



## **Civil Society Development in Contemporary China**

**Speaker: Dr. Wenjuan Zhang**, Associate Professor, Jindal Global Law School.

**Chair: Prof. Alka Acharya**, Director, ICS

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Wenjuan Zhang's presentation sought to throw light on some key issues pertaining to the present state of civil society in China including the challenges and opportunities before it. At the outset, the speaker dwelt on the background of civil society development in China, a place where the government is considered to be omnipotent and omnipresent leaving no space for other social agents. While the opening up and reform policy of 1978 loosened the government's tight control over market, other actors including the civil society did not face the same treatment. In the speaker's view, the existence of only two actors – the government and the market – in a country's development process gives rise to many issues. Of significance is the fact that governments find themselves unable to handle such dynamics; sometimes there is also the problem of governments not being interested in tackling the problems that arise thereof. The speaker informed that this created a host of problems for the socially disadvantaged groups like children, migrant workers and women in China. Especially, the process of industrialization and urbanization escalated the tensions between the state and citizens. The absence of viable legal remedies added to chaos and reliance on non-institutional or sometimes, illegal means. For instance, when migrant workers do not get their salaries, they often resort to blackmailing, like climbing on electric poles and threatening with suicide.

The speaker then moved on to discuss the period when the concept of civil society had started to gain salience in China's policymaking circles. According to her, China had her second liberation in 2010 when all nine members of the standing committee of the CCP Politburo talked about social management innovation signalling a political mood in the direction of more space for civil society. The political sensitivity around the use of the term 'civil society' and 'civil society organization' started to recede. However, she mentioned that the acronym 'NGO' cannot be used as freely. At present there are three types of civil society organizations in China. The GONGOs, that comprises of foundations and other grass roots organizations that are similar to an NGO. GONGO stands for government organized non-governmental

organization like the All China Lawyers Association, which are funded by the government. The Ministry of Civil Affairs in its social service report of 2014 indicates very clearly that there is an ascending trend in the number of civil society organizations in China. However, the private foundations and grass roots organizations face challenges like difficulty in getting registered and funding problems as Chinese donors do not enjoy tax exemption and even the organizations have to pay tax on their funds.

In the next part of the presentation, the speaker brought up the areas of tension between the state and the civil society organizations on how to reconcile or strike a balance between the imperatives of economic development and social development. In the speaker's view, one of the key tasks facing China was with regards how to invigorate the social potential of the civil society while maintaining social stability. The Party is particularly confused about which sector to prioritise – social service or social governance. She mentioned that the government wants the civil society to supplement the state's efforts and the market to provide the people with more efficient and cost effective services. Notwithstanding, the top leadership seems to be reluctant in giving lawyers a free hand. The speaker saw a dichotomy in the way the Chinese leadership would not like foreign influences on its civil society but at the same time, feels the need to learn from the West about theories and practices of civil society since China does not have a tradition of civil society.

Regarding legal services in China, the speaker informed that there is a huge demand for affordable legal services given the fact that issues such as the violation of labour and land rights are increasing, especially for migrant workers who are often deprived of their rightful salaries. Many a times, they are also deprived of compensation related to labour injuries. The legal aid system in China that was introduced in 1994 has developed quite rapidly, however, it still suffers from under capacity to meet a large demand for legal services. In 2003, the Central Government passed a regulation called Legal Aid Ordinance and formalized and institutionalized the legal aid system. To meet the rising demand for legal aid, in 2014, the local governments spent US\$ 200 million to fund legal services as there is no provision for central funding. The speaker found that local government funding creates another problem as poor regions that need more legal aid is inadequate in legal services provisioning. To address this issue, the speaker mentioned that in 2010, China created a legal aid foundation to organize programs where lawyers can provide free services to people in poor areas. Before 2014, there were two hundred counties in China without a lawyer. However, the Chinese Legal Aid Foundation and the All China Lawyers Association undertook a program called "One+One" to send a lawyer each to such counties to ensure that all counties have a lawyer.

The speaker also apprised the audience about the nature of the legal profession in China which was more or less non-existent in China before the Cultural Revolution. Even as late as 1996, the role of a lawyer was confined to what the state wanted them to do, much like normal government servants. In 1996, as with the other sectors, the profession of law also underwent marketization and by 2014, there were 27000 lawyers in China, though much less than the number in India. The relationship between the party and lawyers in China is still complicated where the party wants the lawyers to serve the people but without venturing into the political

sphere. The speaker also mentioned that the lawyers in China constantly face the dilemma about whether to serve the client/money or the public/social justice.

In the second part of the presentation, the speaker talked in detail about the Zhicheng Public Interest Lawyers (ZPIL), an organization for which she worked for nine years. ZPIL is a public interest lawyers' organization founded by the Beijing Zhicheng Law Firm and had its inception in 1999, initially working for children's rights. It provides free legal services to migrant workers and other socially disadvantaged groups and so far, it has incubated more than 30 public interest law organizations outside of Beijing operating independently in 18 provinces. Today ZPIL provides free legal services in different domains like the rights of children, migrant workers, farmers, women and criminal justice and grass roots NGOs. With regard to the role of ZPIL in developing the space for civil society in China, the speaker informed that ZPIL's success is much to do with its working model and strategies to overcome the limits of a small public space in China. It developed a comprehensive advocacy model from direct legal service to evidence based research to policy advocacy and educating on rights free of charge. When issues come up, it tries to legalize it rather than politicizing it. It partnered with All China Lawyers' Association to promote social responsibility among legal professions and promote high quality pro bono service by forming a network of full time public interest lawyers with volunteer lawyers. The speaker also talked about strategies that ZPIL applies like working in non-controversial fields and then moving onto controversial ones as it becomes more confident and trusted; maintain its independence by diversifying partnerships and sources of funds to sustain its services. It also tries to provide feedbacks to the party in terms of people's pulse and builds a bridge between the people and policy makers. ZPIL tries to work closely with the government and also endeavours to associate with other organizations in the world. Another important area that it works is to create more space for political discourse and policy change.

In the final part of the presentation, the speaker identified some of the challenges faced by civil society in China such as a lack of experience and capacity owing to its nascent development, a distrustful government and an apprehensive public. Lack of friendly policy and funding support are also issues affecting the growth of civil society in China. The speaker ended on a positive note by saying that civil society also creates wonderful opportunities for the ambitious young generation to serve the people and get a distinct experience.

## **Discussion**

The discussion covered some interesting questions related to different aspects of the presentation. One was about qualifications required to be a lawyer in China. The speaker responded by saying that before 1982, anyone who was interested in law and having some training was considered a lawyer, but post 1986, there is an exam to qualify as a lawyer. In 2002, China introduced a unified judicial exam, which one has to qualify followed by a one-year apprenticeship. Subsequent to that, one has to register with a law firm and a final review completes the process. There was also some interest among the audience in the discussion on social innovation management doing the round in China in 2010, mainly with regards the fact that it was touted as a 'second liberation'. The speaker acknowledged the need to do more

research to go deep into the issue and revealed that the attitude of the government is cautious, as it is not akin to the issue of economic reforms.

Another pertinent question related to the violation of human rights and economic rights and how the grievances are addressed in China. The speaker responded by saying that some smart local governments try to negotiate a solution through legal processes but the silly local authorities use their power to bully the individual. While some people can tolerate it, others turn to other means like protest, suicide and violence. The fourth plenum of the 18<sup>th</sup> CCP talked more about rule of law and encouraged people to use legal means to solve problems with government through administrative litigation. However, tangible results are not visible yet. On the issue of labour rights violation, most cases relate to non-payment of dues and labour injuries. According to a new labour law, if an employer does not sign a labour contract, he/she has to pay double the salary and there are also regulations against illegal dismissal and non-payment for over-time work.

In the context of development of civil society in China, an important question was asked about the number of private and public organizations and whether the private organizations can accept international funds. To this query, the speaker informed that organizations with government background are funded by the government whereas, private organizations have to raise funds for themselves. To get foreign funding is difficult as the Chinese state lacks trust in the motives of most foreign organizations. A significant area of inquiry related to the nature of the relationship between trade unions and grass roots organizations like ZPIL as being cooperative or conflictual? The speaker responded by mentioning that ZPIL has close relations with trade unions and they complement each other wherein the trade unions arrange for physical facilities like office and ZPIL provides lawyers to solve issues like labour rights and sometimes mediate the disputes arising between workers and employers.

*Report prepared by Palden Sonam, Research Intern, Institute of Chinese Studies.*

### **About the Speaker**

Wenjuan Zhang is an Associate Professor and Assistant Dean for International Collaborations of Jindal Global Law School. She is also leading the Center for India-China Studies of the Jindal Global University. Before joining the Jindal Global Law School, she had been a well-respected public interest lawyer in China for over nine years. She served as Vice Director of Zhicheng Public Interest Lawyers, the biggest public interest law organization in China, and Deputy Director of Beijing Children's Legal Aid and Research Center. She got her LLM degree from Columbia Law School in 2014 and Juris Master Degree from Peking University Law School in 2004. She was a visiting scholar of Yale Law School in 2012 and of Columbia Law School in 2006-2007. She has her Marc Haas fellowship with the Brennan Center for Justice in 2015 and her PILNET fellowship in 2006-2007. Her research focus is child law, lawyering for change and civil society development.

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