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Social Discourse

Changes in Legitimacy Justifications

The changes in China's economy and the transformation of its society have attracted the attention of all. However, academia is in full dispute about the transformation of society, which is different from the universal recognition of economic change.¹ One essential question is whether the changes in Chinese society necessarily include the growth of "civil society." There have been both pros and cons on this issue simultaneously.

The problem is how to prove the notions of pros and cons. We find something very interesting: each party attempts to use "organization" evidence to persuade the other while trying to prove its own notions. Apparently, the parties share the same definition and analytical standards, namely, use "the existence of social organization and its autonomy" to prove the development of civil society in China. This perspective has affected multiple disciplines. In international and domestic academia, "organization" has become a commonly recognized analytical index to gauge the developmental levels of civil society.

For instance, historians are concerned with the development of civic organizations, including rural gentry groups, urban trade unions, and venues frequented by various grass-roots personnel in society. They attempt to prove that traditionally

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there are public spaces and activities for organizations in China, or the “third realm” (Huang 1993); political science scholars probe into the forms of social forces and organizations—the growth of public participation and election. They attempt to prove the growth of diversified social forces (He 1997; Howell 2003; White 1993);² sociology scholars look at the development of affiliated organizations (Ties), particularly the secondary organizations concerned with the public interest—citizen groups and nonprofit organizations—to prove that the role of these organizations is different from that of official organizations in establishing a civil society (Cai 2006; Nee 1996; Whyte 1992). The research follows the model of “social organization (development) → autonomy (establishment) → civil society (growth),” and the main work of the research is to identify whether the social unions existing in the past and today are systemized and independent from the government. This model enjoys prevalent analytical status in relevant research on the development experience of China’s civil society and is even used as the only index in the annual report of the World Bank where the number of civic (nonprofit) organizations is regarded as the main evidence of development of civil society in a country.

It is noteworthy that China’s observation results in the foregoing analytical model are doubted.

Substantial research has shown that the multitude of nonofficial civic organizations in China have no independent status and special value philosophy. For instance, as Philip A. Kuhn points out, China’s urban social organizations and gentry groups are normally regarded as forces that balance government power. However, challenges against official authority have never taken place in history. Moreover, they normally cooperate with the government system, instead of challenging it, which shows that the basic role of China’s rural gentry groups is to act as a bridge between the government and the society (Kuhn 1994). Traditionally, key tasks of local government, like taxation, are normally performed through informal folk channels. Thus, gentry groups are actually the unofficial government in various places in China, and local powers are distributed between government officials (government) and gentries (nongovernment) in an informal way (Qu 2003/1962). Many local units that appear to be “secondary social organizations” are formed based on social relationships of particularism and thus can hardly realize public values. Therefore, they cannot be defined as “public” social organizations in any real sense (Zhang 2003). Similarly, the purpose of the behavior of trade unions and groups is not to safeguard their autonomy and remain isolated from the government system but to be integrated into it to pursue and expand their common interests. Social organizations of businessmen help to acquire market opportunities, preferential policies, and financing licenses for their members through their relationships with the government, and government officials can reap personal economic benefits by offering them help (Solinger 1993). Such a special relational structure is regarded as “commercialized communism” by David L. Wank (2001). Research on the capital flows of China’s nonprofit organizations show that China’s nongovernment organizations (NGOs) are mostly official or semiofficial and therefore their financ-

ing conditions, including purposes, concepts, structure, and rules, are no different from those of a government organization (Kang 2001). Apparently, this structure is fundamentally different from the separation in “politics-market, state-society.”

These research conclusions engender a severe problem. Facilities defined as “social organizations” elsewhere are to be found in China. However, they do not have the clear-cut characteristics of a civil society—that is, a public role, independence, being a stimulant to social development, and so on, according to their property, behavior, and functionality. This shows that the same social organizations may have different functions in different social systems and conditions. For instance, one must carefully distinguish the scope of activities and purposes of behavior of “social organizations” of a similar name in China in order to determine whether they function as expected in a “civil society.”

The foregoing phenomena have posed the following challenges to researchers: Considering the characteristics of Chinese organizations and social structure, the subjects of a civil society can hardly be dealt with satisfactorily from a single “organizational” perspective. Hence we must answer the question, how sensitive are “organizational” standards?³ Have they fully and effectively reflected the development conditions of China’s civil society? Is the development of organizations the most valuable evidence of civil society in China today? Is it possible to accurately gauge the development of China’s civil society merely by using the index of organization?

A further question is: Will the development of civil society in China follow the “normal” mode elsewhere and is it possible for it to develop in an abnormal mode? If yes, has there been any social development toward a “civil society” in China other than the emergence of “organization”? What are the basic facts that can reflect its development? Is there any other more sensitive substitute index to help observe and describe them? What indexes can effectively capture the profound development traces of a society and accurately reflect the diversity of awareness and behavior of a civil society in China?

Another Analytical Index

In this article, another analytical index, namely, legitimate justifications (of social discourse), is proposed to assist in the observation of social change in China, particularly the growth of civil society. The reason is that merely using the index of “organization” may be misleading and the changes identified may be delicate. However, if we transfer the research target from organization to social members—their opinions, attitudes, speech, and activities—and analyze the logic of public opinions on public affairs, some important social changes may be more easily identified. For that purpose, the author attempts to use social discourse to look at the comments on parties involved in a criminal case and analyze the logic people adopt to legitimize (or not legitimize) certain behaviors. This logic is here referred to as “legitimate justifications.”

This analytical tool is adopted based on the following assumptions:

1. Social discourse reflects the logic of legitimacy that social members have toward others and social behavior. They are supported by the notion of the impartiality of society. Such a notion of impartiality shared by social members does not only reflect social ideology and value principles, but also affects people's identification with systems and rules and observation of social order. For that reason, they can epitomize the development traces of such civility as sharing, identification, care, and participation. These development traces are in principle equivalent to the growth of civil society.

2. This is particularly important because of the relationship between social identification and system change. The theory of system change has shown that although changes in the legitimacy logic of social members take place slowly without attracting attention, these grass-roots changes may cause people to expect new behavior and identify with new rules and thus result in system changes. The reason is that social identification can establish social order and authority. Large-scale changes in public identification—public confirmation of legitimacy and correctness—will lead to changes in behavior (rules).

The latest development in system-change research has shown that social change and institutionalization processes occur in four continuous stages:

- Emergence of new (different) behaviors
- Pioneers' practice of new behaviors
- Illustration of the legitimacy of different behaviors and their rules
- Social identification and spread so that new rules are established among social members

Research has shown that the third stage, namely, illustration of the legitimacy of different behaviors and their rules, is the essential one. It focuses on behaviors that social members deem as being right and wrong and tells the public why the behaviors are right. It is therefore equivalent to a judgment of rightness and wrongness. The reasoning involved will affect the public and thus further reflect, convey, and establish social identification on a wider scale if it has any public value. Hence, more and more people will act and appraise others and society according to the new legitimate justifications. Thus, the illustration of legitimate justifications is the key to promoting new rules (spreading and changing of new systems) (Rao, Monin, and Durand 2003).

3. "Legitimate justifications" can help us observe how systems and rules are legitimized (or not legitimized) and whether social legitimate justifications conform to official ideology and the basic principles of legal documents, thus demonstrating the trend, property, and significance of potential social change.

“Legitimate justifications” as an analytical tool can handle social identification, focus on the changes in philosophy of social members, and therefore be more sensitive in observing “civility.” They are no longer subject to certain specific organizational backgrounds, and all practices that fit in with the principles of civil society, including attitude, behavior, habit, and other evidence, become important. Hence, there are more yardsticks to demonstrate the development of civil society—for example, citizen awareness, social justice philosophy, the reasons and criteria for social members to justify relevant behaviors, and so on. The reason why this analytical tool can be used to gauge a civil society is that it focuses on the public beliefs, morality, and value principles that people universally cherish. It is better than the “organization” index because it can handle some issues that the latter finds difficult. For instance, what are a society’s standards and logic for distinguishing right and wrong behavior? Are there any definite principles that are frequently applied? How are they defined in society? How does public opinion participate in and affect this process of definition? What different principles are being extensively accepted by social members as new values? What are the different principles that form the basis for new and old definitions? Have there been any changes in that regard? What kind of changes? These questions help to reveal the trend of changes hidden at the grass roots of a society.

Apparently, the questions come from a different perspective when this new index is used to replace the “organizational index.” I believe organizational change is the result of change in social identification. The reason why changes of social identification are valuable is that they act as stimulants: with the spread of the principles of legitimacy, social members gradually abandon the principles that they used to have and become identified with new ones and even new systems and rules. If civil society means the appearance of a series of new social values, principles, organizations, and rules that gradually become institutionalized in the future, the changes in legitimate justifications in social discourse are the important traces that display citizen awareness, social member identification, and shared values. If we focus merely on organizations, we may ignore these fundamental changes because an organ that has the same name as a social organization can still engage in issues irrelevant to the philosophies of citizens.

In this article, the research method of “comparison–case analysis–conclusion” is adopted to illustrate preferentially the trend of change instead of measuring their extensive notability that should be completed by further quantitative research and design. The case comparison and analysis are carried out using symbolic boundaries and orders of justification. The former concept refers to what standards people use to define boundaries and different groups (for example, dividing people into “us–them”) and to establish the differences among these groups (good people, bad people, friends, enemies, the rich, the poor, the strong, the weak, and so on). The latter concept refers to how the justifications that people use are sorted, what justification comes out on top, and whether the order of importance has been changed.

The latest developments in analytical concepts of sociology have contributed to the two ideas. I agree with Michèle Lamont in that each nation makes it easier for its members to utilize some specific tools through history and institution. Different nations may adopt different tools to establish and appraise the world around them. The standards that various nations use to appraise the world appear to be unevenly distributed (Lamont and Thévenot 2005, 11). However, the two concepts can handle both ordinary subjects—that is, help people observe, gauge, and compare the conditions of different societies—and special subjects—that is, observe the standards and order of justification of a particular social group.

For the concept of “symbolic boundaries,” I will focus on the standards of identity division by social discourse (with “criminals”), observe what standards people adopt to distinguish the boundaries (dividing human beings into different groups) between good people and bad people, and classify the identity of parties concerned. I will observe whether these standards have changed in the three cases. For the concept of “order of justifications,” I will focus on the frequency people use to quote different justifications for emphasizing the importance of relevant basic principles. I hope to find the important principles identified by people in social discourse and thus demonstrate the prevailing ones.

Generally speaking, I will have three focuses in the following analysis. First, I determine symbolic boundaries: What standards do people adopt to define the behaviors of parties concerned? Second, is the order of justifications: What arguments do people usually quote to determine “criminality”? How about their order? Third, are changes of justifications: What changes have taken place in the order of these standards and arguments with the vicissitude of time (thirty years)? What do such changes indicate?

Three Cases and Social Discourse

Wang Ping Case

Justification of Political Caliber

In 1968, a stranger was begging at Linfu Terminal Station in Anhui.⁴ When the local people asked where he came from and what he did, he would say loudly, “I am a revolutionary.” The local people did not believe him and said, “If you are a revolutionary, why don’t you continue your revolutionary cause and engage in production instead of begging here?” Wang Ping was one of the local people who wondered about him. He was sure that the stranger must be the head of a mass organization, so he got a stick as thick as a teacup from the canteen in the station and struck the stranger hard on the legs until he fell to the ground. Many people became involved in the fighting that attracted nearly a hundred passersby, blocking the traffic as a result. Some time later, the Terminal Station head asked them not to cluster at the station. The stranger had stopped breathing by then and someone

recommended burying him, so Wang Ping picked him up and buried him in a shallow pit in the graveyard.

Investigations revealed that the stranger's surname was Chen. "He used to be a squad leader and platoon leader in the army and once rendered meritorious service."⁵ With his status as a revolutionary confirmed, the case of Wang Ping changed fundamentally⁶ and immediately became one of willful murder. Wang Ping was arrested and detained on August 27. His defense was that he thought that Chen was the head of the "Wuhusihai" organization that had ignited and burned several hundred tons of straw at the Dongfang Paperboards Factory.

From then on, people in Linfu had extensive "discussions on the criminality of Wang Ping." Linfu Town Yongjian Neighborhood Committee, Yuejin Neighborhood Committee, Zhongxing Neighborhood Committee, Dagong Production Squad, Huashu Section Production Squad, Comprehensive Service Commune, Linfu Town Architectural Reform Committee, Food Station Learning Group, Township Bamboo Commune, and others held multiple meetings to examine and analyze the case. The local police station, Revolutionary Committee, and People's Protection Group also carried out lots of interviews to survey public opinion, and nineteen records were made of the interviews. As a result of extensive investigation, the police station stated, "Wang Ping is a degraded person who never changed his wrongdoing after education. His case has exerted a very bad influence and it is necessary to punish him strictly according to the law in order to educate him and maintain social security and stability."⁷

According to records, the following criteria were proposed to determine his criminality:

- Wang Ping had always performed poorly politically

He "breached production rules and regulations; never attended political study organized by his unit; spoiled conscription; violated the Marriage Law; allowed strangers to spend the night at his residence; mixed with bad local people; failed to declare his household conditions; failed to ask for a leave; sold cargo (bamboo and cigarettes) without approval for enormous profit; . . . lived a rich life and frequently ate meat; . . . always had a bundle of RMB5 notes in his pocket";⁸ he used to publicly declare his intended murder of Mr. Liu (a revolutionary cadre), publicly curse Mr. Lu (a governmental official) and say that they were "more cruel than bandits"; he hated the People's Government, felt dissatisfied with the policies of the CCP, and verbally attacked the government's master plan, the Giant Leap Forward, and the People's Commune.⁹

- The victim once rendered meritorious service and was a poor farmer

"The victim was a poor peasant, once joined the Eight Route Army, and fought against the Japanese fascists. He served in the anti-U.S. war on the Korean Peninsula and fought against the fully armed U.S. capitalists. He had

rendered meritorious military service and made contributions to the country and the people.”¹⁰ The masses demanded the “killing of Wang Ping because the victim is a poor peasant.”¹¹

- Wang Ping’s behavior had political purposes

Wang Ping’s particularly beggarly and sinful political purposes consist of: an attempt to overwhelm proletarian dictatorship and realize the restoration of capitalism . . . to procure convenience for class adversaries; he “provided weapons for the foul against the Cultural Revolution so that his masters could carry out antirevolutionary propaganda and denigrate the far-reaching influence and historic significance of the Cultural Revolution across the world.” He “expected exclusively to cause universal social confusion by way of murder.”¹² Wang Ping’s behavior is “anarchic and destructive of our socialist system, . . . he should receive life in prison, if not the death penalty.”¹³

- How to dispose of Wang Ping is an issue of class struggle

“Wang Ping is not an ordinary murderer but an antirevolutionary murderer. He is a special detachment of the capitalists and our most atrocious enemy.”¹⁴ In the supplementary notes of the records, there are thirty-seven “public opinions” dated September 5, 1970. Many of these are written on small pieces of paper, pieces of exercise books, cigarette packages, food-packing paper, and even toilet paper, which read “Never forget the class struggle,” “Demand immediate shooting to death of the murderer Wang Ping,” “Down with the murderer Wang Ping and strengthen proletariat dictatorship!” and other slogans.¹⁵

- The social consequences and harm of Wang Ping’s behavior

“Wang Ping’s murder has created a very bad vogue in Linfu with abusive struggles, gambling, speculation, and bad habits on the increase in society. Farmers refused to do spring plowing and engaged in sexual intercourse at nighttime. Neither old nor young sleep easily, and never have the Cultural Revolution and social order been damaged so severely since the founding of the PRC.”¹⁶

In this criminal case that took place in the 1960s, many people provided justification of “criminality,” their judgment based on their own political stance and standards. Their reasoning and logic were that Wang was judged to hold a wrong position and was classified as a political enemy according to his past political performance. Considering the identity information of the victim, that is, a “good person with meritorious service,” people regarded him as a “revolutionary soldier with meritorious service” and thus came to conclusions about the “political” motivation, nature, and social consequences of Wang Ping’s act. Wang Ping’s antirevolutionary speech and behavior in daily life were important evidence that people quoted to

judge his political position, and this was thought to be directly linked to the criminal case. It shows that the basic standard for distinguishing a good person from a bad one (group boundary) in public occasions and discourse is that person's political attitudes to the existing system and daily political speech and behavior.

Jiang Aizhen Case

Justification of Rational Indignation

There was rumor that Jiang Aizhen, a young female in a certain construction corps in Xinjiang, had a "bad living style." Her unit kept holding meetings and urged her to tell them everything about her improper sexual relationships with others. Various types of big-character posters and cartoons with vulgar words were posted on walls. These isolated her from others so that she felt aggrieved and lost her mind. Others thought that she was playing the fool. Jiang Aizhen filed multiple requests to superiors to investigate her case, punish the rumormongers, and prove her innocence, but to no avail. In these circumstances, Jiang shot three people, including one vice cadre of the corps. For this she was sentenced to death in her first trial for "antirevolutionary murder." Her three victims were posthumously named "revolutionary martyrs." The unit held a grandiose funeral ceremony and delivered flower wreaths for the three dead. Some relevant personnel were relocated, put into important positions, and later promoted. However, the superior court received lots of letters from many people demanding a review of the case. Some newspapers and magazines started to doubt the impartiality of the case and extensive public debates were aroused.¹⁷

Many people in the letters believed that Jiang should not have been sentenced to death, even if she had committed murder, for the following reasons:

- Jiang Aizhen held advanced ideas

She "is an honest, sober, and reserved person who doesn't look like a bad person. She has been active in work and advanced in thought. She joined the Youth League in 1973 and the CCP in 1976. She was elected CCP Committee member and Youth League Committee secretary in the same year."¹⁸ In addition, "Jiang once relied on leading officials and her organization, wrote an allegation, and turned to the head of the corps for help in this case," but nobody cared about her.¹⁹

- Jiang Aizhen was forced to kill the rumormongers because she felt desperate

Jiang "had to kill the rumormongers because she felt desperate and psychologically injured." "Except for the factors for which she must be held responsible, we have to consider the following: first, the rumors and insults that Li and Xie (in the unit) had induced against her; second, that Yang acted against the law and discipline, holding meetings to criticize Jiang in the name of the organization, posting big-character posters, waging political

movements, and setting up a special investigation group to force Jiang to admit all charges in public; third, the factions and bureaucracy of some leading officials of the corps.”²⁰

- Jiang Aizhen was tortured and was forced to kill the rumormongers out of indignation and in retaliation

“Her freedom and personal rights were infringed upon and she was tortured. For instance, leading officials of her unit talked with her more than ten times and forced her to write self-criticism reports. They also held meetings to criticize her and disclose her private affairs and forced her to clearly detail her affairs; the unit even forced her to have a gynecological checkup”; her unit submitted a report to the superior CCP committee in the name of “the masses” to create public condemnation and spiritual pressures on her; kids ran in the street condemning Jiang as a “sexpot.” “Such persecution is enough to induce indignation so extreme that Jiang lost control and had to kill the rumormongers.”²¹

- Jiang Aizhen’s defiance in the face of persecution was justified

As Jiang was wronged, “her struggle became justified.” Her behavior was understood and tens of thousands of workers, peasants, cadres, students, and soldiers wrote letters to the administrative and judicial organs to console her and request lenient punishment for her. “This shows the wishes and feelings of the masses.”²² Three Hong Kong companies organized 10,000 people to sign a petition for “cancellation of the death penalty” in nine regions in Hong Kong.²³ During the five months from October 1979 to March 1980, the newsroom (of a magazine) received 15,000 letters and the Shihezi Court received 833 letters from both individuals and units in various provinces and overseas within thirteen days. People sent her money and materials, and some even offered her marriage and adoption or volunteered to become her attorney free of charge. Jiang also received letters of comfort from many people during her stay in the detention house.²⁴ People were of the opinion that Jiang should be criminally penalized for killing. But she was not an antirevolutionary and the hope was that she be penalized leniently. They thought that the rumormongers should be punished according to the law. Before the review of Jiang’s case, “the court had issued 1,000 auditing certificates. But many people demanded to hear a review of the case as well by various means.”²⁵ There were still weak counterviews: the rumormongers had been convicted but “their criminality is not enough for their death. If Jiang is regarded as a heroine, it is an insult to justice.”²⁶

Although the three victims were “revolutionary cadres,” the words “revolutionary” or “antirevolutionary” were seldom quoted in public comments on Jiang’s case in the 1980s. Instead, the term “good person” was used and offering a hand

Table 1

Answers to Poll Question: Do You Think a Death Penalty Is Justified for Wang Binyu?

Killing the innocent is absolute cause for the death penalty	6.4%
He is sympathetic but has to be killed to serve the course of justice.	18.4%
He should be given some leniency	44.0%
He is a hero because of his revolt against wrongdoing	38.4%
Not sure	0.8%

Source: Netizen opinion poll, Century School, January–September 2005.

Note: Respondents may have checked more than one answer.

to others was regarded as the mark of a “good person.” Although Jiang’s unit still tried to determine the case using political standards, it was not accepted by public opinion. On the contrary, the public was of the opinion that some leading officials of the unit had harmed Jiang’s reputation and caused the killings to take place; the terms “revolutionary” and “antirevolutionary” were just typical of political struggle. In the public discussion on the criminality of Jiang Aizhen, people placed Jiang Aizhen’s anti-persecution stance ahead of the principle of a life for a life. This logic also underscored the comparison of the murderer and the murdered, which is not a comparison of political stance and identity, but one of their respective behaviors. People regarded Jiang’s murderous act as the result of the victims’ own wrongdoing. It is worth noting that Jiang Aizhen’s daily “political performance” still worked to a certain extent in this logic of justification, even if its importance was substantially reduced. It was no longer Jiang’s political stance but her “advanced thoughts” and readiness to “help” others in prison. This indicates a change in standards from political stance to (less political) actual practice, honesty, and readiness to help others.

Wang Binyu Case***Justification of Social System***

In 2005, Wang Binyu, a rural worker in Gansu, whose boss delayed paying his salary for the year, asked for payment from his boss and was rejected, expelled, and insulted. One day, he prepared a knife, broke into his boss’s house, demanded his salary, and argued vehemently with him. Finally, Wang killed four people and severely injured another. The court sentenced him to death in the first trial. This case aroused extensive debate on the Internet and most netizens disagreed with the death penalty he received (see Table 1).

Netizens who disagreed with Wang’s death sentence had the following justifications:

- Wang Binyu is one of the weak in society

“They are innocent victims actually because they have long and repeatedly been ruled by the strong and the gentries so that they just become desperate. In addition, the whole social system available to them is an apathetic one that always turns a blind eye and even adds to their miseries. They just feel extremely helpless”²⁷

- Wang Binyu is being deprived of his legitimate rights and interests

“They are exploited by the strong and the gentries, and the existing system does not give them a reasonable way to revolt. They have repeatedly sought justice in a reasonable and legitimate way, but have failed again and again. Finally, they have to fight back in an unreasonable and illegitimate way because they find themselves beyond the limits of tolerance, and this is understandable and worthy of sympathy.”²⁸ “Wang Binyu sought to ask for his salary in a reasonable way by repeatedly talking to the foreman, the Labor Bureau, and the Court, instead of immediately turning to physical violence.”²⁹ “Wang’s case is just like a mirror which reflects the weakness in the job of protecting rural workers’ legal rights and interests”³⁰; “Repeated infringements of rural workers’ interests show an absence of authority.”³¹

- Public administration fails to effectively serve justice

Our dispute-settling mechanism is not enough to protect the group that Wang Binyu belongs to, so they do not receive social relief. Under such circumstances, society or the government has to bear certain responsibilities, although Wang is very guilty. “Why do the weak have to bear the consequences? Is it fair for the weak to exclusively bear the responsibilities for their ‘unreasonable’ actions as they do when there is no other way out?” “These consequences or costs have to be borne by, all including the strong.” When Wang Binyu could not get timely and effective relief and was subject to new infringements from the violator (delayed payment of salary is a violation of the law), he should not have been held fully responsible for his retaliative actions.³² There is a prerequisite to the ban on lynching and retaliation: the public authority should render a sufficiently effective approach to mete out justice. If the prerequisite is not available, lynching and retaliation might be justified.³³

- Experts: insufficient procedural justice

It is worth noting that legal experts have a different opinion from the public in this case, as also with the case of Liu Yong. Legal experts are of the opinion that “media reports should not interfere with the court’s trial independence and that this is an inviolable law for a country with rule of law.” They remind the media and other experts, “One should beware of excessive egoism and

excessive involvement in social issues to the extent that stringent professional principles are violated and the bottom line of the law is endangered.”³⁴

Some legal experts ask, “Is procedural justice violated when public opinion interferes with judicial trials?”³⁵

Netizens expressed their views on the conduct of Wang Binyu using two forms of logic: first, the weak are being suppressed and unfairly treated by the strong, and Wang’s conduct is related to the overall situation in which this group of people find themselves. Second, when public channels of relief are not easily available and no effective tool is there to punish violations of the law (for example, delayed payment of salaries), Wang and others are forced to realize justice using extreme means. These two forms of logic are both beyond Wang’s control, so the netizens try to direct attention to more general factors—the situations in which Wang and his group find themselves and the availability of relief available in society. There is a prevailing opinion on the Internet that Wang had to resort to an extreme approach because there are obstacles that prevent the settling of “unfair” problems within the existing social system: “He and his peers live a miserable life but he never thinks of stealing or robbing.”³⁶

Why is Wang Binyu so desperate? Why is the group of rural workers represented by Wang Binyu so desperate? The reason is simple: his opponent is very strong. The foreman is just like a despot to him because he pays or refuses to pay salaries at will. He is too weak, anyway. The key issue here is that he has no channel for expressing his complaints and feelings. For instance, if Wang Binyu turns to the court for help, the trial will last a very long time; if he turns to the labor administration, the administration is not going to help him much. Is there anybody else to whom he can turn? No! So he has to help himself. Such self-help is not necessarily effective and it easily leads to crime.³⁷

The basic logic of these discussions is to define the identity of Wang and his group. However, this definition is no longer based on political stance and daily performance, but upon the situations in which Wang and his group find themselves—economic (fortune), social (status), and political (legal rights). Public opinion condemns the unfairness of the social system for this group of people. The standards that people use to gauge the case are more general values: social equality and institutional impartiality. With these principles, the general public elevates the personal conduct of the party concerned to such public levels as group and institution and believes that extreme personal conduct is the inevitable consequence of the unfair or unequal treatment of the group they represent.

The foregoing logic once again strengthens the already diluted experience—politicized treatment of criminal issues (Wang Ping case in the 1960s). The difference is that the standard is no longer political stance, but social equality. This is particularly evident in the public opinion regarding some of the cases in recent years. One of the disputes in social discourse regarding the newly promulgated Real Right Law is based on the logic of which stratum can obtain benefits. In this logic, the parties concerned are classified first into the weak, the suppressed, and the

unequally treated, and then the conducts of the parties concerned are analyzed with reference to the system. Taking the case of Wang Binyu as an example, the public regards Wang Binyu and his group as being ignored in the existing system, and is of the opinion that this group of people would resort to physical violence against the strong if their unequal treatment is not responded to in a positive and effective manner. In this case, we find that social discourse cares about what economic and political group the parties concerned belong to, about whether they observe the law and relevant procedures, and about whether they are fairly treated, not about whether their thoughts are advanced. On such a basis, the Internet opinions regard expert opinions (emphasis on judicial independence and observation of relevant procedures) as accomplices of the bureaucrats or the rich. In addition, there are disputes in social discourse in this case, as against the previous two cases where there is “unanimous public opinion.” The standards adopted by different people are diverse: some emphasize reasoning and procedure, while others emphasize the status of the weak and the protection that the system offers them. It shows that apparent disputes exist in social discourse when there is a basic trend toward the return of politicization.

Changes of Legitimate Justifications

The foregoing three cases span a period of thirty years with an interval of about ten years between each. The changes reveal much information and reflect the development trend of social discourse and a yardstick to gauge values. One can find much that remains unchanged and also much that is new. The following is a summary.

Classification of Legitimate Justifications and Symbolic Boundaries

The main justifications of public opinion reveal changes regarding whether the party concerned is convicted, what crime he has committed, and why he is convicted: from political stance to thoughts and finally to social stratum (status). The grouping of people has changed from adversary–me to good people–bad people and finally to the poor–the rich; the standards have changed from conformity to mainstream ideology to pursuit of advancement, readiness to help others, and finally to political and economic status, that is, whether the party concerned is treated equally and whether his rights are effectively protected within the system. A comparison of the three cases shows that political stance prevails in the crime justifications of the first case but is substantially less important in the second case. In the third case, this standard is not mentioned at all and the standard that public opinion quotes to define a “good person” is observance of the law. The trend of changes shows that the logic of political stance is gradually being abandoned and the ideology and political notions of the party concerned are less and less related to criminal evidence with regard to justification of behavior, that is, political stance is no longer the main or prevailing criterion in determining whether some conduct is justified.

Substitutive Politicization Logic

The foregoing analysis does not indicate that politicization logic is abandoned by social discourse in a criminal case. Instead, the definition of politicization has changed. For instance, the politicization logic involved in the Wang Ping case is no different from the prevailing orthodox ideology of the time; the daily performance of the party concerned in the Jiang Aizhen case is equivalent to the “pursuit of advancement” as approved by the system at the time and the party’s request for joining the advanced organization becomes the evidence of this; the social discourse in the Wang Binyu case is intentionally different from the orthodox ideology and refers to the unequal and unfair treatment of Wang. More abstract claims—social equality and institutional impartiality principles—are increasingly becoming the apparent basic justifications.

Undoubtedly, this is still a quite politicized logic. It is reflected in the opinion that an unequal and unfair system needs to take responsibility for the conduct of the party concerned. Such conduct is linked to social, political, economic, and legal systems, and personal conduct is linked to public institutions. The approach for such linkage is still first to identify the grouping of the party concerned. The symbolic (grouping) boundaries are set and then the social situations of the group are cited as the cause of the conduct of the party concerned. The apparent trend is that the public attempts to use its own justification logic and legitimacy principle, both of which are different from the orthodox ones for the appraisal of any conduct and system. However, such standards are still highly politicized and the only thing that has changed is the content of politicization: from political attitude and stance to group status and institutional impartiality. Social discourse has always kept the same tendency: linking criminal conduct to national ideology and even the social system and understanding the causes of the conduct from the perspective of the latter. The public sees the criminal conduct of the party concerned as a consequence of the system, and is of the opinion that inequality between different groups and an unfair social system have harmed individuals and thus aroused their revolt.

Such understanding has a tendency toward the political extreme. As opposed to ordinary criminal cases in which murderous conduct is seen as a potential threat to public security, the public sees personal murderous conduct as a revolt and challenge against a particular group and social unfairness in this case.

Differentiation and Sorting of Standards

The standard of economic conditions is a new consideration in social discourse, namely beneficiary–loser, the rich–the poor. In addition, different assumptions of legitimate conduct are made for different groups. Meanwhile, the social discourse sympathizes more with the group of people of lower social status, more limited resources, and less protection of rights, and awards less legitimacy to the group of people with a higher social status. It shows that difference in the development of

legitimacy standards: from one legitimate justification (performance or stance) to multiple legitimate justifications (observance of laws, social equality, and institutional impartiality), and from justifications that apply to all conduct to justifications that apply to people of different social groups and status.

This shows that a single prevailing justification of ideology has reduced status and is transformed into diversified justifications of values and stances. The principle of equality of status becomes the top justification in public opinion, while the “procedure” principle as emphasized by experts is less important in social discourse. Both public opinion and expert opinion tend to differentiate from orthodox claims slowly and gradually, and the principles of equality and effective protection of the weak in existing systems become the focus of discussions on the “division of responsibilities.”

Speech Modes and Initiatives

The participant mode of social discourse has also changed from organizational participation to individual participation, and gradually from unanimous opinion, passive response, motivation, collective discussion, and subject of education to differentiated standards, initiative in participation, voluntary expression, separate (through the Internet) expression, case analysis, and expectations to affect the ruling. What remains the same is that public opinion is seen as affecting court rulings.³⁸ It normally generates extensive public response and thus imposes pressure on the courts. Such pressure has generated more and more evident influence in several criminal cases recently (the cases of Liu Yong and Qiu Zhenhua) and it shows that social discourse has become a factor that defines “justice”; social members start to actively define justice instead of passively accepting the given definition of it.

Potential Trend

What do the foregoing changes reflect from the perspective of social transformation?

First, they show the changes in the identification of social members. The legitimate justifications acceptable to them have changed from a previous/single political stance or performance to various diversified principles: law and principle observance, social equality, and institutional impartiality. Social equality and institutional impartiality and their ability to protect citizen rights are becoming increasingly important justifications. Social discourse is gradually deviating from orthodox opinion and is kept a certain distance away intentionally by defining fairness and legitimacy as separate principles.

Second, the changes show that people are attempting to establish clear-cut and unique social stances and values and define “justice” through active social debate while promoting them to be shared among all social members. Social members

are increasingly aware of caring about, sharing with, and depending on one another, and look for support through public speech and debate, thus leading to the creation of “groups.” This all indicates the development of a public awareness and initiative to establish separate social values, promote sharing of justifications, and define “public” goals.

Third, the changes show that some characteristics of a “politicized society” are continuing and even being consolidated in another way: social discourse easily links legal issues to economic, social, and political systems, and attributes any extreme behavior to the latter. This is a radical political response of similar logic, even if its reasons may be different.

Fourth, the changes show that social values are being increasingly shared and divided among the public. There are growing participants in social discourse, increasing mutual psychological influence and exchanges of views and opinions. However, people do not identify themselves as belonging to the same group because there are increasing differences and deviations. While the commonly shared values in social discourse are equality of rights and institutional impartiality, the order of some values deviates among different members and such deviation increases with the differences in the identity of social groups. This indicates aggravating social differences and the appearance of a radical and extreme social discourse culture.

The Public, the Individual, and Civility

Do the foregoing changes indicate the development of “civility”?

Sociopolitical experts universally agree that the formation of social order depends on the establishment of relationships of domination. There are two basic modes of social domination in history—civic domination and command domination.³⁹ At an early stage of human society, most people are kept outside of civic domination and society is dominated under the command of certain families, tribes, and monarchs. In the view of citizens today this is not counted as civic domination because the opinions do not originate from the general public but from some traditionally recognized and unlimited power. Using this standard, command domination is not public authority because it is not defined and authorized by the individuals who constitute the “public,” nor is there any mechanism to differentiate and link the public and individuals; that is, public authority is unrelated to individual rights, and the formation of “public rights” is unrelated to the protection of individual rights and interests, absence of individuals from definition and control of public authority, and their ignorance of the procedures of execution of public authority.

Civic domination must be based on identification with the relevant needs and rules of individuals who constitute the “public.” Here is the procedure: social members publicly discuss these needs and turn them into a series of basic abstract principles that are used to gauge the legitimacy of social behavior or others’

behavior and extend the sharing of social values. This procedure must be accompanied by the development of civility because social members can neither establish civic domination nor affect changes of systems or protect themselves if they are not strongly concerned about, participate in, share, and define the principles of conduct that are related to their own rights and interests. The foregoing three cases show the development of these properties in public opinion even though it is still limited.

The social response to these criminal cases is of particular significance because it is about the relationships between individuals and the public: it depends on thoughts about the differences and linkages between individual and public rights, between individual and public misfeasance, and between individual and public responsibility. Social discourse includes the following belief: if equality and impartiality are defined as the basic rights of each citizen, any violation or lack of protection is unacceptable. The preliminary views on “public” have been demonstrated here: “public” means equal sharing instead of exclusivity to any particular group, and it should not be defined by a special group of people; “public” means issues that are openly available and accessible, generalized, publicly defined, and relating to public interests; if some rights are exclusively enjoyed by a particular group of people, this is unequal and unfair.

Equal sharing is the content of citizenship and should be based on the sharing of rights and responsibilities among all social members. It is particularly dependent on the differences between public and individual, between social members as individuals and citizens, and the recognition, observance, and sharing of public values. Civility refers to the awareness and ability of social members, as citizens, to look for civilization, sharing, interdependence, and autonomy. This is the basis for all the developments mentioned above and the source of all public relationships, principles, awareness, governance, and responsibilities.

The changes in the logic of legitimacy of the foregoing social discourse indicate that public awareness and civic ability in this regard are developing in China although the process is slow.

Notes

1. Many scholars have participated in the discussion. Different opinions are concentrated in the discussion of “social transformation” proposed by Victor Nee. For main representative works before 1996, see Bian 2002.

2. See White 1993.

3. Mutz, Benda, and Meng 2006: 4.

4. The names of individuals, places, and units in this case are hidden according to agreement.

5. People’s Commune Committee, “Testimonial Materials of Chen” (August 13, 1970), 84–85.

6. Wang 2005.

7. “Report on Request for Punishment of Wang Ping for his Unjustified Murder, Issued by Linfu Police Station to the County Public Security Bureau” (March 1971).

8. Xiang, "Disclosure of Some of Wang Ping's Bad Conduct" (July 28, 1970).
9. Ding, "Impeaching Wang Ping" (August 9, 1970).
10. Speech given at meeting against antirevolutionary murderers (date unidentified), *Supplementary Volumes of Cases*, 3–6.
11. Minutes, Food Station Learning Group Meeting (August 30, 1970), *Supplementary Volumes of Cases*, 89–90.
12. Tang, speech of criticism against Wang Ping (August 31, 1970).
13. Meeting, Comprehensive Service Agency (September 8, 1970).
14. Summarized according to outlines of twenty-two speeches of criticism from Linfu Medicine Station, Taxation Office, secondary schools, primary schools, grain system, supply and sales agencies, pickled food factory, food, post and communication, telecommunication, and power supply units.
15. Qian, "Public Opinion," *Supplementary Volumes*, 128; Wang 2005, 45.
16. Speech manuscript (date unidentified), *Supplementary Volumes of Cases*, 3–6.
17. Investigation Report, "Why Did Jiang Aizhen Commit Murder?" *People's Daily*, October 20, 1979.
18. *Ibid.*
19. "If I Were the Defense Lawyer for Jiang Aizhen," *Academic Journal of Southwest Politics and Law University* 2 (1979).
20. *Ibid.*
21. Bai Changlin, "Plea in the Second Trial of the Jiang Aizhen Murder Case," in *World of Lawyers*, 2d ed. (1989).
22. *Ibid.*, 33.
23. Tong Dahong, "Jiang Aizhen Today," *Film Creations* 1 (1994).
24. "Sacred Law: Compulsory Enforcement of Law for Violators," *Xinjiang Daily* editorial, January 13, 1985.
25. Ling Yu, "Retrospective of the Jiang Aizhen Murder Case," *Law and Life* 10 (1988).
26. "Strong China Forum," *People's Daily* Online.
27. Century School Web site, September 2005.
28. *Ibid.*
29. Xia Ziyi, "On Reasoning and Unreasoning Based on the Wang Binyu Case," *Guan-tianchashe Net* (September 2005).
30. "Never Overlook the Basic Wishes of Rural Workers," *Xinhua News Agency*; "Wang Binyu Hits Home in Chinese Society," *Century School Net*, September 17, 2005.
31. "The Wang Binyu Murder Case Is Not Merely a Personal Tragedy," *Beijing News*; "Wang Binyu Hits Home in Chinese Society."
32. "Comparison of the Wang Binyu Murder Case and the Jiang Aizhen Case," *Beijing News*, September 9, 2005.
33. Zhong Kai, "Further Thoughts on the Wang Binyu Murder Case: Refutation Against Chen Bulei and Gao Yifei," *Century School Net*, August 30, 2005.
34. "Tragedy Not to Cover the Truth and Care to Be Based on Professionalism," *Nanfang Daily* editorial, September 12, 2005.
35. "Does Public Opinion Help to Serve Justice in the Wang Binyu Case?" *Shanghai Oriental Daily*, September 12, 2005.
36. Xia Ziyi, "On Reasoning and Unreasoning Based on the Wang Binyu Case," *Guan-tianchashe Net*, September 19, 2005.
37. Liang Zhiping, "Expert Interview: Why Has the Death Penalty for Wang Binyu Aroused Enormous Concern and Dispute?" *Beijing News* Web site, August 2005.
38. "Judicial Popularity: Judicial Practice of the CCP in Jiangxi," master's thesis, China Renmin University, 2002.
39. McIntyre 1994.

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