

Why a strong state needs a strong civil society – in the West and in China

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This article argues that a state becomes stronger, and more likely to act justly, when it upholds and nurtures a strong civil society composed of a wide array of self-governing organisations, including religious bodies, possessing high degrees of legal and operational independence from state control. Christians in states undergoing transitions from authoritarianism, such as China, may be poised to exercise a strategic opportunity not only to secure their own religious freedom but also to promote a stronger civil society. The article is an edited version of a lecture presented at Hong Kong University Law School on 31 October 2016.¹

Introduction

The idea I want to propose in this article is not new and can be stated simply: a state becomes stronger when it nurtures a strong civil society composed of multiple, diverse self-governing organisations possessing high degrees of legal and operational independence from state control. There is no trade-off between a successful state and a robust realm of personal and associational autonomy. The relationship between a strong state and a strong civil society is directly proportional, not inversely proportional. But although not new, the urgency of this claim will be immediately apparent to anyone living in Hong Kong at a time when the government of China is acting, overtly and covertly, to increase its direct control over civil society in mainland China, and, indirectly, over elements of civil society in Hong Kong.² The recent Communist Party Plenum in Beijing offered further proof of this by introducing further restrictive regulations on religion, notwithstanding the formal commitment of article 36 of the constitution to freedom of religious belief. The capacity of Hong Kong to demonstrate that a strong state needs a strong civil society, including a robust protection of religious freedom but also much more, is critical for its own future but might also have vital lessons for the rest of China, for those open to learning them.

State and civil society: Christian insights

While the idea I want to discuss – that a strong state and strong civil society need each other – is simply stated, on closer inspection it turns out to be quite complex. It derives its meaning from its place in a family of related political and legal ideas, practices and institutions which must be grasped together. These include the following: the inherent entitlement to personal and associational liberty and rights; secure legal and political space for genuine political pluralism, robust political debate and the peaceful resolution of political differences; free elections; independent representative assemblies; a constrained executive under the rule of law enforced by an independent judiciary. And the rights implied in this list must not be seen as mere concessions of the state, but as independently valid claims to which the state must defer.

This family of ideas is familiar to anyone who understands the nature of a (western) liberal democracy. But the account of them I will give here reflects distinctive but neglected sources of liberal democracy in pre-modern, early modern and modern Christian political thought. What emerges from these sources is a theologically-grounded vision of just, representative, constitutional government – a distinctively Christian version of constitutional democracy. One does not have to be a Christian to adhere to such a vision. But it is worth attending to these Christian sources, for at least two reasons.

First, they show that such a political order is not exclusively the product of the secular Enlightenment, but trades on earlier religious notions which evolved over centuries into key elements of liberal democracy, even though those notions have now been largely forgotten or denied. An obvious implication is that a liberal democracy need not be officially atheist or anti-religious. But nor need it be (indeed it should not be) officially secularist, i.e., committed to favouring or imposing a secularist worldview – as under French *laïcité*, for example, with all the needless divisiveness this is currently stirring up, especially towards peaceable Muslims.

Yet a modern political order should indeed be ‘secular’ in the narrower sense of being *officially* impartial towards different religions or belief-systems. This idea derives specifically from streams of dissenting Protestantism since the seventeenth-century.³ Thus ‘Christian constitutional democracy’ does not seek to restore ‘Christendom’ or claim any kind of public legal privilege for Christianity, even if it could secure an electoral majority. Thus, for example, Christian Democratic parties in postwar Europe renounced that ambition even when they did indeed win such majorities. In any event, the basic contours of such a model can be and need to be affirmed from a variety of religious or philosophical perspectives.

Second, the extraordinary recent growth of Christianity in China makes the relationship between liberal democracy and Christianity of exceptional interest. Recent estimates suggest that there are now more Christians in China than members of the Communist party. They are plausibly predicted to form one third of the population by 2040.⁴ Whatever its actual growth trajectory, Christianity is already set to exercise substantial influence – a prospect that is, no doubt, one of the drivers of the Chinese government’s new restrictions on religion. We are thus led to ask: Will China’s burgeoning Christians seek to become active citizens and political leaders and, if so, what goals will they pursue, and by what means? What form of political order might they seek to promote? Such an order will not be, and should not be, a straightforward imitation of ideas birthed in the Christian, liberal West. But since they share the same biblical and traditional inheritances as the Christian West, and since exchanges between them and western Christians are increasing, we can expect strong affinities to emerge, even while distinctively Asian variations will appear. Might there emerge a distinctively Chinese rendition of what I have called Christian constitutional democracy? What might be the contribution of the Hong Kong Christian community to that? Minimally, in the short-term we can expect Chinese Christians to mount vigorous defenses of their own religious freedom, but in time this might well draw them into wider commitments – religious freedom for all, freedom of speech for all, associational freedom for all, access to impartial justice for all, and so on. Mercy A. Kuo writes:

Christianity has been growing fast and begun to show social significance, such as the emergence of Christian lawyers courageously fighting for civil and human rights. Although Chinese Christians tend to be apolitical, their Christian beliefs and congregational life help to value human dignity and exercise democratic principles. In the long run, Christian growth in China will be beneficial to social and political democracy.⁵

Potentially, we might even witness in a generation or two the emergence of a broad, articulate, well-mobilised popular movement of civic reform – or more likely a series of heterogeneous movements – committed to peaceful, gradual, constructive change and guided by a vision of the common good of the whole nation. That, at least, would be a best-case scenario, amounting to an extraordinary contribution to China’s future.

Civil society and citizenship

Let me spell out this vision of a constitutional democracy through the lens of the idea of ‘citizenship’ – by which I mean a political status and vocation rather than simply the possession of a passport. To simplify somewhat, classical secular liberal individualism sees citizenship as one of the necessary rights of the autonomous individual – necessary to protect their interests against the state and to give them power to shape the state and hold it accountable to the associated wills of self-interested individuals.

The goals of limiting state power and holding state organs accountable to the people are profoundly important. But to construe the role of citizen primarily in terms of the promotion of self-interest is inadequate. It fails to convey that there are claims of the public realm which are not simply derivable from aggregated individual

interests. Contemporary republican theories of citizenship offer a better account, seeing the citizen as an active member of a self-governing political community.

The Christian sources I have mentioned allow us to go still further. They see citizenship as a participation in the moral vocation of the political community itself, a vocation produced not simply by the associated wills of members but arising from the objective moral obligations of political life – obligations we do not simply construct but which we confront and to which we must respond one way or the other. In Christian thought, such obligations ultimately originate in the constitution of a divinely created social human nature – in which everyone is indeed ‘their brother’s or sister’s keeper’; or, as Pope John Paul II famously put it, in which ‘all are really responsible for all’. On this view the rights of the citizen derive not firstly from the need for self-protection or from negative liberty, but rather from a shared duty to contribute to the realization of justice and the common good. These, of course, *include* protection of fundamental individual interests and freedoms.

Citizens are co-responsible with government

This means two things. First, as members of the political community citizens are co-responsible with government for discerning, through democratic deliberation, what justice and the common good require. Government cannot presume to do this alone, and indeed is not competent to do so. This then calls for a wide, open public sphere in which all political convictions – i.e., all serious accounts of justice and common good – can be freely expressed and critically assessed, and out of which workable compromises can be struck in properly representative forums.

Second, citizens are also co-responsible for the practical realisation of justice and the common good, since these are not the sole prerogative of the state. This certainly includes accepting the outcomes of democratic decisions, obeying the law (within the limits of conscience), and contributing in many non-political ways – through all kinds of social, economic and cultural activity – to the common realisation of those larger goals. Crucially, it also means holding government to account via critical debate, mobilisation and various forms of peaceful opposition. A critical citizenry is a precondition of a just and stable state, not a hindrance to it.

Strong civil society, strong state

This understanding of citizenship issues in the demand that the state protect a robust, boisterous civil society populated by a multiplicity of diverse and self-governing social, educational, professional, cultural, political and religious associations. To these civil society organisations we must also add two other categories not typically included in most standard social-scientific definitions of ‘civil society’ but equally vital: families and households; and business enterprises, both as wealth-creators and as participatory workplace communities. None of these bodies are organs of the state and thus may not be made subordinate to state purposes. Thus, for example, the recent abolition of China’s one-child policy reverses an appalling injustice to families perpetrated by the Chinese state.

This array of associations and institutions is an indispensable condition for the cultivation and practice of citizenship as I have defined it, in two ways. First, an independent civil society *helps prevent draconian state interventions in*, or creeping encroachments upon, the personal freedoms and rights that are equally essential for active, responsible citizenship. But for this to be effective, civil society organisations, as well as families and businesses, must possess substantive institutional autonomy. They must be viewed as loci of original moral agency and legal competence. The state is not the fount of all valid law but only the adjudicator among plural, legally independent and self-ruling agents.

This obviously does not mean that such bodies operate beyond the law; they are legitimately subjected to a wide range of general laws essential to the promotion of justice and the common good. Rather it means that general laws must be framed in ways that honour the original rights and powers of such bodies, i.e., those that are proper to the purpose of the body concerned. Thus, for example, parents have the inherent right to found a family, which means deciding on the size of that family; businesses have the right to choose their own production methods, product prices and (beyond a legal minimum) wage levels; churches have the right to determine their own doctrines, internal structures of authority and external communications: a constitutional freedom of individual private ‘belief’ without freedom of corporate public practice is of little value. While few of

these are *unlimited* or *absolute* rights (all positive legal rights must undergo balancing with others), they are *inherent* or *original* rights, so that the onus should always be on the state to defend any restrictions on them rather than on the institutions themselves to justify their possession or use of them. In the language of American jurisprudence, there must be a 'compelling state interest' in the restriction; and the bar of what counts as 'compelling' should be set high. Such institutional rights are as important as individual rights.

Second, an independent civil society facilitates the nurture of the *kind of people and communities* equipped to exercise such citizenship. At least where they function reasonably well, they are essential to the formation of needed civic virtues and skills essential to the practices of reflection, debate, participation, self-discipline, self-denial, negotiation, tolerance, courage, judgement, and so forth required for effective citizenship. Each of the associations I listed above contributes to these in its own special way. Religious associations, for example, where they function well, have been shown to nurture cooperation, self-denial, courage, and, contrary to common perception, frequently tolerance. By contrast, the state or state-controlled institutions are very poorly-equipped to cultivate such virtues and skills because they only have at their disposal the limited and clunky repertoire of coercive law and public policy. Where states suppress or stultify these independent generators of such virtues and skills, they destroy the very social foundations for the discharge of their own capacity to promote justice and the common good – sawing off the branch on which they are perched.

Such corrosion, of course, can be caused not only by authoritarian socialist regimes but also by liberal ones which sponsor a form of capitalism that systematically corrodes the spirit of solidarity and the moral energies without which even formally free civil society bodies will wither up and die. Either way, states which undermine civil society in the long-run dig their own graves.

Conclusion: Christianity and the future of China

This account of a constitutional democracy seeks to overcome both the individualist bias of secular western liberalism, which fractures social bonds and obstructs the articulation of common political goals, while equally avoiding dangerous collectivist myths in which the state is the premier expression of human solidarity, or the orchestration of all social activities, or the fount of all legal power, or the guardian of history and progress, or even the guarantor of endless economic growth. It proceeds from the *primacy of social solidarity* in which free and responsible persons cooperate for the common good, rejecting both individualist self-advancement and predatory statism. At its best, Christianity has been a powerful, dynamic source of such a vision. If Christian communities in Hong Kong and China were to be well-equipped to advance such a vision, they might turn out to be strategically valuable contributors to the evolution of the new China that is emerging before our eyes and by which the whole world will be impacted.

For further reading

- David Aikman, *Jesus in Beijing: How Christianity is Transforming China and Changing the Global Balance of Power* (Regnery Publishing, 2003).
- Jeanne Heffernan Schindler, ed., *Christianity and Civil Society: Catholic and Neo-Calvinist Perspectives* (Lexington, 2008).

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¹ The lecture was presented at a Centre for Comparative and Public Law 'Law and Religion' Seminar, moderated by Mr Benny Tai (Faculty of Law). It was in fact delivered by Mr Tai as I was unable to attend. I am very grateful to Mr Tai for doing so.

² Eleanor Albert, 'Religion in China' (CFR Backgrounders), *Council on Foreign Relations*, 10 June 2015, <http://www.cfr.org/china/religion-china/p16272>; see also Mercy A. Kuo, 'The Politics of Religion in China: Insights from Fenggang Yang', *The Diplomat*, 4 August 2016, <http://thediplomat.com/2016/08/the-politics-of-religion-in-china/>.

³ See Thomas Schirrmacher and Jonathan Chaplin, 'European Religious Freedom and the EU', in *God and the EU: Faith in the European Project*, eds Jonathan Chaplin and Gary Wilton (Routledge, 2016), 151-174.

⁴ Fenggang Tang, 'When will China become the world's largest Christian country?', *Slate: What is the future of religion?*, n.d, John Temple Foundation, <http://www.slate.com/bigideas/what-is-the-future-of-religion/essays-and-opinions/fenggang-yang-opinion>.

⁵ Kuo, 'The Politics of Religion'.