4.4%
Tsinghua University	2.9%	2.9%	5.5%
C9 League	15.8%	12.8%	11.4%
Engineering	61.8%	62.8%	66.3%
Political Attributes			
Party Membership			
1. Communist	83.5%	85.4%	80.6%
2. Other	.4%	.4%	.7%
3. Unknown	16.1%	14.2%	18.7%
Average Age When Joining the Communist Party (CPC)	26.4 (N=51)	25.7 (N=66)	25.3 (N=77)
Member of National Congress, National Consultative Assembly, or CPC National Congress ^a	8.1%	11.7%	19.4%
Career Attributes			
Average Age When Becoming CEO	46.4	46.3	46.8
Main Starting Position Title ("Technician")	36.1% (N=158)	33.5% (N=170)	27.8% (N=169)
Career Pathways			
1. Single-Group Track	52.9%	56.2%	52%
2. Multi-Group Track	23.5%	22.6%	24.2%
3. Supervisory-Bureau Track	15.8%	9.1%	12.1%
4. Unrelated-Government Unit Track	3.7%	2.9%	2.2%
5. Multi-Sphere Track	4%	9.1%	9.2%
6. System-Outsider Track	0%	0%	.4%
Tenure	8.8	8.1	NA ^c
Status After CEO Position ^b			NA ^c
1. Chairman/Director/Executive of the Group	27.8%	23.4%	
2. Senior Government Official (e.g., Minister, Governor, Committee Member)	9.2%	4.7%	
3. Director/CEO/Senior Manager of other Groups	5.9%	6.6%	
4. Convicted Prisoner	4%	2.6%	
5. Still CEO of the Group	15.8%	39.1%	
6. Inactive Retiree/Decedent	13.6%	6.6%	
7. Unknown	23.9%	17.2%	
N (Default, if not specified otherwise)	272	274	273

^a The membership is counted as whether the CEO was a member of the political bodies of that year.

^b The post-CEO statuses were tracked till October 2011.

^c Because many of the CEOs just took office and 88.6% of the 2010 CEOs are still in power, this measure is not properly applicable.

[Table 2] Executive Attributes in Comparative Perspective

	State Activism		Coordinated Market / Stakeholder Oriented		Liberal Market / Shareholder-Oriented	
	China (SOEs only)	France	Japan	Germany	UK	USA
Educational Attributes						
Dominant Educational Discipline	Engineering or natural science (more than 60% with an increasing trend)	Engineering or natural science (more than 30% as of 2005), followed by business, economics or administration	Engineering or natural science (more than 30% as of 2011); law, economics	Engineering or natural science (more than 50% as of 2005)	Business-Related	Business-Related
Elite School Concentration	C9 League, particularly Tsinghua University	Grandes École, particularly Polytechnique and École Nationale d'Administration	Tokyo, Kyoto, Waseda and Keio	No specific concentration	Cambridge and Oxford	Ivy League and a number of elite schools (about 13 in total), with Harvard University as the lead
Degree of Elite School Concentration	Low (about 11% as of 2010)	High (about 75% as of 2005)	High (about 60% as of 2009)	Low	Moderate-High (about 40% as of 2007)	Moderate (more than 20% as of 2011)
Career Attributes						
Prevailing Career Pathway	Singe-group pathway within the state system (more than 50%)	Lengthy careers in state service before transfer to business	Singe-group pathway	Singe-group pathway (more than 55% as of 2005)	Multi-employer pathway	Multi-employer pathway (less than a third as lifetime employees)
Work Experience in Government	When broadly defined (SOEs as part of government): Very High (more than 99%) When narrowly defined (only government units other than SOEs): Moderate (about 20%)	Moderate-High (more than 50% in 1998 down to 38% in 2005)	Low-Moderate	Low	Low	Low
Approximate Age of Appointment	Mid-Late 40s	Early 50s	Mid-Late 50s	Early 50s	Early 50s	Early 50s
Average Tenure	About 8 years, with a declining trend	About 8 years (as of 2011)	About 6 years in 2007, down from 8 years in 1995	About 8 years, with a declining trend down from 12 years in 1980	About 6-7 years (as of 2011) down from 9.6 in 1995	About 8 years down from 10 years from 2010
Apprenticeship Model in Training CEOs	Low-Moderate (About 25%)	Low†	High	Low†	Low†	Moderate-High (43% as of 2011)

Sources:

Data on France from Vivien A. Schmidt, Vivien A, A Profile of the French CEO, 35 INT'L EXECUTIVE 413 (1993); Taeyoung Yoo and Soo Hee Lee, In Search of Social Capital in State-Activist Capitalism: Elite Networks in France and Korea, 30 ORG. STUD. 529 (2009); Mairi Maclean, Charles Harvey, and Jon Press, BUSINESS ELITE AND CORPORATE GOVERNANCE IN FRANCE AND THE UK (2006); Booz & Company, CEO SUCCESSION REPORT: 12TH ANNUAL GLOBAL CEO SUCCESSION STUDY (2012).

Data on Japan from Booz & Company, CEO SUCCESSION 2000-2009: A DECADE OF CONVERGENCE AND COMPRESSION (2010); Booz & Company, CEP SUCCESSION 2008: STABILITY IN THE STORM (2009); Booz & Company, CEO SUCCESSION REPORT 2003: THE PERILS OF "GOOD" GOVERNANCE (2004); Booz & Company, CEO SUCCESSION REPORT: 12TH ANNUAL GLOBAL CEO SUCCESSION STUDY (2012).

Data on Germany from Saskia Freye, Germany's New Top Managers? The Corporate Elite in Flux, 1960–2005, MPIfG Discussion Paper 10/10, 2010; Booz & Company, CEO SUCCESSION REPORT: 12TH ANNUAL GLOBAL CEO SUCCESSION STUDY (2012); Paul Windolf, CORPORATE NETWORKS IN EUROPE AND THE UNITED STATES (2002).

Data on United States from Peter Cappelli and Monica Hamori, The New Path to the Top, 83 HARV. BUS. REV. (2005); Richard S Tedlow, Purrington, Courtney and Bettcher, Kim Eric, The American CEO in the Twentieth Century: Demography and Career Path, Harvard Business School Working Paper No. 03-097, 2003; Jeffrey S. Sanders, The Path To Becoming A Fortune 500 CEO, FORBES, December 2011; Booz & Company, CEO SUCCESSION REPORT: 12TH ANNUAL GLOBAL CEO SUCCESSION STUDY (2012); Jason D. Schloetzer & Matteo Tonello, The 2011 CEO SUCCESSION REPORT (2011)

† Booz&Co (2012) reports at the overall European level, rather than on specific countries.

[Table 3] OLS Regression Analysis of Executive Career Pathways and Age of Attainment, 2002-2010

Dependent Variable: Age When Becoming the CEO						
	2002		2005		2010	
	(1)	(2)	(3)	(4)	(5)	(6)
Career Pathways						
1. Single-Group Track	-----Omitted as Reference Category-----					
2. Multi-Group Track	1.316 (.999)	.950 (.944)	1.406 (.932)	1.425 (.925)	4.143*** (.776)	3.679*** (.774)
3. Supervisory-Bureau Track	3.903** (1.123)	3.549** (1.046)	3.766* (1.443)	3.029* (1.209)	4.480*** (1.127)	4.443*** (1.070)
4. Unrelated-Government-Units Track	2.487 (1.571)	1.630 (1.465)	1.999 (2.149)	1.854 (1.571)	5.191** (1.804)	4.620** (1.635)
5. Multi-Sphere Track	2.742 (1.508)	1.462 (1.759)	2.264* (1.104)	2.109† (1.103)	3.313* (1.406)	2.691* (1.177)
6. System-Outsider Track ^a					11.105*** (1.314)	11.465*** (1.374)
Educational Backgrounds						
C9 League	-.567 (1.020)	-1.109 (1.030)	.439 (1.017)	-.185 (1.127)	-.532 (.846)	-1.363 (.872)
Engineering	3.087*** (.823)	1.249 (.832)	1.434 (.829)	.248 (.826)	.564 (.790)	-.167 (.741)
Graduate Degree	-2.836*** (.788)	-3.300*** (.727)	-.711 (.749)	-.634 (.730)	-1.024 (.708)	-.418 (.684)
Foreign Study	4.881† (2.605)	3.322 (2.393)	.913 (1.711)	-.140 (1.178)	-1.839 (1.350)	-2.364† (1.370)
Organizational Controls						
Board of Directors (Yes=1)		1.270 (1.017)		-1.264 (.949)		-1.616 (.375)
Ownership (Central Gov.=1)		2.973* (1.222)		1.495 (1.097)		1.049 (.964)
Log Revenues		.499 (.443)		.292 (.522)		.502 (.505)
Log Employees		1.201*** (.328)		.892* (.399)		.607 (.375)
Return on Assets		-.115 (.117)		-.143 (.103)		-.147 (.124)
Constant	44.367*** (.910)	26.211*** (4.729)	44.693*** (.939)	33.311*** (6.368)	45.193*** (.908)	33.139*** (6.046)
Observations	272	263	274	272	273	270
R-squared	.122	.284	.049	.157	.145	.250

The table presents unstandardized coefficients with robust standard errors in parentheses.

Significance Level: † p < .1 * p < .05; ** p < .01; *** p < .001. The lower the significance level, the stronger the evidence.

^aThe system-outsider category is omitted for the years of 2002 and 2005 because there is no observation falling into this category.

[Table 4] Logistic Regression Analysis of Post-CEO Status, 2002-2010

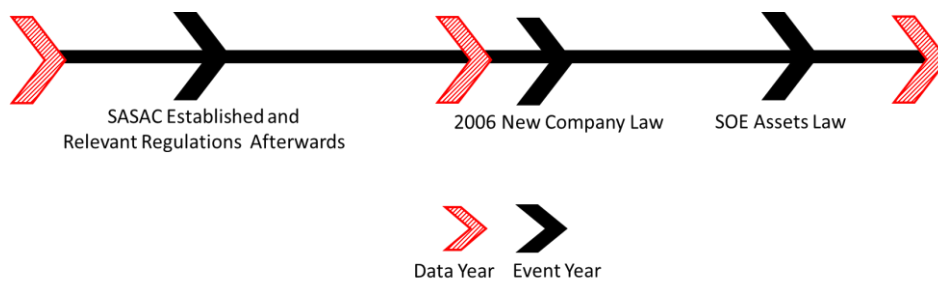
	Post-CEO Career Status							
	Chairman/Director/Executive of the Same Group		Director/Executive of Other Groups		Senior Government Official		Convicted Prisoner	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Career Pathways								
1. Single-Group Track	-----REF-----		-.689 (.620)	-.379 (.663)	-.575 (.603)	-.644 (.660)	-----REF-----	
2. Multi-Group Track	-.439 (.340)	-.350 (.364)	-----REF-----		-.500 (.645)	-.365 (.690)	.566 (.678)	1.302 (.778)
3. Supervisory-Bureau Track	-.808 (.483)	-.628 (.510)	.762 (.739)	.869 (.768)	-----REF-----		.104 (.907)	.824 (.982)
4. Unrelated-Government-Units Track	-1.364 (.754)	-1.455 (.799)	1.919 (.805)	2.623** (.917)	.424 (.870)	.610 (1.025)	-14.721 (.638)	-17.021 (4909.2)
5. Multi-Sphere Track	-.398 (.574)	-.535 (.621)	1.250 (.784)	1.326 (.848)	-.599 (.936)	-.872 (1.047)	.104 (.920)	2.166 (1.293)
6. System-Outsider Track ^a								
Educational Backgrounds								
C9 League	1.095* (.436)	1.210* (.480)	.173 (.633)	.190 (.654)	-1.311 (.769)	-1.018 (.808)	-.827 (1.260)	-16.387 (2647.8)
Engineering	-.016 (.314)	-.167 (.343)	.110 (.517)	.233 (.564)	.665 (.433)	.421 (.480)	-1.548 (.574)	-2.170** (.746)
Graduate Degree	.699* (.302)	.618 (.313)	-.180 (.520)	-.125 (.537)	.071 (.384)	.042 (.408)	-.995 (.677)	-1.419 (.803)
Foreign Study	-1.129† (.674)	-.899 (.752)	3.088*** (.766)	2.659** (.826)	-.944 (1.094)	-.445 (1.140)	-13.847*** (.729)	-14.717 (5246.9)
Organizational Variables								
Board of Directors (Yes=1)		1.234** (.398)		-.796 (.593)		-1.032* (.510)		.739 (.880)
Ownership (Central Gov.=1)		.580 (.447)		.155 (.688)		-1.398* (.652)		-.807 (1.113)
Log Revenues		-.011 (.155)		.150 (.242)		.185 (.214)		-.430 (.361)
Log Employees		.166 (.154)		-.183 (.200)		.447* (.217)		.578 (.335)
Return on Assets		.060 (.042)		-.075 (.078)		-.100 (.074)		.059 (.069)
Life course control								
Age at Appointment	-.055* (.025)	-.071* (.028)	-.070 (.040)	-.087* (.044)	-.074* (.032)	-.097* (.038)	.046 (.047)	.070 (.060)
Constant	2.395 (1.230)	.468 (1.995)	-.028 (1.558)	1.196 (3.142)	1.304 (1.467)	-3.472** (2.683)	-3.912 (2.182)	-5.541 (4.526)
Observations	232	229	232	229	232	229	232	229
χ^2 (df)	30.22(9)	43.32(14)	31.37(9)	33.56(14)	12.80(9)	27.05(14)	15.12(9)	26.58 (14)
p-value	.000	.000	.000	.002	.186	.019	.088	.022

The table presents unstandardized coefficients with standard errors in parentheses.

Significance Level: † p < .1 * p < .05; ** p < .01; *** p < .001. The lower the significance level, the stronger the evidence.

^aThe system-outsider category is omitted because there is no observation falling into this category.

[Appendix I]
Institutional Reforms and Data Years



[Appendix II]
Model Explanation for Table 3

The dependent variable in [Table 3] is age when appointed as the CEO. The personal attributes include career pathways and educational backgrounds. Career pathways as one of the independent variables are measured as dummy variables with the single-group track as the reference category. The statistical interpretation of using the single-group track as the reference category is: compared to the CEOs of the single-group track, the CEOs of another track (e.g. the multi-group track) tend to reach the executive position at an older/younger age.

Educational credentials are measured as dummy variables, respectively, of whether the executive is a graduate of C9 League (yes=1), whether the executive has an engineering degree (yes=1), a graduate degree (yes=1), and a foreign degree (yes=1).

In addition to personal factors, different organizational environments may affect career outcomes. Some China's large SOEs recently have started to experiment with launching the board of directors as a device to monitor executives. The board of directors is included as a dummy variable (yes=1) to test whether SOEs having established the board of directors may be more active in reform and thus more likely to have younger CEOs, who tend to be less constrained by old traditions. Moreover, considered that SOEs owned by the central government tend to have national importance in the economy and thus have stricter standards in executive quality than SOEs owned by local governments, central ownership is included as a dummy variable (yes=1) in the models. The firm revenues variable is included to control for firm size; the number of employees is to control for the internal labor market size, and return on assets for profitability. The variables including revenues and number of employees are log transformed.

The data concerning executive personal attributes (including career and education) are manually collected by this author from multiple sources including corporate prospectuses, annual reports, corporate websites, government documents and websites, industrial association websites, and news reports. The data concerning organizational attributes are purchased from the China Enterprise Confederation and China Enterprise Directors Association.

**[Appendix III]
Model Explanation for Table 4**

[Table 4] uses binary logistic regression models to examine how personal and organizational attributes affect the post-CEO status. Binary logistic regression is a type of regression analysis where the dependent variable is a dummy variable: coded 1 (yes=1) or 0 (no=0).

The sample size with missing data excluded is 232 CEOs who left office during the period of examination. The dependent variables are four types of immediate post-CEO statuses and constructed as dummy variables (yes=1): (1) the chairman/director/other executive of the same business group; (2) a director/executive of other business groups; (3) a senior official in other government units; (4) a convicted prisoner.

Types of career pathways as one of the independent variables are measured as dummy variables with the single-group track as the reference category in Models 1-2 and 7-8, with the multi-group track as the reference category in Models 3-4 and with the supervisory bureau track as the reference category in Models 5-6. Other independent and control variables are similar to those used in [Table 3]. Models 1,3,5,7 include personal variables only (i.e. career pathway and educational variables) while Models 2,4,6,8 are full models including all the independent and controlling variables.