

Criticism of the Theory of “Civil Society” of Chinese Scholars: Problems in the Establishment of Private Property and Difference of Wealth

Associate Professor HAN Lixin

Department of Philosophy, Tsinghua University, Beijing 10084, P.R.China

[Abstract]

Since the paper entitled “Constructing the Civil Society of China” by Deng Zhenglai and Jing Yuejin was published in 1992, Chinese Theory of Civil Society has developed further. Now, it plays an important role in the policy-making and social development of China and, at the same time, it has come to a new stage of development.

The primary purpose of the scholars who introduced the concept of civil society to China was the realization of Chinese democracy. However, when civil society actually appeared in China, especially when private ownership was established together with the polarization of wealth, the study of civil society exceeded what they had initially expected and the main interests now focus on such questions as: “Is it possible for China to realize a socialist civil society?” and “How can civil society solve the problem of the difference of wealth?” These questions are closely related to pre-modernity and the nature of the socialist system and its transformations.

This paper is divided into three parts: (1) civil society and political democratization, (2) civil society and the establishment of private property, and (3) civil society and the difference of wealth. Taking modern Western civil society as its coordinates, it reflects and criticizes the theory of civil society commonly presented by Chinese scholars. As a conclusion, it points out that their understanding of the political democratization of civil society was inadequate. If China wants to establish a sound civil society, it needs to go back to the original theories of civil society (*bürgerliche Gesellschaft*), especially those of Smith, Hegel, and Marx. Chinese civil society should be analyzed and studied from the perspective of economic society, otherwise it is impossible to comprehend and explain modern China.

Only on the basis of understanding the original theories of civil society, could we adopt “the new theory of civil society” represented by Juergen Habermas, the theory of democratism which emphasizes the public sphere, public philosophy, NGO, NPO, and the theory of the welfare state concerning the difference of wealth in the construction of socialist civil society. This is the only correct path to construct civil society in China.

To sum up, two transitions are needed in the construction of civil society in China: the first transition is from pre-modern oriental society to modern civil society and the second is from traditional socialism to modern civil society. Nowadays, these two transitions are taking place simultaneously. But explaining them theoretically remains a difficult problem.

Criticism of the Theory of “Civil Society” of Chinese Scholars: Problems in the Establishment of Private Property and Difference of Wealth

Associate Professor Han Lixin

Department of Philosophy, Tsinghua University, Beijing 10084, P.R.China

Since the paper “constructing the Civil Society of China” by Deng Zhenglai and Jing Yuejin was published in 1992, Chinese Civil Society Theory has been developed to a new stage. And now it plays an important role in policy-making and social development in China.

The primary purpose of the Chinese scholars who introduced the concept of civil society to China was the realization of democracy. However, when a civil society actually emerged in China, especially when private ownership was established given the polarization of wealth, the study of civil society exceeds the original purpose and focuses on the issues of the pre-modernity and the nature of the socialist system and its transformations, such as “Is it possible for China to realize a socialist civil society?” and “How can civil society solve the problem of inequality?”

Based on the western modern theory of civil society, we rethink and criticize the Chinese civil society theory from three perspectives: (1) civil society and political democratization, (2) civil society and the establishment of private property, and (3) civil society and the difference of wealth. As a conclusion, this paper points out that the understanding on the political democratization of civil society by most Chinese scholars was inadequate. If we really want to establish a sound civil society in China, we have to go back to the original theories of civil society (*bürgerliche Gesellschaft*), especially those of Smith, Hegel, and Marx. Civil society in China should be analyzed and studied from the perspective of economic society, otherwise it is impossible to understand and interpret modern China.

I. Civil Society and Political Democratization

It is well-known that there are two schools of the modern theory of civil society. One emphasizes the economic connotation of civil society, represented by scholars such as Adam Ferguson and Adam Smith in the 18th century. The other emphasizes the political nature of civil society, represented by political philosophers in the 17th century, such as Thomas Hobbes and John Locke (Immanuel Kant belongs to this school too). These two schools differ in their arguments on the relation between the state and civil society. The former argued that the dichotomy of the state and civil society is essentially the dichotomy of politics and economy. But the latter regarded civil society as a political society opposite to the state. However, both insisted the dualistic framework between the state and civil society and played a historical role in resisting despotism and enlightenment.

Firstly, both schools insisted that there should be a independent realm, outside of the despotic state, struggling with the state, sharing political power with the state and playing a democratic role in balancing the power of the state. As a fact, the emergence of western democracy is inseparable with the establishment of civil society. Secondly, both supported individual independency and freedom. The theory of “civil society as economic society” represented by Adam Smith affirmed the legitimacy

of individual's pursuit for economic interest, and established modern economic liberalism. The theory of "civil society as political society" represented by John Locke emphasized human rights and property rights, and established modern political liberalism. It was just because civil society affirmed individual's independence and freedom, comparing to "the uncivilized barbaric society", it is a "civilized society".

Those Chinese scholars who introduced the concept of civil society into China and tried to establish civil society in China really appreciate the liberal spirit and democratic tendencies contained in the civil society theory and intended to promote political democratization in China. The representative Chinese scholar, Deng Zhenglai, once argued, "by limiting the boundaries of the state power and setting the principle of the infiltration of society by the political power, the ideas of modern political liberalism and economic liberalism broke the political despotic thought of unlimited state power, and provided theoretic guidance to the political liberation of the society and human being."¹

Their advocating of civil society theory in China is based on their judgment on China's reality and their reflection about the process of political democratization in China after 1978. In their view, in China, the State has the supreme power, therefore, in order to enable China to realize political democratization, we must first break the state systems characterized by highly centralized power of the government. In 1980s, there had been two schools of political reform theory in China. One is "neo-authoritarians" and the other, "radical democrats." The "new authoritarians" argue that contemporary China does not have the social conditions, i.e., a market economy, to establish Western democracy, and therefore China should adopt the typical democratization strategy of a developing country to democratize politics after marketization the economy. But the "radical democrats" insisted that China's democratic conditions were not worse than that of Europe and America a few hundred years ago, and therefore China can take a radical road to democratization without relying on an autocratic state to achieve this dream. However, both schools failed in theory and reality. The failure of both schools is inevitable in both fields. Essentially, both require the self-reflection of the state and advocate the state-guided democratic reform from above. Or in other words, it is a way to reform the state directly and ask the state to give up the power in hand voluntarily. Apparently, it is impossible for the state to do so.

Therefore, in order to solve the problem, China's civil society theorists attempted to establish another political organization to break the political monopoly of the totalitarian state. This is a political democratization from the bottom. Contrary to the "new authoritarians" and the "radical democrats", these scholars did not directly ask the state to give up power, rather, emphasized the accumulation of democratic factors, and weakened the state power indirectly by nurturing a public sphere, the civil society. This is apparently a gradual program of democratization.

This theory of civil society is very unique comparing with western theories. First of all, though its theoretical framework is the dual structure of "the state and civil society", civil society in this theory mainly refers to political social organizations. We know that the traditional dual structure was developed by G.W.F. Hegel, and in his framework, civil society refers to the economic realm (private domain) rather than the political realm (public domain), and to the economic society with private economic interest, or the "specificity principle" as the first principle². Thus, the dual structure developed by him refers to the dichotomy of political and economic structure. In this structure, the

¹ 董正林·董正林(Jeffrey C. Alander)————2006094

² Vgl., G. W. F. Hegel, *Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse*, In: Georg Wilhelm Friedrich Hegel Werke 7, Suhrkamp, 1986, S. 339.

state belongs to the political realm and civil society belongs to the economic realm. But among the Chinese scholars, civil society apparently refers to another political realm between the economic society and political state and against the political state, rather than an economic society.

Second, what these Chinese scholars adopted is a kind of eclecticism. We all know that modern civil society or modern civil revolution (the bourgeois revolution) played an enlightenment role against the dictatorship of the feudal state in history. Therefore, civil society emerged on the stage of history as an opponent of the state. Moreover, the modern theory of civil society emphasized the heterogeneity and even the antagonism of civil society and the state. With Deng Zhenglai as their representative, Chinese civil society theorists originally attempted to let civil society to share the state power. That means, the civil society is an alien or even antagonistic force of state power. However, in order to enable the state to adopt their theory, these scholars developed an "harmonious interaction theory" of the state and civil society³. In this theory, the state and civil society are not antagonistic, rather they can interact with each other harmoniously and jointly promote the democratization of the Chinese society. Apparently, they intended to contain the confrontation between civil society and the State within a certain range, and realize political democracy in China through a robust way. It is positive in practice. However, this "harmonious interaction theory" is apparently inconsistent with the traditional theory of civil society and with an "eclectic" nature.

First of all, their theory have some similarities with Hegel's. Hegel, although established the idea of the dichotomy of the state and civil society, he always attempted to maintain the antagonism between them and submit civil society to the state from the political stance to protect the Prussian state. But the problem is that, when the civil society is strong enough, it may require the state to conduct a thorough political reform, at this time the so-called "harmonious interaction" may become what Marx called "antinomy"; or it is possible that the state would suppress civil society, just as Marx's criticism on Hegel about the evolvement of the state into a "state fantasy."

Second, they absorb the eclecticism of the new civil society theory in the contemporary West. It is well known that the confrontation between civil society and the state is basically the antagonism between market economy and the state. The market economy is a field where individuals pursuit their private interests and naturally its essence is economic liberalism. But as a field of universality rather than particularity, the essence of the political state is to limit the "laissez faire" market and anarchism. In order to reconcile the contradictions between the two, the new civil society theorists represented by J. Habermas oppose the understanding of civil society in the dual framework of "civil society and the state". Rather they interpret civil society as an "intermediate area" between market economy and the state, as a "non-state, non-economic relation", so that civil society is able to assume the function of regulate the contradictions between market economy and the political state. To this end, in the preface to the second edition of *Strukturwandel der Öffentlichkeit* (1990), J. Habermas abandoned the term bürgerliche Gesellschaft used by Hegel and Marx, rather he used the German translation of "civil society", Zivilgesellschaft. (Of course, arguing that "ternary structure" theory of civil society has the implication of eclecticism is not to negate the implication of its democratic spirit. On the contrary, when China's democratization is concerned, the civil society theory of Habermas and others will undoubtedly have a positive meaning).

At present, China's civil society theorists clearly recognize the unique significance of this "ternary structure". In order to more clearly express their attempt to compromise, they are trying to translate "公民社会" to "市民社会". As outlined by Ma Changshan, the essence of this change

³ 公民社会·市民社会——市民社会493

is to "reduce the excessive romantic spirit of individualism and liberalism of 'civil society' in the past, and give 'civil society' more Community spirit and communitarianism, therefore, emphasize the two-way interaction between the state and society, rather than dualism and antagonism."⁴

Although China's unique theory of civil society is still facing many theoretical difficulties, in reality, a relatively independent civil society has been rapidly emerged in China. Yu Keping pointed out, "according to the latest statistics from the Ministry of Civil Affairs, by the end of June 2007, there are 35.7 million non-governmental organizations in China, including 194,000 social groups, 162,000 private non-enterprise units, and 1193 Foundation. However, the estimations by scholars are well over these figures. According to the Institute of Non-governmental Organizations at Tsinghua University, there are around 2 million social organizations in China. Besides the highest estimation is more than 8 million."⁵

However, it is not deniable that when introducing the civil society theory, these Chinese scholars mainly emphasize the positive meaning of civil society to the political democratization, but did not pay enough attention to the internal contradictions and negative impacts of civil society. They ignored the foundation of civil society, i.e., the establishment of private property, as well as the issue of class differentiation brought by civil society.

II Civil Society and The Establishment of Private Property

Generally, modern civil society has been referred to as a social organization centering on exchange relationships – what Adam Smith called the "commercial society" and Hegel called "a needs system" (System der **Bedürfnissen**). It is the society that equal private proprietors can freely exchange private property on the precondition of division of labor. According to this provision, private property [Privateigentum] is a prerequisite for the establishment of civil society. Moreover, only proprietors can forge an equal relationship on a market of equivalent exchange, and non-owners are excluded from the civil society. In this sense, the ownership of private property is a prerequisite for a person to become a member of civil society.

Early, it was John Locke that revealed the significance of "property" to the civil society. He regarded the establishment of private ownership and the social contracts among private owners as the origins of civil society. In modern times, the significance of "property" to the civil society is especially magnified. The Canadian politician, C. B. Macpherson, proposed that the freedom, rights, and obligations to modern citizens and the civil society itself have been set up due to the conception that an individual is conceived as the sole proprietor, which is the so-called "possessive individualism"⁶

Thus, the essence of civil society lies in private property. However, Chinese civil-society scholars often evaded this problem, intentionally or unintentionally, in the discussions on civil society. On the one hand, this may come of a lack of understanding the essence of civil society; on the other hand, may be caused because of China's social reality. Because China is a socialist country, recognition of private ownership has been a huge theoretical difficulty. This situation began to change until 2007. On March 16, 2007, the "PRC Property Law" (the "Property Act") was adopted at the 5th Meeting of the

⁴ 中国社科院社会学研究所编，《中国公民社会发展报告2007》，社会科学文献出版社，2007年7月。

⁵ 中国社科院社会学研究所编，《中国公民社会发展报告2007》，社会科学文献出版社，2007年11月。

⁶ C. B. Macpherson, *The Political of Possessive Individualism*, Oxford University Press, 1962.

10th National People's Congress, and went into effect on October 1, 2007. Article 2 of the Act provides that: "The property rights mentioned in this Law refer to the rights that the right owners have direct control of particular objects and exclude all others, including ownership, usufructuary right and security interest." Article 4 provides that: "state, collective, private property rights and the other's property rights shall be protected by law and may not be infringed upon by any unit or individual ". According to the two provisions, China acknowledges the private property and the protection of private property in legal form. The adoption of this law in socialist China is unprecedented, and it makes civil society in China possible.

However, the recognition in law does not mean that it has also been completely resolved in theory. According to the traditional understanding of socialism, the socialism is called socialism because it denied the private property and established common possession (Gemeinbesitz) of the means of production. In accordance with the above understanding of civil society, the essential stipulation of civil society is individual ownership of property. As a result, whether civil society and socialism is compatible or whether a "socialist civil society" can be constructed in theory has become a much-needed theoretical question. As early as 1993, Keping Yu had already speculated that the civil society has emerged in socialist China, but he did not give an answer to "how a socialist civil society becomes true"⁷. Later, some scholars, such as the author JianXing Yu, also discussed the contemporary possibility of a socialist civil society⁸, but most of them generally referred to the problem from the perspective of political philosophy, namely, from the perspective of the opposition between nationalism and liberalism, and avoided individual's private ownership, which is an essential problem closely related to the forms of ownership.

Obviously, the key to solving the problem lies in whether Marx, the progenitor of "scientific socialism", recognized individual ownership of property. As the greatest critic of capitalist private property, Marx's denial of private property is beyond doubt. In the *Communist Manifesto*, Marx and Engels once stated clearly: The theory of the Communists may be summed up in the single sentence: Abolition of private property. This property refers to the capitalist private property. However, Was Marx opposed to individual property in any sense? The answer is no. In *Das Kapital* Volume I, Marx had explicitly put forward to rebuild the "individual property" (individuelles Eigentum) in the future. What is the individual property, what kind of relationship between him and socialism? This is a hard question in theory no less than "Goldbach's Conjecture".

As early as 1960's, the Japanese scholar, Seimei Hirata, have tried to solve this problem. According to the two theories of private ownership which were differentiated by Marx in *Grundrisse der Kritik der politischen Ökonomie* and *Das Kapital*: (A) individual private property, as founded on the labour of the proprietor and (B) capitalistic private property, which rests on exploitation of the free labour of others, He proposed that the future communism should be a associated society based on individual property rather than a society based on common possession such as Soviet Union whose basic form of property is state ownership. The logic of his theory is: According to syllogism of the negation of negation, (B) is the negation of (A), so the negation of (B) is the negation of negation(C): "This does not re-establish private property for the producer, but gives him individual property based on the acquisitions of the capitalist era: *i.e.*, on co-operation and the possession in common of the land and of the means of production." ⁹In other words, the third phase of social development is not a "possession

⁷ 1993年4月

⁸ 2003年1月

⁹ Karl Marx, *Capital, A Critical Analysis Capitalist Production*, Volume I, Moscow, p. 715.

about the temporary economic resurgence, but it also caused the increasing disparity of wealth, and the increasing disadvantaged, and once again the difference of class has become the serious social problem worried about by people.

With the rapid development of market economy in China after reform and opening, the wealth of state increases steadily, but at the same time the basic social security and welfare institutions under the system of planned economy were also destroyed. The serious disparity of income between the coastal areas and the inner land areas, between the town and the village, and between the individuals appeared and become more and more conspicuous. Gini coefficient in China climbed to 0.45 in 2003. Today this disparity has become not only the origin of social discontent and the key elements of social un-stability, but also the obstacle of the further development of China. Moreover, China is a socialist country in political system, so the serious disparity of wealth does not accord with the socialist idea, which emphasizes the equality. Just because of this reason, a few years ago Chinese central government put up the idea of Constructing of Socialist Harmony Society in order to narrow the economic gap, correct and eliminate the side-effect of civil society.

When the concept of civil society was introduced into China by its proponents in 1990s, the active role of civil society in the enlightenment and the process of political democratization was emphasized, but its side-effect aspect, especially its aspect of causing the disparity of wealth, and weakening the social welfare could not be realized deeply. In recent years with the sticking out of this side-effect in reality, some Chinese proponents of Theory of Civil Society woke from the sweet dream of civil society and began to criticize this side-effect. These scholars introduce the theory of western welfare state into China positively, and attempted to step a new road which is neither statism nor liberalism, but could eliminate the side-effect of civil society. However, either in the basic theoretical investigation or in the practical policy the problem of difference of class in civil society has not really been faced up.

Conclusion

Now China is stepping into the civil society while maintaining the socialism system, so three problems concerning the investigation of civil society should be paid more attention, which is as follows:

1. Two transitions are needed in the construction of civil society in China: the first transition is from pre-modern oriental society to modern civil society and the second is from traditional socialism to modern civil society. Nowadays, these two transitions are taking place simultaneously. But explaining them theoretically remains a difficult problem.

2. The understanding of the political democratization of civil society by the Chinese exponents of Theory of Civil Society was inadequate. If China wants to establish a sound civil society, it needs to go back to the original theories of civil society (*bürgerliche Gesellschaft*), especially those of Smith, Hegel, and Marx. Only based on this understanding, they could see both the bright aspect and the dark aspect of civil society, and this learning is very important for the China, which is during the transition period mentioned above.

3. The point that Chinese Theory of Civil Society has already promoted the political democratization in China should be stressed positively, but in order to fulfill the historical mission of constructing of

socialist civil society, the problem in establishment of private property and difference of class focused by the author in this paper should be paid more attention. In this meaning, Chinese Theory of Civil Society need more work to be done by the scholars in the future.