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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. (5) 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. (6) 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-

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.
6. For an excellent and more extensive discussion of the intellectual origins of civil society discourse – addressing such diverse influences as Hannah Arendt, Jürgen Habermas, Arminio Etzioni, Robert Nisbet, and Jonathan Unger – see Chan Kin-man, 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/pdfs/1400-0107/14097_TOCC1.pdf and www.ecole-alsacienne.org/CDI/pdfs/1400-0107/14097_TOCC2.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”.
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.¹⁹

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 (
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 ... [10]

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... [10]
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.²⁹

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
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”
(lūshìtuān
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 though 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 compartmentalisation 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*