

INTER ASIA PAPERS

ISSN 2013-1747

nº34 / 2013

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Centro de Estudios e Investigación sobre Asia Oriental

Grupo de Investigación Inter Asia

Universitat Autònoma de Barcelona

INTER ASIA PAPERS

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EDITA

Centro de Estudios e Investigación sobre Asia Oriental

Bellaterra (Cerdanyola del Vallès) Barcelona

Universitat Autònoma de Barcelona

ISSN 2013-1739 (versión impresa)

Depósito Legal: B-50443-2008 (versión impresa)

ISSN 2013-1747 (versión en línea)

Depósito Legal: B-50442-2008 (versión en línea)

Diseño: Xesco Ortega

Intellectuals and Civil Society in the Reform Period

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Resumen

Así como el concepto de sociedad civil ha sufrido cambios a lo largo de las últimas décadas, la implicación de los intelectuales chinos también ha pasado por diferentes fases. En este artículo trataremos de describir las sucesivas actitudes y analizaremos los factores subyacentes a los cambios que han tenido lugar.

Palabras clave

Intelectuales, China, movimientos por los derechos civiles.

Abstract

Just as the nature of the concept has changed in the last decades, the involvement of the intelligentsia has also gone through various phases. In this chapter, we shall attempt to describe these successive attitudes and analyse the factors which underlie the changes that have taken place.

Keywords

Intellectuals, China, civil rights movement.

INTELLECTUALS AND CIVIL SOCIETY IN THE REFORM PERIOD¹

Jean-Philippe Béja

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The concept of civil society has been introduced quite recently in the People's Republic. One could state that it was introduced *after* the reality emerged during the 1980s. Considered as sulfurous in the last decade of the last century because it reminded the communist leadership of the developments which had taken place in Eastern Europe and had ended up in the fall of the Berlin wall and the demise of the Soviet Union, it has become popular with liberal scholars in the early 1990s who used it when talking about the relations between the State and the citizens. After the mid-1990s, especially in the wake of the United Nations conference on women held near Beijing in 1995, the official discourse started to refer to Non-Governmental Organizations –creating the term *Feizhengfu zhuzhi*– and to the “Third Sector” (*di sange bumen*), acknowledging the necessity to develop a new kind of organization between the State and the citizens. The term “civil society” itself was not considered anti-Party any more. As it has become part of the “international community” newspeak, the Chinese leaders have understood the use they can make of these terms in their quest for respectability.

However, we must face the facts and realize that the concept of civil society as developed by people like Adam Michnik and

¹ Publication of this paper has been authorised by CIDOB-Barcelona Centre for International Affairs.

Václav Havel in the seventies, and the concept of NGOs propagated by international organizations in the nineties vastly differ. One was a subversive idea which shapped the legitimacy of the post-totalitarian regimes whereas the latter is a necessary tool of the “governance” which has become so fashionable in the present day world.

Just as the nature of the concept has changed in the last years, the involvement of the intelligentsia has also gone through various phases. After a phase of active involvement in the struggle for the creation of an autonomous society between Deng Xiaoping’s return to power and the 1989 June 4th massacre, it has then retreated into silence and collaboration with the authorities for a little more than a decade, and has been active again since the beginning of the twenty first century. In this chapter, we shall attempt to describe these successive attitudes and analyse the factors which underlie the changes that have taken place.

The Struggle for the Creation of an Autonomous Space

After the trauma of Mao Zedong’s last ten years of rule, the return of Deng Xiaoping to power signalled a 180° change in the Party’s policy towards the intelligentsia. One of the first decisions of the new paramount leader was to rehabilitate the intellectuals, declaring that the former “Stinking ninth” had become part of the working class. This can be explained by the necessity for the new leadership to ground its legitimacy in the modernisation of the country, symbolized by the new program

of the “Four Modernizations”.² In order to achieve this objective, the Party needed the support of qualified staff.

It therefore turned towards intellectuals who, having been the target of the recurrent political campaigns under Mao’s rule, were particularly demoralized as they had been persecuted and accused of all evils. However, despite the ostracism they had been submitted to, they were still anxious to play an active part in the struggle to achieve the old dream of a strong China (富国梦 *fuguo meng*), and when Deng gave them this opportunity, they enthusiastically rallied behind him.

Moreover, the new leadership needed to renew the ideological foundations of its right to rule. Deng showed that he really meant to head towards secularization, a process which incarnated in the struggle for the “liberation of thought” (解放思想 *jiefang sixiang*) and the declaration by the then secretary for propaganda Hu Yaobang that “practice [was] the only criterion of the truth” (实践是真理的唯一标准 *shijian shi zhengli de weyi biao zhun*). This new attitude appealed to the intelligentsia which was given the possibility by the new leaders to take part in the revamping of the ideology. In the wake of the movement of rehabilitations of the victims of maoist campaigns enacted by Hu Yaobang when he headed the organisation department of the Central Committee, a great number of intellectuals re-entered the Party.³

² Modernization of agriculture, industry, national defense and science and technology.

³ From 1978 to 1980 the victims of the various maoist political campaigns were rehabilitated : the “capitalist roaders” of the Cultural Revolution, the Rightist opportunists, the Rightists and finally the partisans of Hu Feng.

They supported Deng Xiaoping's policy which consisted in giving more autonomy to society, especially to the peasants who were encouraged by his lieutenants to dismantle the people's communes,⁴ and to open the economy to Western firms. Deng went even further when, in order to topple the Maoist leaders that the great Helmsman had appointed to succeed him, he allowed the discontented to vent their anger at the regime by pasting *dazibao* on the walls of the big cities.

Many former Red Guards who had been sent to the countryside in the wake of the Cultural Revolution, and had come back illegally to the cities, wrote essays which reflected their criticism of the political regime and asked for "the fifth modernisation: "democracy". They started unofficial journals where they discussed the nature of the regime which had made the tragedy of the Cultural Revolution possible. At the end of 1978 and until March 1979, the Reformist leadership did not object to these developments (Sidane, 1980).⁵

During the same period, a conference on "theoretical reflexion" which brought together most of the just rehabilitated intellectuals, was convened by Deng and met at the Great Hall of the People to proceed to an aggiornamento of the ideological foundations of the Party. Marxist-leninist theoreticians who had been silenced under the "Gang of Four", former Rightists who had asked for more freedom in 1957, and young philosophers who had been active in the Tian'anmen incident discussed the

⁴ Wan Li in Anhui and Zhao Ziyang in Sichuan encouraged the peasants' initiatives in 1977 and became very popular: the peasants used to say "if you want to eat rice, ask Wan Li" (*yao chi mi, zhao Wan Li*), "if you want to eat grain, ask Zhao Ziyang" (*Yao chi liang, zhao Ziyang*)

⁵ In November 1978, Deng Xiaoping even declared to Japanese journalists that the *dazibao* would last for decades (Sidane, 1980).

new political line. Some of them did not hesitate to go to the “Democracy Wall”, and even wrote theoretical articles in the unofficial journals without being criticized (Béja, 2004).⁶ The atmosphere was of a very large and free debate. But, when Wei Jingsheng pasted his *dazibao* entitled “Democracy or New Tyranny?” (*Tansuo*, 1979), which directly denounced Deng Xiaoping for having started the war against Vietnam without consulting the people, the paramount leader decided the arrests of the more radical activists and the quasi closure of the democracy walls. He then stated the “Four cardinal principles”⁷ which defined the limitations to the new conquered freedom: criticism should not question socialism, marxism-leninism and Mao Zedong thought, the people’s democratic dictatorship and, last but not least, the leadership of the communist party. Deng was clearly closing the door to the possibility of installing a Western style democratic system in China.

Strangely enough, the mainstream intellectuals, including the ones who had written in the unofficial journals, did not protest against the crackdown perhaps because they were not ready to jeopardize their newly acquired freedom by engaging in a radical criticism of socialism. But more deeply, they were suspicious of the members of the Red guard generation –who were overwhelmingly represented among the writers of *dazibao*– who had persecuted them during the Cultural Revolution. They did not want to take the chance of a return to Maoism to defend the freedom of expression of young radicals they did not trust.

⁶ Political scientist Yan Jiaqi, and legal scholar Guo Luoji.

⁷ In a speech pronounced on March 31st, 1979.

After March 1979 the road to regime change was blocked, and the vast majority of intellectuals acknowledged this fact. However, the crackdown on the Democracy Walls made them understand that they could not blindly trust the new leadership, and led them to strive for the establishment of a sphere of autonomy. They understood that they could not create organizations in the political field, a field which the Party had once again expressed that it would stay under its hegemony, therefore they turned towards the social field. They started new professional associations which differed from the official mass organizations directly placed under the Party leadership. These initiatives actually played into the agenda of the Reformers who needed the support of society in order to complete their victory over the neo-Maoists and the conservatives who tried to slow down the pace of economic reform. The radical reformers represented by Deng Xiaoping's lieutenants Hu Yaobang and Zhao Ziyang, needed both new ideas to enforce the economic and political changes necessary to the achievement of the Four modernizations, and forces able to help them take power from the whateverists⁸ who were still strong.

There was therefore a convergence of interests between Party reformers and liberal intellectuals that allowed the latter to fight for the creation of a form of civil society. This experimentation was all the more riskless as the policies adopted in the countryside and in the factories –salaries have been raised many times from the end of the 1970s till the mid-1980s– were very popular and were largely supported by the “toiling masses”.

⁸ This is how conservatives under Wang Dongxing and Hua Guofeng were qualified, because they insisted that whatever Chairman Mao had said should be implemented.

As the intellectuals were careful enough not to challenge the legitimacy of the Party rule, they were given latitude to create an autonomous space. This was the Chinese version of what Adam Michnik has called the “self-limited revolution” (Micknik, 1985). As we have seen above, scholars founded associations such as the Beijing Association of Young Economists, which regrouped the more audacious specialists in this field. It organized conferences, discussed ideas which went beyond the official ideology, and represented a very dynamic group which enjoyed a certain degree of autonomy.

But the most creative initiative was doubtlessly the foundation of editorial boards: these did not challenge the Party monopoly on publishing but they took advantage of the new policy which provided that State owned enterprises should be responsible for their profits and losses. As these publishing houses managed by a Party committee had a lot of difficulty to make money, some of their managers therefore decided to ask famous intellectuals to help them publish profitable books. These managers were often open-minded former rightists who understood that controversial ideas interested the readers. This is how the editorial boards were borne: they were part of the publishing house, but their members were not selected by the department of organization but were chosen because they were friends who shared ideas and were aware of the necessity to publish ground breaking works in all the fields of social sciences. They were often themselves Party members, but the structure they worked in enjoyed a great degree of autonomy. The best example is the collection *In march towards the future* (走向未来 *Zou xiang weilai*) created in the Sichuan People’s Publishing House by Jin Guantao and the regretted Bao Zunxin.⁹ The influence of this

⁹ Jin Guantao left for Hong Kong in 1989 and is now publishing the influential magazine 二十一世纪 *Ershiyi shiji*, whereas Bao Zunxin was

collection was immense in the 1980s and many of the students who were to participate in the 1989 pro democracy movement were avid readers of its books.

As the reforms were deepening, intellectuals became bolder and even created autonomous research centers. These were actually a new creation of the 1980s: one or two audacious intellectuals organized a group of friends and colleagues who shared their ideas to do some research on social and economic problems. They sold their reports to various administrations whose leaders needed new ideas. The research centre was registered under an official work unit (挂靠单位 *gukao danwei*) (Béja, 2004). The most famous is the Beijing Social and Economic Research Institute founded by two participants in the 1979 Democracy wall, Chen Ziming and Wang Juntao, which had a membership of several dozens of researchers and had direct relations with many ministries. At the end of the 1980s, they even bought a weekly paper which had been the organ of the Beijing association of young economists (Goldman, 2005).

Another example is the case of the *Shijie Jingji daobao* (世界经济导报), which was created under the auspices of the Research Center on the World Economy of the Shanghai Academy of Social Sciences, but was actually virtually independent. It was one of the most popular media in the intelligentsia and carried many ground breaking articles on democracy, on the perestroika in the Soviet Union, and even on the advantages of multiparty democracy.

sentenced to 7 years in jail in 1989, and stayed in Beijing. He died in October 2007.

These semi-autonomous media carried many articles written by scholars from the Academies of Social Sciences and social scientists from the various universities.

These intellectuals were also very active in organizing conferences which were eagerly followed by students. They also participated in the creation of the salons which characterized the second half of the 1980s, a name modelled on the salons which multiplied at the eve of the French Revolution. In these informal structures, discussions about democracy, about separation of power, about the need to adapt China to the modern world were rife (Béja, 2004). One of the results of the vibrancy of this autonomous space was to de-legitimize Marxism-leninism, and to popularize the new Western social sciences theories.

Therefore, one can say that the intelligentsia played a major role in the construction of a semi-autonomous space which was structured by all sorts of associations operating along very creative rules. The autonomous space enjoyed the protection of the radical reformers inside the Party, who were convinced that in order to reinforce the legitimacy of the reform, the regime had to enjoy the support of the most advanced forces in society. This is the reason why although intellectuals were careful not to create political organizations, the self-limited civil society they built did push for the democratization of the regime: it was in itself a factor of pluralization, and it succeeded in reduce the scope of the control exerted by the Party over society. The radical reformers supported it because they judged that this experimentation was worth making because it did not affect the workers and peasants and therefore the stability of the regime was not threatened. As a matter of fact, during this first decade of the reforms, the rural society silently gained a large degree of autonomy through the de facto decollectivisation of the land which produced very positive effects in terms of standards of

living and prevented contradictions to emerge in the countryside until The late 1990s.

So, the advent of civil society was very much an intra-elite affair. However, despite the support of very highly placed Party leaders, it was never formally institutionalized. It operated in a grey zone which was protected by personal relations (*guanxi*), a sort of patron-client relationship between its actors and part of the Party leadership. It was a very fragile construction, as was demonstrated by the repression which followed the 1989 pro-democracy movement.

At the beginning of that movement, intellectuals were very cautious and did not immediately join the students in the street demonstrations. They were worried that any excess might jeopardize the autonomous space that they had had a lot of trouble building. But finally, they joined the movement, their patrons in the leadership clashed with the conservatives (Zhang, 2001), and the paramount leader arbitrated in favour of the latter.

In the wake of the Tian'anmen massacre, the organizations that had structured the budding civil society were dismantled, their animators were either jailed or exiled, and the autonomous space disappeared. Editorial boards were dismantled, semi-autonomous media were closed, autonomous research centres were destroyed and their leaders jailed. In 1989, pro-democracy intellectuals learned the prize of the absence of institutionalization and of counting on *guanxi*. In a just few days, their protectors were purged and replaced by much more conservative leaders who did not share their predecessors ideas about the necessity of a vibrant civil society. The Party decided to re-instate its hegemony over the political and the societal fields.

Retreat from Civil Society: The Intelligentsia Supports the Party Modernisation Plan

In the wake of the Tian'anmen massacre, the semi-autonomous organisations which had characterized the 1980s were persecuted, and the anti-intellectualism that had characterised the Maoist period came back in force. Denunciations of the attempts to engineer a "peaceful evolution" –towards capitalism–, of the alliance between the pro-democratic intelligentsia and the international forces of opposition were omnipresent. All the more so as in less than half a year after June 4th, all the communist regimes of Eastern Europe had fallen. The demise of the Soviet Union two years later sent a wave of panic among China's communist leadership. The lessons that Deng Xiaoping drew from this string of events was different from those of the conservative leaders. Having understood that they were the result of the failure of the Eastern European and Soviet communist Parties to raise the standards of living of the population, Deng Xiaoping decided that the return to ideology and socialist orthodoxy favored by the conservatives could not help the CCP stay in power. In the winter of 1992, during a journey to the South of the country famous for its special economic zones that Communist conservatives had ceaselessly criticized as modern-day concessions, he proposed a new deal to the elites: under the slogan development above all (发展是硬道理 *fazhan shi ying daoli*) he meant that all sorts of experimentations were possible in the economic field. This was a golden opportunity for intellectual elites as the new phase of economic development was to be grounded in high technology and sophisticated services. And the Party was ready to give them material rewards if they accepted this deal. This was a considerable difference with the situation in the eighties: then, they had been rehabilitated symbolically, but their material conditions had

remained pretty low and at the end of the decade, ambitious young women would rather marry a *getihu* (个体户) than a university professor. In 1992, Deng accepted to grant them opportunities to dramatically improve their lots and to join the international scientific community: professors and scholars would be allowed to write in international scientific journals—even in the field of social sciences—to do research and teach abroad, to invite foreign specialists to teach in Chinese universities. All this under one condition: that they do not question the legitimacy of the communist rule, or try to create autonomous organizations. The CP leadership also reminded them that the demise of the Soviet Union had been caused by the so-called “democratization” started by Gorbachev and supported by the liberal intelligentsia. Did the intellectuals want China to follow the example of the USSR? The CCP insisted that the risk of a break-up of the middle Kingdom was all the more present that the new phase of the reforms was going to affect the interests of the “toiling masses” as in order to modernize the economy, the government should make State owned enterprises efficient and profitable, a task which could not be achieved by preserving the workers’ “iron rice bowl”. The intelligentsia had to be careful not to criticize the regime unless the developments of the country were compromised. Therefore, the Party asked it to accept the new line: “stability overrules everything” (稳定压倒一切 *wending yadao yiqie*).

A great number of Chinese intellectuals were actually convinced that the Soviet Union had indeed broken up because democratization had ended in the weakening of the State. Therefore, many came to share the Party’s view that democratization was a dangerous path which could disrupt modernization. So, for the decade to come, they concentrated on their professional achievements, developed their competence in sciences, and abandoned the struggle for the development of

an autonomous space. Many also “jumped into the sea” of business (下海 *xia hai*) and justified their attitude by an analysis of the failure of the 1989 pro-democracy movement which went as follows: the movement failed because the budding civil society could not depend on an autonomous economic foundation as most of its creators were employed by the State. By developing an autonomous market, the new policy could create the conditions for really autonomous organizations to emerge. Under these circumstances, the duty of the intellectuals was to work with the Party to develop the economy. They should accept to help the leadership devise the new policies, by participating in the various committees that were being founded by the Party and governments at every level, thereby returning to the old tradition of the “Counsellor to the Prince” so present in the intelligentsia. They were all the more convinced that they had to pursue these strategies as they shared the leadership’s conviction that protests by the working people represented a real danger: because they considered that the quality of the workers, their level of education were too low (素质太低 *suzhi tai di*), they thought that their protests would prevent the deepening of the reform of the economic system, and that they might favour the return of Maoism. In the mid-1990s, the majority of the intellectual elites had rallied the regime.

And in fact, as they had feared, the lower classes started to express their discontent at the new policy. Whereas during the late seventies and the eighties most criticisms had been expressed by intellectuals, students and reformist Party cadres, since Deng Xiaoping’s trip to the South, people belonging to the social strata which did not benefit from the reforms became increasingly vocal. They started to protest against the relative degradation of their social status and standards of living. And whereas in the first half of the 1980s, the working people’s

status had considerably improved, after 1992, things started to change: State-owned enterprises workers were sacked in great numbers, their status as *xiagang* (下岗) making them a new underclass, peasants living near the cities were expelled from their land without adequate compensation to make way for industrial parks or real estate projects the benefits of which lined the pockets the local leaders, ordinary citizens saw their health degraded as a result of industrial projects which did not take into account the damage done to the environment, and so on. During this phase of modernization which started in the early 1990s and still goes on, great numbers of workers and peasants' status and way of life have been affected. In the absence of institutionalized channels for the expression of discontent, petitions, collective actions, suicides multiplied. Officials at the local level (乡 *xiang*) especially were denounced for corruption, absolutism, and violent explosions of discontent multiplied, peaking in episodes which shocked the country in the early twenty first century, such as the Dongzhou demonstrations¹⁰ (Shanwei, Guangdong) in 2005, the Taishi affair in 2004, which became icons for a new social movement.

In the beginning, protests by the lower classes were ignored by the elites, except for a very small group of pro-democracy fighters who wrote petitions in support of the *mingong* (民工) or tried to help organize disgruntled workers and met with tough repression from the authorities (Béja, 1975: 29).

As the opposition forces had not yet recovered from the repression which had followed the Tian'anmen massacre, and since the majority of the intelligentsia adhered to the Party's program, these protests went mostly ignored. They remained

¹⁰ *New York Times*, 13/12/05.

strictly circumscribed to villages, and *danwei*. As the protesters were deprived of access to the international media, as Chinese journalists were under strong pressure to submit to the authorities' orders, they did not have much impact on the general political situation.

However, the development of inequalities which accompanied economic growth, provoking a disenfranchisement of increasing numbers of citizens, started to worry the leadership. Because, since 1989, the Party legitimacy had been exclusively based on its capacity to develop the economy and to raise the people's standards of living, this phenomenon was increasingly perceived as a threat to the sacrosanct "stability". The discontent engendered by the relative impoverishment of vast stretches of urban and rural society risked to lead to violence which might become a challenge to Party rule. Abuses by local cadres, running away corruption, the fall of moral standards among the ruling groups were slowly undermining the Party legitimacy. The leadership felt it had to react to check that worrying trend.

It was nevertheless out of the question to allow the discontented groups to organize and express their grievances. Whoever is at the helm of the Communist Party, the prohibition to allow the creation of autonomous social or political organizations is a basic principle that cannot be infringed.

The Emphasis on the Law by the CCP Leadership

Under these constraints, and for other reasons that we shall envisage below, the Party leadership decided to emphasize the importance of the law: developing the concept that had been raised in the 1980s of "democracy and legality" (民主与法制

minzhu yu fazhi)” they affirmed the necessity to “rule the country according to the law” (*yifa zhiguo* 依法治国).¹¹ This decision was made in a peculiar international context: as the boycott which had followed the Tian’anmen massacre was eased, and as relations with the Western world and especially the USA were dramatically improving, China signed the International Covenants on Economic, Cultural and Social Rights, and on Civil and Political Rights –which it has not ratified– in 1997 and 1998. This undoubtedly helped the PRC to join the WTO in November 2001.

Of course, the fact that the term “Rule of Law” entered official discourse did not mean that the system had changed. Neither did the fact that the Constitution was once more amended in 2004, under the reign of Hu Jintao, to integrate the “protection of human rights” and “protection of private property”. Actually, the leadership has always had an instrumental conception of the law. It is supposed to help resolve the contradiction, but should not undermine the power of the Party. Therefore, the amendments did not deeply change the relations between the State and society. Besides, they were not such a novelty as the litigation law, which allowed citizens to sue the State agencies, had been adopted in 1989.

The Return of the Intelligentsia in the Fight for a Civil Society: The Civil Rights Movement

The novelty is not so much the fact that the authorities have emphasized the importance of “the rule of Law”, but that since the beginning of the 21st century, ordinary citizens have started to pay attention to that question and have taken the authorities

¹¹ This phrase was introduced as an amendment to the Constitution in 1999 by the NPC.

to their word, and used the discourse of the law to defend their rights and to protest against the abuses of the cadres.

The recourse to the discourse of the law does not necessarily mean that aggrieved citizens take their grievances to the courts. This can be the case, but it is not the only way for them to demand the enforcement of the law. The “civil rights movement” (维权运动 *weiquan yundong*) which has appeared in China especially since the accession of Hu Jintao and Wen Jiabao to the supreme leadership, has taken various forms: class-action in court –especially in the case of violation of consumer rights–, individual suit, demonstrations, petitions, collective letters, *shangfang*, and so on.

But all these actions are meant to obtain that the authorities implement the laws they have adopted and live up to their discourse. We shall see below that the aggrieved citizens do not always believe that the government feels obliged to behave legally, but using that discourse gives citizens’ action an undeniable legitimacy. This type of action is quite new in China, but one could argue that it represents an actualization of a widespread behavior in the 1960s: during the Cultural Revolution, minority groups members often used “quotations from Chairman Mao” to oppose the decisions of the leading factions. This attitude was then condemned as “waiving the Red Flag to fight the Red Flag” (举红旗反红旗). If one considers that at the time, Mao’s words were the equivalent of the Law, this behavior is not so different from the Civil Rights Movement activists’. But it is also typical of political attitudes of citizens in socialist countries, best described by then Czech dissident Václav Havel:

A persistent and never-ending appeal to the laws –not just to the laws concerning human rights, but to all laws– does not mean at all that those who do so have succumbed to the

illusion that in our system the law is anything other than what it is. They are well aware of the role it plays. But precisely because they know how desperately the system depends on it –on the 'noble' version of the law, that is– they also know how enormously significant such appeals are. Because the system cannot do without the law, because it is hopelessly tied down by the necessity of pretending the laws are observed, it is compelled to react in some way to such appeals (Havel, 1991).¹²

The Chinese lawyers and legal scholars who support the aggrieved citizens' cause call this attitude taking the fraud at its own word (假戏真常 *jiaxi zhenchang*).¹³ As Václav Havel shows, it does put an undeniable pressure on the authorities and gives a certain margin of maneuver to the victims of abuses.

The best example was the Sun Zhigang affair in 2003. This was the case which symbolized the advent of the Civil Rights Movement¹⁴ in the public sphere. A very special conjunction of factors gave it great prominence, but it already concentrated all the aspects of the movement:

¹² I am indebted to Perry Link for finding this quotation by the famous Czech dissident.

¹³ This translation is Perry Link's. This behavior is quite common in more generally in authoritarian systems where citizens are not allowed to question the legitimacy of the official discourse.

¹⁴ The expression *weiquan yundong* is usually translated as "Rights Defense Movement", which is in effect its literal meaning. However, its goal is really to enforce civil rights for all Chinese citizens, and many of its aspects remind the observer of the American Civil Rights Movement. Therefore, we have decided to use this translation.

- The role of the media: The death of Sun Zhigang¹⁵ was first reported in *Nanfang dushi bao*, whose reporter went to investigate the case by himself and showed that Sun's detention was illegal and violated the rules governing the functioning of the Custody and Repatriation Centers (Thireau and Hua, 2005). The article referred to the specific articles of the law to justify its denunciation of the authorities' behavior. The article was then re-published by another newspaper.
- Censorship by the authorities: The Guangdong Party Committee ordered the newspapers not to cover that story. The journalists obeyed, but it was already too late.
- The role of the Internet: a great number of infuriated comments had already appeared on the Internet and they did not cease with the Party's reaction. The Sun Zhigang affair had already become a national "cause célèbre". It provoked a string of discussions on the equal rights of migrants and residents, prompting some migrant workers to declare: "We are all Chinese, and some Chinese have beaten another Chinese to death" (Lee, 2003).
- The role of the legal community: Legal scholars then seized this case and three of them sent a letter to the NPC asking for the abolition of the Centers. Their reaction was based on the law (立法法 *lifa fa*) passed in

¹⁵ This case is quite famous so we won't go into details. Let's just recall that Sun Zhigang, a designer from Hubei, was sent to a Custody and Repatriation Camp because he did not carry his provisional hukou. Although he had proposed to ask friends to go and fetch it, he was beaten to death.

2000 which allowed citizens to propose the abolition of laws and regulations that they deemed unconstitutional. One of the authors of the letter, Xu Zhiyong, a Law professor at the Chinese University of Telecommunications declared: "The Constitution says that all people are equal before the law. But because of the disparities in our society, rural people are heavily discriminated against and their freedoms are restricted" (Ekholm, 2003). The legal scholars' objective was actually to use the Constitution as an effective guarantee of the citizens' rights.

- Finally, to the utter surprise of the signatories, on June 18th 2003, Prime Minister Wen Jiabao decided to abolish the Custody and Repatriation Centers. Later, agents who had beaten Sun to death were sentenced to heavy jail terms and two to the death penalty (Jakes, 2003).

Legal scholars were a bit disappointed because the abolition was the result of a political decision and not of a legal process; nevertheless, this was viewed as the first victory of public opinion since 1989: by challenging the legality of a well established institution, legal scholars, helped by journalists who had denounced the scandal, and supported by public opinion on the internet, had succeeded in moving the government to take the decision they were asking.

After that episode, many legal scholars, lawyers and citizens alike were convinced that the law could be used to defend the rights of ordinary Chinese and that they had a responsibility to take part in this struggle. These new developments have signalled the return of part of the intelligentsia to the side of society, and to the struggle for the defense of the citizens' rights. After a decade of intense collaboration with the Party

leadership characterized by a fear of working people involvement in the public sphere, many intellectuals were convinced that to make China stable, it was necessary to have equal rights for all its citizens. They therefore joined the struggle for the implementation of civil rights launched by ordinary citizens.

Since the turn of the century, many victims of abuse –villagers insufficiently compensated after land expropriation, peasants victims of corrupt Party secretaries, urban residents expelled from their homes to give way to developers– started to denounce the cadres' behavior by referring to their rights as guaranteed by the Constitution. With the help of journalists, of ordinary netizens, a network of lawyers and legal scholars specializing in rights defence appeared, and is now considered as a tool to challenge abusive cadres. This network is informal, but it covers the entire country. It is very different from the organizations of the type that intellectuals had created in the 1980s (Béja, 2004), but thanks to the Internet, and the new modes of communication –SMS, e-mails, and so on– it can be relatively easily mobilized by people who fall victims to official bullies.

The Taishi Affair

A good example is the Taishi affair. When the villagers in Taishi (Guangdong) discovered that their village chief had embezzled land compensation funds, 400 of them deposited a petition to ask for his recall in accordance with the organic law on village elections. They had asked the advice of a Zhongshan University Professor famous for her involvement in the Civil rights movement, and a legal scholar from Guangzhou, Guo

Feixiong.¹⁶ Two weeks later, 1.500 villagers clashed with armed police and activists were arrested. They then started a hunger strike to protest, and despite the refusal of the village chief to resign, they stuck to non-violent means. Li Fan, a scholar who runs a centre which studies democracy at the village level, described the originality of the movement: “The dismissal request is not strange”, he said. “What it is strange is the methods the villagers used. They understand the law and attracted foreign media and academic interest, which made the matter more complicated” (Lee, 2005). Lawyers and legal scholars came to help the villagers, and the Taishi affair became another symbol of the citizens’ new behavior.

An interesting aspect of the *weiquan* network is that it cuts across social classes, allowing for collaboration between intellectuals –such as lawyers, journalists, academics– and workers and peasants. It is different from the traditional forms of dissent and opposition in the PRC. Whereas during the eighties, criticism of the Party came mostly from intellectuals and students who had extensive contacts with factions inside the apparatus and were pushing for the reform of the political system, the Civil Rights Movement originates in ordinary citizens who do not question the Party political line or the nature of the regime, but openly and decidedly posit themselves within the system, and try to solve concrete problems through official channels. Their demands are very different from their predecessors’. For example, they don’t ask for “freedom and democracy”, nor do they denounce corruption in general. This new attitude is certainly a result of the repression of the 1989 pro-democracy movement.

¹⁶ Guo Feixiong was sentenced to five years in jail for “corruption” in November 2007.

Many of the scholars and journalists who constitute the bulk of the activists of the *weiquan yundong* were very young during the 1989 pro-democracy movement but it impressed them strongly. In private, many of them acknowledge their debt to the students, but they also emphasize their differences. Let's see how Xu Zhiyong, one of the activists in the Sun Zhigang affair, describes his relations to previous movements: "I have respect for those who raised human rights issues in the past", he said. "But now we hope to work in a constructive way within the space afforded by the legal system. Concrete but gradual change -I think that's what most Chinese people want" (Ekholm, 2003).

The fact is that most of the citizens who are part of this movement care mainly about the redress of their grievances, and do not pose a political challenge to the regime. On the contrary, they demand that it takes steps to solve the dysfunctions of the system.

In the early days of the *weiquan* movement, the authorities encouraged the victims of abuse to seek redress in courts, rather than use the traditional channels such as the *xinfang ju*. They thought that it was a positive development which demonstrated the people's trust in the regime:

"By applying proper legal procedures to the request of a person aggrieved by an administrative decision, the courts may dissipate resentment and discontent through providing more effective remedies than the traditional way of *shangfang* (上访) or *laifang-laixin* (来访来信), that is, by making complaints and appeals for help by the higher authorities by making visits or sending letters. In other words: The frustration reflected in the saying that "for officials to sue the people is just and normal, but there is no effective way for the people to sue the officials" (官告民一个准, 民告

官没有门 *guan gao min yige zhun, min gao guan meiyou men*) could be reduced” (Yu, 1987).

In the early 2000s, the term *weiquan* was actually used in official language. A search for the term on the Chinese government’s website gave tens of thousands of references and was described positively. For example: “General rights defense knowledge (为全常识 *weiquan changshi*) understanding enables citizens to take preventive measures against rights infringement”.¹⁷

This convergence between citizens’ behavior and government discourse helps explain why in late 2002 and early 2003, not only ordinary citizens, but also intellectuals concerned with right defense were optimistic about the attitude of the new leadership of Hu Jintao and Wen Jiabao would help enforce equal rights for all citizens. All the more so as they proclaimed their interest in the lot of the “vulnerable groups”.

For a few months, it seemed that the authorities had understood that it was very dangerous to deny the victims the right to go to court as conflicts multiplied and tended to escalate¹⁸ –in the cities as much as in the countryside–, threatening to become violent and therefore to put the sacrosanct stability in jeopardy. It then seemed that the Party leaders had understood that the fact that Civil Rights activists did not challenge the legitimacy of the State but, on the contrary, took it to its word and

¹⁷ See “Weiquan on Line”, *China Rights Forum*, 3, 2006, p.19.

¹⁸ In 2005, the official press announced that there had been 87.000 collective incidents, against 78.000 in 2004 and only 32.000 in 1999 and 8.700 in 1993. Quoted in Terence Chen “*Weiquan*, the Chinese People Rise Up to Defend Their Rights”, <<http://chinascope.org/magazine/200510/3>>, accessed on September 5th, 2007.

demanding that, in order to reinforce its legitimacy, the new team emphasize the enforcement of the law. Hope was so great that many intellectuals talked about Hu-Wen's new deal (新政 *xinzheng*)

Alas, these hopes were soon going to be disappointed, because in the following years, the Party took numerous measures to curb the Civil Rights Movement, by cracking down on its main actors.

Repression by local authorities became stronger. For example, when Dongzhou (Shanwei, Guangdong) villagers rose in November 2005 to protest against inadequate compensation for land seizures, the armed police used firearms to quell the demonstration and arrested the leaders (Magnier, 2005, 2006). In what looked like an all-out offensive on the movement, the Party used a very aggressive language. Luo Gan, the member of the Politburo Standing Committee, declared that the Civil rights movement "harboured forces dedicated to overthrowing the Party rule",¹⁹ and received support from Western countries. According to a source quoted by CRD network, a document was circulated which called on officials at all levels of government to "initiate attacks, strike them as soon as they emerge, control the enemy first and eliminate the situation that is sprouting."²⁰

Is it a result of these decisions? The fact is that in the last two years, the courts, acting in accordance with local governments,

¹⁹ "Chinese official urges local handling of unrest", *International Herald Tribune*, January 8, 2007.

²⁰ <http://crdnet.org/Article/Class9/Class11/200705/20070504163559_4198.html>.

have condemned legal activists and lawyers who had played an important role in prominent *weiquan* cases.²¹

Furthermore in 2006 the NPC passed a law providing for “New Guidelines on Lawyers” which restrict even further their independence and their ability to defend the victims of abuses as, for example, they explicitly state that “Lawyers who handle mass cases should accept supervision and guidance by judicial administration departments”.²² As lawyers have to renew their licenses every year, it is easy to prevent those specializing in the defense of Civil rights to practice. This is what happened to Gao Zhisheng in December 2005, to Li Jianqiang in Shandong in July 2007 and to other lawyers in Shaanxi.²³

Continuing the crackdown on the Civil rights Movement, the Central and Provincial Departments of Propaganda ordered the media not to cover conflicts in rural or urban areas without prior official authorization. Many journalists were either arrested or silenced, editorial boards were restructured, netizens arrested and sentenced to heavy jail terms, some books were banned (Béja, 2007).

Of course, enforcing control is not as easy as it was in Mao’s times, and a lot of information about conflicts is still available

²¹ See for example the case of Chen Guangcheng who protested forced abortions in Linyi, Shandong, Zheng Enchong, condemned in Shanghai for having helped evicted residents, Guo Feixiong, active in both Taishi, Dongzhou and Linyi who were sentenced to prison terms. See Human Rights Watch, *A Great Danger for Lawyers*, <<http://hrw.org/reports/2006/china1206/>>.

²² *ibid.*

²³ See “China Rights Defense” website, <<http://crd-net.org/Article/Class9/Class10/Index.html>>.

on the net. Even open letters, such as the one initiated by dissident writer Liu Xiaobo, “One world, One Dream, and Universal Human Rights”, circulate on the net and was signed by Chinese citizens. Another example, a laid off worker in Heilongjiang was arrested and charged with subversion of the State, because he had circulated a letter entitled “We Want Human Rights, not the Olympics”²⁴ which was signed by more than 1.000 citizens.

Despite these continued instances of dissent, the crackdown has been quite efficient, and the Civil rights movement lost in intensity at the approach of the 17th Party Congress. These developments show that Hu Jintao did not opt for a relaxation of control. Although the expression of dissent took new forms, although it decided to remain confined within the framework of the law, the Secretary General confirmed that only the Party has the right to solve contradictions which emerged “between the cadres and the masses”. Be it demonstrations –the authorities always react negatively to the demands for demonstrations–, or public opinion campaigns to demand the enforcement of basic rights, as long as these initiatives are taken without the authorization of the officials, they are considered suspect. The authorities have taken many steps to improve the lot of the workers and peasants who do not gain in the reform process. The government has amended the Labor Law and the situation of the *mingong* –one of the most “vulnerable groups” in Chinese society as they very often work without any contract, and therefore without any protection from the State– has improved. The government has also taken steps to fight against the embezzlement of compensation funds for the land that local authorities decide to develop.

²⁴ “Chinese Human Rights Defenders”, CRD network, September 3rd, 2007, <<http://crd-net.org/Article/ShowClass.asp?ClassID=9>>.

But at the same time, the Party has taken all the possible steps to curb the independent activities of citizens, and to prevent a category of Civil Rights activists to crystallize and become an autonomous force.

The 17th Congress did not fundamentally change this situation as it involves the deep nature of the political system. It is not a question of faction politics. As long as Hu Jintao does not start a profound reform of the Communist Party rule, prompting it to recognize the legitimacy of citizens' autonomous action, the discontented who try to express their dissent openly is subject to repression. The Party line can go through more relaxed (放 *fang*) or more tense (收 *shou*) periods according to the balance of forces between factions, but it is very difficult to imagine that the *weiquan* movement will be institutionalized during Hu's term. However, as social conflict is bound to continue, there will be clashes between citizens and officials during the future. If repression of the *weiquan* activists continues, aggrieved citizens might well become desperate and lost their faith in the system. Unable to obtain satisfaction before the courts, they might resort to violence. What will be the attitude of the intelligentsia? Will it fear that the protests by ordinary citizens threaten the development of the country, which remains an important objective? Will part of the intellectuals be discouraged by the impossibility for citizens to express their needs within the bound of the system? Will they continue to help social movements find legal outlet? The crackdown on the rights defenders has shown intellectuals that getting involved with ordinary citizens can be dangerous. It is hard to tell whether they will continue to try to find ways to obtain a relaxation of control by the Party, and an institutionalization of civil rights or will rally the elites and lend their support to the leadership.

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