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Introduction

Discussing “Civil Society” and “Liberal Communities” in China

EVA PILS

The idea inspiring the present issue of *China Perspectives* is that there are certain communities – or groups, or fields – in Chinese civil society that can be most readily expected to promote the strengthening of universal values underpinning human rights. These values include freedom of conscience and speech, freedom of association and the right to political participation, and liberty of the person – basic liberties.⁽¹⁾

Civil society and liberal democratic values

In different ways, communities of journalists, human rights defenders including in particular lawyers, religious communities, and nongovernmental organisations (NGO) involved in the provision of social services or advocacy can be especially important to the promotion of these values. Journalist communities, religious groups, and NGOs are also dependent on freedom of speech,⁽²⁾ conscience,⁽³⁾ and association,⁽⁴⁾ whereas rights lawyers are engaged in the defence of the rights to due process, a fair trial, and access to justice.⁽⁵⁾ In non-liberal, nondemocratic political systems, support from international or transnational civil society is an especially important further aspect. Accordingly, the contributions to this volume discuss these fields and aspects.

Our project had to overcome some challenges, beginning with the controversial question of whether, even assuming that the idea of “civil society” makes sense, a civil society can exist in (post-) authoritarian China. Addressing this question, this introduction argues for a liberal conception of civil society, and on the basis of this conception discusses the contributions on the particular Chinese civil society fields contained in this issue. An insight emerging from all the contributions is that political pressure on – and sometimes repression of – civil society is met by the strengthening and diversification of resources to resist pressure, and often contributes to rising consciousness of the institutional safeguards needed for a genuine civil society.

Conceptual issues: Civil society in China between “gongmin” and “minjian”

There is no universally accepted definition of “civil society,” because to say a civil society exists is to make an evaluative judgement. Interpretations have produced different conceptions ranging from the sociological to the (more explicitly normative) political.⁽⁶⁾ These have different virtues. The classic, liberal political conception is often traced back to Tocqueville’s account of eighteenth century American society, characterised, in his view, by the prevalence of associations, formed freely and voluntarily for non-commercial purposes, to serve some aspect of the common good – formed, thus, in the civic or “civil” spirit to be found in democratic political systems.⁽⁷⁾ From

the perspective of Tocqueville and those he greatly influenced, the existence of civil society is clearly tied to a particular society’s democratic political organisation. This might hold the promise that a strengthening of civil society could result in a strengthening also of the demand for democratic change. But it could also suggest that in politically hostile conditions, civil society cannot emerge.

Adam Michnik’s “Towards a Civil Society” remains an important and, in China, also influential twentieth century reflection on the optimistic political reasoning Tocqueville’s account led to on the part of democracy activists in Eastern Europe.⁽⁸⁾ Under the pressure of the systems they lived in, direct and in a narrow sense “political” opposition, e.g., through the formation of a political party or underground movement aiming to gain government power or overthrow the system, was on the one hand not as eligible as a more diffuse, less direct, broader, and non-violent strategy. On the other hand, just because these systems were totalitarian (at least from the per-

1. A conception of “basic liberties” is developed e.g. in John Rawls’ version of liberalism. Rawls’ account lists the right to vote and run for office, freedom of speech and assembly, freedom of conscience, freedom of personal property, and freedom from arbitrary arrest (*A Theory of Justice*, Cambridge, Belknap Press of Harvard University Press, 1971, p. 53). For criticism of this “parsimonious” account, see e.g. John Tasioulas, “Human Rights” entry in *Routledge Companion to the Philosophy of Law* (forthcoming, 2012).
2. Relevant formulations can be found in Article 35 of the 1982 PRC Constitution (last revised 2004, “the PRC Constitution”), Article 19 of the Universal Declaration of Human Rights (UDHR), and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), for example. (The PRC has signed but not yet ratified the ICCPR.)
3. The right to freedom of religion is recognised in Article 36 of the PRC Constitution. See also Article 18 ICCPR and Article 18 UDHR on the freedom of thought, conscience, and religion.
4. Cf. Article 35 of the PRC Constitution; Articles 21, 22 ICCPR, Article 20 UDHR.
5. On the broader topic of access to justice in China, see Jayshree Bajoria, “Access to Justice in China,” www.cfr.org/china/access-justice-china/p15745 (consulted on 20 August 2012), and Fu Hualing, “Access to Justice in China: Potentials, Limits, and Alternatives,” draft, September 2009, via http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474073 (consulted on 20 August 2012). International law does not explicitly protect an abstract right to access to justice, but this right is implicit in substantive and procedural rights guarantees (see for example Article 2 ICCPR, Article 8 UDHR). Relevant domestic constitutional provisions include Articles 33, 37, and 41 of the PRC Constitution.
6. For an excellent and more extensive discussion of the intellectual origins of civil society discourse – addressing such diverse influences as Hannah Arendt, Juergen Habermas, Amitai Etzioni, Robert Nisbet, and Jonathan Unger – see Chan Kin-man, *Zou xiang gongmin shehui* (Towards a civil society), Hong Kong, UP Publications Limited, 2010, chapter 1.
7. Alexis de Tocqueville, *De la Démocratie en Amérique*, 1835, available at www.ecole-alsacienne.org/CDI/pdf/1400-0107/14096_TOCCQ1.pdf and www.ecole-alsacienne.org/CDI/pdf/1400-0107/14097_TOCCQ2.pdf (links consulted on 20 August 2012); e.g., at p. 391 (Part I). “That Providence has given to every human being the degree of reason necessary to direct himself in the affairs which interest him exclusively — such is the grand maxim upon which civil and political society rests in the United States. The father of a family applies it to his children; the master to his servants; the township to its officers; the province to its townships; the State to its provinces; the Union to the States; and when extended to the nation, it becomes the doctrine of the sovereignty of the people”.
8. Adam Michnik, “Towards a Civil Society: Hopes for Polish Democracy: Interview with Erica Blair (John Keane),” pp. 104 ff, in Adam Michnik, *Letters from Freedom: Post-Cold War Realities and Perspectives*, Berkeley, University of California Press, 1998, pp. 96–113.

spective of those who opposed them), the formation of communities resisting domination by the state was certain to be effective, even if such communities did not directly engage in struggles for political power. “The path of perseverant struggle toward reform, the path toward broader civil and human rights, is the only path for dissidents in East Europe.” Asked how the concept of civil society, “this old-fashioned eighteenth century term,” could be relevant to Poland in the 1980s, Michnik replied:

In the totalitarian order, the state is the teacher and society is the pupil in the classroom, which is sometimes converted into a prison or a military camp. In a civil society, by contrast, people do not want to be pupils, soldiers, or slaves; they act as citizens... The point is that, as citizens, we in the democratic opposition don't want to be treated any longer as children or slaves. The basic principle of the anti-feudal movement was human rights, the idea that everyone has rights equal to those of the monarch. That's what we also want. We want everybody to enjoy the same rights as Jaruzelski, secured by the rule of law.⁽⁹⁾

Together with some of his other essays, Michnik's *Toward a Civil Society* was translated into Chinese by Cui Weiping, today an important public intellectual in China.⁽¹⁰⁾

On the other hand, as pointed out by Anthony Spires in his discussion of NGOs in China,⁽¹¹⁾ and as echoed especially in Carsten Vala's contribution on religious communities,⁽¹²⁾ “civil society” is capable of an interpretation that makes it appear supportive of, rather than a challenge to, authoritarian political orders. Spires contrasts “Tocquevillean” with “corporatist” perspectives on civil society, and points out that in authoritarian political environments, the corporatist organisation of realms of social life that in a Tocquevillean democracy would fall within the spheres of civic responsibilities means that the organisations responsible for them can become instruments of control that are in turn controlled by the authoritarian State.⁽¹³⁾ To illustrate this phenomenon for China, we may think not only of the All China Federation of Women, the All China Federation of the Disabled, and the All China Federation of Trade Unions, but also of numerous more recently created government-organised nongovernmental organisations, or GONGOs.⁽¹⁴⁾ If there were an authoritarian normative conception of “civil society,” it would thus have to be corporatist, and it would challenge the democratic conception.

It is the reality of authoritarian corporatist constraints in Chinese society today that appears to motivate sociologists such as the eminent Sun Liping of Tsinghua University to express persistent doubts as to whether China has any civil society at all. Characteristically, Sun's account of “civil society,” like that of many scholars in China engaging with this term, is normatively charged along the lines of Tocqueville and Michnik, while at the same time setting up criteria that would have to be empirically satisfied for civil society to exist in China. Following Xiao Gongqin,⁽¹⁵⁾ Sun distinguishes three levels of normative depth: Firstly, in civil society, that is, in a *gongmin shehui* (公民社会) or “citizens' society,” there are free individual citizens. The concept of the individual citizen, or in Chinese *gongmin* (公民), is juxtaposed with *renmin* (人民), “the people,” a plural word that connotes collectivity and does not admit of individual enumeration. *Renmin* is of course preferred by traditional CCP language. Secondly, the citizens in civil society have civic responsibilities; and thirdly, they have individual rights.⁽¹⁶⁾ Patently, in Sun's view, China does not have such a society “yet.” As recently as three years ago he expresses himself tired of asking the young scholars at his research

institute working on “civil society studies” when Chinese civil society will finally “arrive.”

Seeking a middle-ground position, other scholars such as Xiao Gongqin suggest that civil society could be conceived of as less opposed to the state, less like what Xiao terms the “Anglo-American model” of civil society, and more cooperating with it in the spirit of continental European social democracy. Certainly, Xiao points out, China has changed dramatically compared to the Mao Zedong era, when in a certain sense there was not even a “society” to speak of, let alone a “civil society” – when the ideology of the omnipotent state (*quanneng guojia zhuyi* 全能国家主义) ruled out the existence of society as something juxtaposed with and potentially independent of the state.⁽¹⁷⁾

In part perhaps from a sense that the expression “*gongmin shehui*” would fail to reflect the reality of their own current society, some of those who caution against applying the term to China opt for the normatively less charged *minjian shehui* (民间社会). In its most literal translation, *minjian* means simply “among the people,” and unlike *gongmin* (“citizen”), it has no liberal connotations. With deliberate awkwardness reflecting its function as a makeshift term, *minjian shehui* might be translated as “folk society.” It also evokes the old, traditional juxtaposition of officials (*guan* 官) and common people (*min* 民) and suggests dualism as opposed to the complex pluralism of a “citizens' society” in which citizens have the right to organise and challenge the government in a number of ways.

Another reason for a tacit change to *minjian shehui* in some of the mainstream media appears to be that in recent months and years, the authoritarian hard-line wing of China's political leadership has chosen to reject the concept of “civil society / *gongmin shehui*” altogether. Some trace this explicit rejection back to a May 2011 article by Zhou Benshun, a member of the (then) powerful Political-Legal Committee under Zhou Yongkang. Zhou Benshun proposed “social management with Chinese characteristics” (*Zhongguo tese shehui guanli* 中国特色社会管理), a term reflecting the authoritarian corporatist notions already discussed above. One of the central passages of Zhou Benshun's speech is worth quoting:

To innovate social management, our political and institutional advantages must be brought into full play. The structure of social man-

9. Adam Michnik, “Toward a Civil Society,” in Adam Michnik, *Letters from Freedom*, *op. cit.* In the same piece, Michnik comments on the inability of Western observers to view the then Eastern Europe as “totalitarian” because, he says, the concept of totalitarianism in Western society is charged with images of Hitler and Stalin.
10. See Cui Weiping's translation, *Tongwang gongmin shehui*, 1996, available online at www.marxists.org/chinese/PDF/06/112101.pdf (consulted on 20 August 2012).
11. Anthony Spires, “Contingent Symbiosis and Civil Society in an Authoritarian State: Understanding the Survival of China's Grassroots NGOs,” *American Journal of Sociology*, vol. 117, no. 1, July 2011, pp. 1–45.
12. See Carsten Vala's article in this issue, “Protestant Christianity and Civil Society in Authoritarian China.”
13. Spires, *art. cit.*, pp. 2 ff.
14. For a discussion of relevant numbers, see the contributions by Chan and Wu and by Kellogg in this issue.
15. Sun refers to the work of Xiao Gongqin, but without citation (see below footnote 17).
16. Sun Liping, “Zhongguo you mei you gongmin shehui?” (Does China have a civil society?), 18 August 2009, <http://sun-liping.i.sohu.com/blog/view/129843127.htm> (consulted on 20 August 2012).
17. Xiao Gongqin, “Fazhan gongmin shehui zhi Zhongguo lujing” (The path to Chinese civil society development), 28 July 2012, www.chinese-thought.org/zwx/010039.htm (consulted on 20 August 2012). For a critical discussion see e.g. Joseph Fewsmith, “Social Management' as a Way of Coping with Heightened Social Tensions,” *China Leadership Monitor*, no. 36, Winter 2012, pointing out that the term “social management” was first used prominently by CCP General Secretary Hu Jintao at a Politburo study session in September 2010.

agement whereby Party committees lead, the government bears responsibility, society coordinates, and the masses participate gives concrete expression to our political and institutional advantage, is the root of strengthening and innovating social management, and must be energetically improved. We must insist on consolidating the Party's rule, guaranteeing the country's lasting stability and durable peace, and ensuring that the people live and work in peace and contentment. Problems of non-conformity between social management and the new situation must be solved realistically, avoiding mistaken beliefs and misrepresentations that could eventually cause us to fall into the trap of so-called "civil society," set up for us by some Western countries⁽¹⁸⁾

Since then, there has been a sustained turn against "civil society," at least at the level of the Party's political rhetoric. At the end of July 2012, a widely noted editorial in the overseas edition of *People's Daily* on groups in society that were potentially hostile to the party-state triggered references to them as the "New Five Black Categories" (*xin hei wu lei* 新黑五类).⁽¹⁹⁾ Having criticised Western and in particular American efforts to undermine China, the editorial continues:

With "Internet freedom" as their slogan, they will attack "top down" governance in order to promote the traditional model of liberal democracy. Through the use of "rights lawyers," underground religion, dissidents, Internet leaders, and disadvantaged social groups as the core forces, they will push for a "bottom-up" approach to Chinese governance from the grassroots to lay a foundation for changing China.⁽²⁰⁾

The rhetorical shift reflected in Zhou Benshun's article and this recent editorial in some ways threatens to drown out more differentiated discussions, and to put a temporary end to more subtle discussions of whether and how civil society in China is developing, and what direction it should take. Rhetorically, conceptually, it would almost appear as though "civil society" must now accept its new state of being officially persecuted.⁽²¹⁾

We must not overlook this rhetoric or its potential implications for official attitudes toward Chinese civil society in the years to come; but we should also pause to assess what, if anything, the new authoritarian hard-line rhetoric may change or already has changed "on the ground." The contributions to this issue address mainly the question of how actual persons, communities, and organisations in the fields of journalism, human rights lawyering, and religion (with a focus on unregistered churches) have evolved, and of how NGOs are faring under the current system at both the domestic and international levels. The repressive anti-liberal rhetoric of Zhou Benshun et al. cannot tell us, but it underlines the importance of finding out.

The growth of liberal communities and communities dependent on liberal values

The contributions to this issue all discuss the conditions of civil society survival in an authoritarian environment. They are also all remarkable for their portrayals of civil society entities that struggle and often manage to survive or re-emerge even after they have come under severe attack from the state; and in different ways, they reflect on how such struggles affect other activities and goals of these embattled groups.

The civil society fields discussed are populated, albeit not exclusively, by communities we can usefully call "liberal" in terms of their own value orientations. Even where there is some tension between their own and (some) liberal values, such as may arguably be the case with some religious communities, the presence of these communities depends on values directly challenging authoritarianism, and they in turn are especially at risk under illiberal "management" and repression.

Toward the party-state, liberal communities in this inclusive broader sense represent and concentrate the challenges that entity is facing from society at large. Toward wider society they are engaged in various efforts to inform, educate, persuade, advocate on behalf of, help, protect, and to some extent transform the individuals and groups with which they engage. In the age of the Internet, the potential target group for their various communicative efforts is growing rapidly – it has of course long since expanded beyond national borders; but as shown in the discussions in this issue, liberal communities can be expected to have special influence on domestic political and social development in China today.

Chan and Wu's study of evolving relations between government and NGOs – which they define as "voluntarily formed, not-for-profit, and private organisations that exhibit a minimum level of institutionalisation and self-governance" (excluding private charity foundations and social enterprises) – draws on interviews conducted between 2011 and 2012.⁽²²⁾ In a way that very much answers the purpose of this issue, the authors provide a categorisation of NGOs from a perspective of state control, which they explain using the conceptual frameworks of corporatism and fragmented authoritarianism. Implicit in their argument is the commitment to civil society as an idea that has been so clearly important to both authors' scholarship and direct engagement with Chinese civil society,

Chan and Wu argue that "graduated" and categorised control (*fenlei guan zhi* 分类管制) explains not only how NGOs are controlled but also the differentiated strategies used to react to control. Chan and Wu discuss the effectiveness of such strategies using two case studies as examples. Their discussion is based in the assessment that governmental monitoring and control of grassroots NGOs and activism remain "pervasive."

Depending on their business nature (such as "service" to the community or "advocacy" in a particular cause), funding sources, and scale (of activities), measures of control range from mere bureaucratic supervision to "being asked to tea," letters to warn the organisation off as potentially subversive,

18. Zhou Benshun, "Zou Zhongguo tese shehui guanli chuangxin zhi lu" (The path to innovation of social management with Chinese characteristics), 16 May 2011, www.qstheory.cn/zxdk/2011/20111010/201105/t20110513_80501.htm (consulted on 20 August 2012); the translation here is based on that by Flora Sapio at her *Forgotten Archipelagoes* blog entry of 6 July 2001, <http://florasapio.blogspot.hk/2011/06/belated-translation-zhou-benshun-road.html> (consulted on 20 August 2012). Critically, e.g. Xiao (above note 17).
19. China Digital Times, <http://chinadigitaltimes.net/2012/08/word-of-the-week-the-new-five-black-categories> (consulted on 20 August 2012). The original "Five elements" or "Five categories of black elements" (*hei wu lei*) included landlords, rich peasants, counter-revolutionaries, bad elements, and rightists. Gucheng Li, *A Glossary of Political Terms of the People's Republic of China*, Hong Kong, The Chinese University Press, 1995), p. 150.
20. *People's Daily*, "Zhongguo zhenzheng de tiaozhan shi weilai 5-10 nian" (China's real challenge is the 5-10 years ahead), 1 July 2012, <http://ccnews.people.com.cn/n/2012/0731/c141677-18636091.html> (consulted on 20 August 2012), and translation by Scott Harold, <http://chinadigitaltimes.net/2012/08/peoples-daily-chinas-real-challenge-is-the-next-5-10-years> (consulted on 20 August 2012).
21. See Zhu Jianguo, "Jiushi daqing weihe pan 'gongmin shehui' sixing" (Why is "civil society" given the death sentence at the 90th [Party anniversary]?), *Zhengming*, June 2011, see online www.peacehall.com/news/gb/pubvp/2011/06/201106060051.shtml (consulted on 20 August 2012).
22. Chan and Wu, "Graduated Control and Beyond: The Evolving Government-NGO Relations," in this issue.

e.g., because it accepts foreign funding, and in some cases to being closed down. Readers of this issue will find that categories here developed (and organised in tables) can be found in the fields discussed by the other contributors.

In their case studies, the authors show that the appropriate response to increased government control is not necessarily submission or “face-saving” negotiation with the authorities from a position of weakness. Rather, using the example of an NGO director who wards off persecution by publishing an account of his/her midnight summons to the local police station, they show that going public about such persecution can be effective in some circumstances.

Nevertheless, the conclusion of this piece reminds us of the apparently tightening ideological-political constraints of Chinese civil society under the concept of “social management” or “social administration” (*shehui guanli*), as expounded by Zhou Benshun:

Should NGOs register with the government and make themselves completely transparent to the state? Should NGOs bid for government projects and rely on state funding to sustain their operations? Should NGOs participate in the consultation mechanism of the state and refrain from taking non-institutional and risky tactics in advocacy? These are questions and dilemmas that Chinese NGOs will face in the new era of innovation in social administration.⁽²³⁾

Svensson's account of journalists' communities draws on a wealth of information gathered in interviews conducted over a period of four years. It is perhaps the first academic study to systematically engage the issue of how journalists build communities with colleagues and across professional boundaries, relying especially on Internet communication technology such as social media, and of how such informal networks and communities affect their professional and social existence. The article focuses on communities of investigative journalists. It argues that “with the development of microblogging (*weibo* 微博) we see new forms of community building [and] more open expressions of solidarity and ironic resistance.”

Several themes emerge from this discussion: Firstly, Svensson shows that *weibo* communities allow investigative journalists to engage more deeply with their role(s) in society, and to question and reformulate what their roles should be: “muckrakers,” protectors of the weak, the country's “conscience,” or “heroes.”⁽²⁴⁾ Part of this identity-building process occurs through what Svensson calls “story-telling” in her in-depth account of how some individual stories, such as that of the famous Sun Zhigang case, became founding myths for investigative journalism in China. Secondly, Svensson shows how new opportunities for interaction particularly strengthen investigative journalism – how the new communities created give a sense of “shelter” and spiritual “home” to potentially at-risk or embattled individuals engaging in such journalism, and how online communities can lead to off-line encounters and activities, e.g., through the creation of salons. Thirdly, she discusses how despite repression, the organised and state controlled media world can also provide some support to “muckraking” journalists, e.g., through the organisation of prizes and by continuing to train journalists in ways that equip them for the challenges of investigative journalism.

Lastly, in several sections full of narrative colour and detail, she engages with the many strategies journalists have found to fight back against party-state control and (incidental) repression. There is, for example, the NPC delegate expressing clumsy criticism of a report – only to encounter collective

online exposure and ridicule, including cartoons, in “retaliation.” There is the terrible story of journalists stopped, by local decree, from following up with reports about Xu Wu, a petitioner incarcerated in a psychiatric hospital; and there is the well-known case of the journalist Xie Chaoping, around whose cause journalists, lawyers, and public figures rallied in an effort of broadly civil-society-based *weiquan* (维权), rights defence. “Microblogging by its very nature opens up for and demands some level of interactivity among its users,” Svensson concludes. Yet, “Whether *weibo* can facilitate the creation of a genuine public sphere in China is open to debate in view of the ad hoc and fragmented nature of public debates on *weibo*, marginalisation of certain voices, and the precarious connection between on-line debates and off-line mobilisation.”

Like Svensson, Teng Biao in his analysis of rights defence reflects on activism developed, to a significant degree, out of a professional community, and on comparable experiences of evading, negotiating, and opposing control.⁽²⁵⁾ The authorities, so far as both professional journalists and professional lawyers are concerned, have a certain institutional grip on individuals, be it through licensing, institutionalised censorship, or indirect control of incomes under state corporatism. But in contrast to Svensson's journalist communities, the lawyers and other rights defenders at the centre of Teng's discussion are for the most part not professionally trained to make use of mass communication channels; and they initially encounter these media as amateurs who, in the case of traditional media at least, are likely to be passive interviewees reliant on others' support. (Only a few individuals have, like the author, combined the professional roles of scholar, public intellectual, and lawyer.)

Teng's analyses of individual cases of “rights defence” illustrate how it came about that lawyers, professionally trained to handle cases within the constraining channels of a formal legal system, became activists making intensive use of traditional and “new” (social) media in individual case advocacy. The basic reason for this is, of course, the authoritarian and corporatist institutional design and political control of these legal institutions.

The cases discussed in Teng's piece illustrate how technological progress has benefited rights defenders by facilitating their communication and ability to put pressure on the authorities through online appeals. One example is the famous Sun Zhigang case also cited by Svensson as one of the “pivotal stories” fostering the image of the investigative journalist. The story of the young man victimised by the then still extant custody and repatriation (*shourong qiansong* 收容遣送) system would never have impressed millions had it not been for a newspaper willing to publicise it. In the Sun Zhigang case, the practice of “citizen journalism” and the use of social media had not really emerged yet, and activists involved in this case relied largely on “traditional” news-reporting to attract public attention.

With the arrival of the “Web 2.0” age, rights defenders have also been given “microphones,” to use Yu Jianrong's famous phrase,⁽²⁶⁾ and can directly and actively communicate with large numbers of people. The recent case of Li Qinghong, a businessman charged with mafia crimes and tortured to extract a confession, allowed lawyers to become active in numerous roles

23. *Ibid.*

24. Marina Svensson, “Media and Civil Society in China: Community building and networking among investigative journalists and beyond,” in this issue.

25. Teng Biao, “Rights Defence (*weiquan*), Microblogs (*weibo*), and the Surrounding Gaze (*weiguan*) Community building and networking among investigative journalists and beyond,” in this issue.

26. “Yu Jianrong: ‘Everybody has a microphone,’” (translated by Don Weiland), 20 December 2010, <http://chinadigitaltimes.net/2010/12/you-jianrong-%E4%B%A%8E%E5%BB%BA%E5%B5%98-everyone-has-a-microphone> (consulted on 20 August 2012).

closely related to the criminal justice process – to engage in virtual “court-room rights-defence,” as Teng puts it, and to do so as part of a “legal team” (*lǚshítuán* 律师团). Beyond the courtroom there are multiple forms of Internet-based rights-defence, such as constitutional challenges to bad law, efforts to democratise lawyers’ professional organisations (at present organs of state corporatism), and various forms of collective protest.

Lastly, according to Teng’s analysis, there is a more purely “online rights defence” – encompassing activities that are initiated and take immediate effect online in the Web 2.0 age. These include online signature campaigns, the organisation of flash mobs, online rescue campaigns when a rights defender has been detained, symbolic online actions, (real-time) online reports, and online searches. The new technologies allow for “organising without organisation,” as the author, quoting Clay Shirky, puts it. They enable people to break up “many of the traditional dichotomies: between providers and recipients of information, official and private media, domestic and foreign media, presence and absence, collective and individual spheres, elite and grass-roots, and even the political and the non-political.”

Compared with twentieth century activism, these technologies strengthen what European democracy activists already saw as the potential of “civil society”: “Havel said that living in truth is the ‘power of the powerless’; ⁽²⁷⁾ networking technology is likewise the power of the powerless. The Internet has become ‘liberation technology’ due to Web 2.0 social movements’ gradual subversion of existing associative power structures.” ⁽²⁸⁾

So, are micro-bloggers in a better position to act as genuine citizens in an emerging Chinese civil society now than ten or 20 years ago? Teng’s analysis certainly suggests this; while conceding the obvious weaknesses of online rights defence, he is noticeably more sanguine and less sceptical than Svensson. Perhaps this difference is due in part to the fact that the diverse activities summarily referred to as “rights defence” can benefit in a unique way from the versatility and speed of online expression – the point of these activities is the protection of rights much more than the exercise of any particular right, as in the case of journalism (freedom of expression) or religion (freedom of belief and conscience).

The role potentially played by religion in fostering human rights and the values underpinning them is examined by Carsten Vala who, for persuasively explained reasons, focuses on Protestant Christianity: Buddhism and Daoism, as historically “entrenched” religions in China, “do not worship a ‘world-transcending’ deity or cherish universal principles that would hold secular rulers to account.” ⁽²⁹⁾ By contrast, Protestant Christian churches claimed independence from the state early on, and in terms of both their European origins and the role they played in the collapse of Eastern European systems acquired a profile defined by their opposition to authoritarian states. It should be noted in this context that this very value orientation makes Protestant Christianity attractive to some members of other liberal communities. ⁽³⁰⁾

To what extent, if at all, then, can Protestant churches be “sites of democratic civil society” in the context of an authoritarian system embracing corporatist structures and committed to the idea of “neo-imperial sacral hegemony,” as Vala (following Madsen) puts it? To what extent do they “offer alternative values, defend institutional interests, and limit state power”?

Vala answers this question with scholarly clarity and detachment. He begins by conceptually organising Protestant Christianity into official churches under the authority of the Three Self Patriotic Movement association and its sister organisation, the Christian Council, and unregistered churches (a

term the author prefers to the descriptively imprecise “house churches”), of which there are different kinds. The article is particularly interested in members of urban unregistered Protestant churches, a focus that well suits the question the article investigates.

It is not especially surprising, perhaps, that Vala finds that “official church leaders have manoeuvred around restrictions put in place by the party-state, but in ways that limited the impact on building up norms of democratising civil society.” By contrast, unregistered church leaders have overall “condemned the ‘false’ nature of official churches for obeying the party-state rather than obeying God.”

Even so, drawing on interviews conducted between 2009 and 2010, Vala shows that there are important differences amongst unregistered urban churches. On the one hand, there are those that take an overall uncompromising stance toward Party-State authority. The best-known exemplar of these is probably the Shouwang Church in Beijing. Churches such as Shouwang “seek policy change that draws a clear distinction between state and society in line with a liberal-democratic civil society tradition that differentiates political and religious spheres of action,” whereas other unregistered churches, taking a less confrontational approach, “put a higher price on carrying out religious activities than they do on whether they submit to party-state control over society.”

Will the more “open and resolute” kind of unregistered Church that is represented by Shouwang achieve the political goals they appear to have? Vala is sceptical, noting the comparatively small size of such churches measured against churches in Eastern Europe, for example, and concludes that “[w]hether their efforts will succeed in a historical division of society from state depends on factors beyond the Protestant churches themselves.” If Vala is right, we would have to conclude that both kinds of urban unregistered churches that he analyses may be successful only in the more modest sense of being able to continue to operate, practicing beliefs that in themselves challenge political authoritarianism.

As there is so much polarising rhetoric around this topic today, we should not avoid the difficult issue of international engagement in China’s civil society, and we must not leave unexamined the hostile categorisations suggested by the hard-line faction in China’s political leadership. Thomas E. Kellogg’s contribution faces the problems of international engagement head-on, and is in some ways written from an “inside” perspective. Drawing on years of academic as well as practical engagement with this topic, the article focuses on Western funding for rule-of-law-based initiatives in China, and provides an argument of clear relevance for this issue.

On the one hand – using a distinction found in Chan and Wu’s contribution – Kellogg argues that support for grassroots NGOs – in a sense, genuine civil society organizations – has been comparatively neglected by foreign donors, who up to now have more willingly collaborated with government-approved NGOs or GONGOs, and that rights advocacy-based NGO work – which of course is only a portion of the work that NGOs, including grassroots NGOs, do – especially deserves greater support. Advocacy-oriented groups, in Kellogg’s view, “may be more effective in their pursuit of a pro-

27. Cited with reference to Vaclav Havel, “The Power of the Powerless,” in Vaclav Havel et al., *The Power of the Powerless: Citizens Against the State in Central-Eastern Europe*, Abingdon, Routledge, 2010, pp. 10–60.

28. Teng, *art. cit.*

29. Carsten Vala, “Protestant Christianity and Civil Society in Authoritarian China,” in this issue.

30. For an argument about the connections between liberal constitutionalism and Christianity, see for instance Wang Yi, *Xianzheng zhuyi: Guannian yu zhidu de zhuanlie* (Constitutionalism: Concept and systemic transformation), Jinan, Shandong renmin chubanshe, 2006, p. 150.

gressive reform agenda than government-affiliated organisations or university-based entities might be, both because they are able to initiate grassroots-level momentum for change, and because they are able to have an impact on the enforcement of China’s own laws, a key weakness that has hindered progress on the development of the legal system as a whole.”³¹

Among the main reasons for this is, firstly, the fact that there has been a clear turn away from a rule-of-law orientation in the political leadership – from the perspective of rule-of-law reform, one might call this a deterioration at the top, making further investment in top-down reform initiatives less promising. Secondly, foreign funding organisations have somewhat neglected bottom-up civil society initiatives focusing on fostering rule-of-law improvements through advocacy, even though in his view such initiatives have thrived and become more effective in recent years.

The reasons for this may in part be attributed to the “control” considerations analysed by Chan and Wu in their contribution to this issue. However, in a detailed argument clearly reliant on personal expertise, Kellogg argues that some of the reasons may lie in the fact that it is more difficult to handle support for small organisations, to issue many small grants as opposed to a few large ones, and to operate in diverse locations. Yet donors unwilling to accept these difficulties, Kellogg warns, risk “contributing less to the development of a more vibrant civil society in China and more to the creation of the kind of well-managed, service-based social sector that many observers believe is the Chinese government’s overall goal.”

On the other hand, Kellogg argues that certain areas of advocacy should be supported more readily than others – disability rights, LGBT rights, and labour rights are examples – while others should not be supported because there is simply too little hope that such advocacy will result in meaningful reform. Kellogg mentions specifically criminal justice and the media.

The argument against investing in advocacy in areas of press freedom and criminal justice could have dampening implications for some of the areas of civil society development discussed in this issue. Much of rights-defence is of course inseparable from criminal justice issues – even in cases where there was an original focus on other causes, rights defenders themselves can, after all, easily be targeted by criminal “justice.” Moreover, freedom of thought, speech, and conscience is of central importance if civil society is to perform the function of supporting and promoting China toward greater state respect for basic liberties and universal values. Unfortunately, there is no reason to question the author’s assessment that significant reform in the areas of criminal justice and media is unlikely. But Kellogg’s argument is perhaps more a realistic reaction to what Chan and Wu in their contribution have identified as risk factors for the survival of grassroots NGOs than it is a rejection of the importance of these high-risk groups.

China’s resilient civil society

The observation and personal experience that animate the empirically richly-grounded contributions to this issue show that Chinese civil society is extant and vibrant, as well as fairly resilient. The picture painted by the contributors leaves three main impressions:

Firstly, Chinese civil society is not merely diverse, but also uniquely compartmentalised. This is in evidence especially with regard to fields and communities that have a potentially oppositional political function, and in reaction to suppression. One major compartmentalisation is that of “inside” and “outside” the system – a duality of terms reflecting the reality of state corporatism; and there are signs of further and more complex compartmen-

talisation and fragmentation, all of which can in some way be understood as the result of the same party-state pressure on civil society.

Secondly, Chinese civil society is controlled and in part persecuted – we can now affirm this not merely on the basis of the anti-civil-society rhetoric cited earlier, but also on the basis of observations made “on the ground.” One of the merits of Chan and Wu’s contribution is its systematic and stringent account of control and persecution, while Kellogg’s article reflects on the effects of persecution on the crucial issue of foreign (funding) support.

Thirdly, as Vala’s contribution reminds us, the strength of particular groups is ultimately not determined by the attitudes of the party-state (tolerant or repressive) but rather by the strengths of their respective popular bases – potentially, this would include but is not limited to the fifth “black category” identified in the July 2012 *People’s Daily* editorial: the “weak” in society, *ruoshi qunti* (弱势群体).

Of course, one of the implications of anti-liberal civil society persecution has been that those who try to help vulnerable groups – including many liberal communities of rights defenders and journalists discussed here – have become increasingly vulnerable themselves. Indeed, if we are prepared fully to accept the idea of civil society, we must appreciate that in an authoritarian system focused on social management and control, no part of society can be genuinely strong.

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31. Thomas E. Kellogg, “Western Funding for Rule of Law Initiatives in China: The importance of a civil society based approach,” in this issue.