

## Development of the Relation Between Civil Rights and State Power in the New Media Era

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**Supported by** Philosophy and Social Science Fund Project of Jilin Province “The Theoretical and Empirical Study of Internal Administrative Legal Responsibility” (2013B337).

Received 2 March 2014; accepted 5 July 2014

Published online 31 August 2014

### Abstract

In general, the relation between civil rights and state power is moderate in modern society. However, the arrival of the new media era has undoubtedly added such moderate relation some new content. In the new media era, citizens and state organs have realized benign interaction between civil rights and state power. On one hand, the influence of civil rights on public decision and the supervision of state power operation continue strengthening; on the other hand, state power actively cooperates and protects the execution of civil rights by using self-restricting mechanism and response mechanism.

**Key words:** New media; Civil rights; State power

Zhou, L. J. (2014). Development of the Relation Between Civil Rights and State Power in the New Media Era. *Cross-Cultural Communication*, 10(5), 72-75. Available from: <http://www.cscanada.net/index.php/ccc/article/view/5474>  
DOI: <http://dx.doi.org/10.3968/5474>

### INTRODUCTION

Media is an important tool for people to obtain information, give out speeches and express thoughts. At the same time, media is also a key area that state power pays great attention to. New media is a form and communication pattern that provides information and entertainment services to customers through internet, wireless network, satellites, computers, mobile phones, smart TVs and other terminals by using digital

technology, network technique, and mobile technology. The differences between new media and traditional media are: new media can provide customized content for the public, new media information spreaders and receivers are equal communicators who can create personalized communications with various communicators at the same time, and new media truly realizes interaction, instantaneity, ductility, and integration of information spreading. (Xia, 2012, pp.14-15) In new media era, no matter citizens or state organs have to use new media to get involved into social life and social management. However, in the process of adapting to new media environment, the relation between civil rights and state power starts changing silently which has no doubt created a new angle of view for constitutional researchers.

### 1. THE RELATION BETWEEN CIVIL RIGHTS AND STATE POWER IS BECOMING MODERATE IN GENERAL

With the development of modern democratic procedures, it is an inexorable trend that the relation between civil rights and state power is becoming moderate as a result of its development in the modern constitutional state.

When the “state” continues entering into non-state private autonomy area which by far belongs to the society, the same development has caused that “society” extends into ‘national’ rules and decision making areas which by far is only retained by the state. All kinds of different social expectations, especially the expectation upon social security, have pointed at the state; they do not only expect to have an effect in the area of political consciousness generation, but also expect to show their influence in any areas that state-planned programs need to be accomplished. (Condra, 2007, p.166).

The appearance of such moderate relation may be because of the utilitarian investigation of state power in realizing civil rights or may be because the adoption of new strategy for citizens or governments to deal with their relations. However,

on the extension of such moderate relation, the appearance of new media and its wide application is no doubt a new guiding force. The function of such guiding force is that the wide application of new media has strengthened the foundation of the relaxation of civil rights and state power through enhancing mutual trust between citizens and the government.

The relaxation of civil rights and state power can be voluntary or involuntary. Involuntary relaxation does not fundamentally change the questioning of classical constitutional government theory on the legitimacy of state power and the effort made for dividing civil rights from state power. Relaxation under such status usually because the realization of civil rights depends on the state power to provide more convenient conditions, or the strategy that state power has to make for advertising its “democracy” or the realization of other purposes and the so called “relaxation” is merely “rechtsreflex” of the relation between civil rights and state power. Involuntary relaxation is mainly because of the lack of mutual trust between citizens and the government, that is to say, if the two parties cannot make effective communication, voluntary relaxation is difficult to generate. Communication and information exchange must depend on the media. Due to the limitation of time and space, traditional media cannot be effectively and timely exchange information between citizens and government and blocked the possibility of mutual communication and understanding between citizens and the government. However, the appearance of new media era has created a convenient, timely, and smooth information spreading environment. Because new media “can pass information to thousands of people with the littlest price and lowest degree of distortion” (Ye, 2005, p.189), by using the spreading power of new media, information exchange between citizens and the government has been improved no matter from the perspective of effect or quality. Smooth and effective communication channels will definitely improve citizen and the government’s mutual trust while the result of mutual trust is “willing to work together and believe the other party always tries his best to carry out his obligations, for example, willing to believe his words, to sign contracts, or to cooperate with him.” (Milne, 1995, p.43) Therefore, the relaxation of the relation between civil rights and state power does not need any external help but to willingly eliminate the wide gap between them.

## **2. THE INFLUENCE OF CIVIL RIGHTS ON PUBLIC DECISION AND THE SUPERVISION UPON THE OPERATION OF STATE POWER CONTINUES GROWING**

The relation between civil rights and state power is two-way, therefore, it can be observed from two dimensions. One dimension is the influence of civil rights upon state

power and the other is the counterforce of state power on civil rights. Although the relation between civil rights and state power is becoming more and more moderate in the new media era, from the perspective of detailed dimensions, such new development still has different characteristics. We shall start with the analysis on the first dimension. Compared with traditional media era, in the new media era of civil rights’ influence upon state power has two main development aspects: one is that civil rights influenced more and more on public decision. The rise and development of modern “Participation and Democratic Theory” have made civil rights influence public decision not a new topic. Because “if a democratic regime exists, there has to be a participation society accordingly, that is to say, all political systems in all areas of the society get democratized and socialized through involving into the participation process.” (Pateman, 2012, p.39) With the help of civil participation process, “citizens/participants can fully express his opinions, desires, and requirements on public affairs which can be transferred to administrative organs for them to make decisions and management.” (Liu, 2012, p.38) However, in traditional media era, citizens’ influence on public decision by civil participation is very limited. “Most citizens, especially those from lower level of social and economic development countries, are commonly a lack of interest in politics and political events... democrats’ ‘classical’ image is barely hopelessly unreal.” (Pateman, 2012, p.3) The reason for such awkward situation is that in traditional media era, citizens cannot really control media resource to use its power to influence government decisions. On the contrary, they can only accept the public topics provided by traditional media and to express their own point of view according to the pre-set participation procedures. And whether those views can be delivered to decision makers has to be filtered by the media. Such ragescent participation cannot provide convenience for citizens to influence public decisions but to increase a “protective screen” between citizens and the government and even become tools for the government to restrict civil participation. However, the application of new media has perfectly resolved such problem. On one hand, citizens can talk to the government directly to express views on a series of social problems and public affairs via well-developed media; on the other hand, new media has provided lower participation level for citizens which has made common citizens “be able to participate into public discussions that they never get involved in the past, and has provided strong technical support for citizens to let their own words to change public policies.” (Wang, 2007, p.363)

The second is the supervision power of civil rights on the operation of state power continues strengthening. The supervision of civil rights on state power is an important part of national supervision system. But in the era of traditional media, civil rights’ supervision on

state power is usually carried out in an indirect way. Citizens can only resort to traditional media, and then to let traditional media take over the supervision. Citizens cannot supervise state power directly through traditional media. The limitation of citizens using traditional media to indirect supervise state power is obvious: on one hand, traditional media is easy to be controlled by the government. In order to survive, traditional media sometimes have to compromise with the government. Therefore, "discussion based democracy era, print culture and limited audio and visual media has more close relation with the government and the parties." (Keane, 2009, p.125) On the other hand, even traditional media truly triggered the supervision procedure on state power, its real effect is not ideal. For example,

from 1980s in the USA, the governments barely talked about how to let journalists easily get in touch with government's information. On such point, public opinions prefer to support the government and new journalists have to use legal method in order to accomplish the reporting mission. However, the law does not always help journalists. (Pember, 2005, p.312)

The wide application of new media has made the supervision of civil rights on state power can be carried out via direct channel for the first time. Because in new media era

citizens can express and publish their opinions freely and equally, take part in politics, discuss politics, report on the guilt of others, and disclose the abuse of administrative power and other behaviors, so that to realize the transformation of supervision mode from bottom to top and from inside to outside. (Yao & Zhang, 2012, p.141)

That is to say, citizens can directly operate as journalists to supervise the operation of state power. Practice has approved that the rich transforming channels and fast spreading speed of new media has given civil rights the advantage in supervising state power. Facing the public opinions which are now in an integrated shape, the pressure that state power faces on public opinion is increasing daily.

### **3. THE COORDINATION AND PROTECTION MECHANISM OF STATE POWER ON CIVIL RIGHTS CONTINUES TO IMPROVE**

The other dimension of civil rights and state power relation in the new media era is the counterforce of state power on civil rights. It cannot be denied that the relation between civil rights and state power in new media era is actually led by the expansion of civil rights and the shrink of state power. The shrink of state power is reflected as the change of the relation of state power and civil rights which was brought by new media. State organs start to take out coordinate and protect mechanism positively.

Of course, according to citizens' different identities, the coordination and protection mechanism of the state power is different. The author thinks that in new media era citizens mainly facing state power in two status: one is as supervisor of state power to supervise the legal operation of state power; the second is as the main body of social management to set up public topics for the state power to take care, or criticize the lack of roles of state power in social management to ask state power to correct. When facing different statuses, the cooperation and protection mechanism of the state power are reflected as self-restricting mechanism and guidance and response mechanism.

First, let's have a look at the self-restricting mechanism. Although the right of citizens to supervise state power is listed in the topic of constitutionalism, in the new media era, facing the operation of citizens' supervisory power, the state power has changed its negative behavior from the traditional media era to positive ways. State power establishes self-restricting mechanism by using the spreading new media and positively invites and accepts citizens' full supervision on the operation of state power. For example, in China, legislation organs at different levels have set up public opinion survey system through their websites to ask citizens to discuss on the legislation subjects and legislation draft modification and central state organ has carried out the display system of "three public consumptions" through internet have fully explained state organs are changing from negatively acceptance of supervision to positively acceptance and to create better condition for supervision. This is a good sign for the construction of China's democratic system. It is because "in a democratic country, citizens have the right to know the working status of governmental employees and how they spend tax payers' money." (Wayne, 2011, p.429). However, state power's realization of self-restriction by using new media has strengthened trust between state organs and citizens in a large degree.

Second, about the guidance-response mechanism, the author thinks it is the best new content which can reflect the development of the relation between civil rights and state power. With the full openness of new media to the society, citizens' information acquisition, integration, and publishing ability is getting much smoother. "Citizen Journalists" phenomenon is very common now in China. In real life, citizens are getting used to use internet forums, societies, blogs and other information spreading tools to discuss a series of social problems and hot topics to participate in public decisions. Under such circumstance, state power not only positively gives up the "cold treatment" in traditional media era but also carefully analyzes and sorts information provided by citizens by guiding citizens to express their requests and wills through legal channels. State power also carries out investigations and checks the operations

on certain related problems and gives feedbacks to citizens on the resolutions or explanations timely. If we say the “south China tiger” event in 2007 shows the immaturity of the government on dealing with online public opinions, then, afterwards, state organs started to carry out measurements consciously and strengthened the guidance and response upon online public opinions. For example, until October 2012, Chinese governments at different levels have set up about more than 60,000 political Weibos. State organs have been working positively with their political Weibos to publish political information timely, guide online public opinions’ development, positively interacts with cyber citizens, and have gained great social effect by far.

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## CONCLUSION

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The transformation from traditional media era to new media era has led human being really entered into the information era. In the new media,

various kinds of new media which were based on the development of internet technology, have greatly changed current public voice. On one hand, the threshold for spreading the news is getting lower; on the other hand, the generation of information and immediacy of information spreading has strengthened than ever before. (Lü, 2012, p.137)

Although the communication media varieties, information spreading immediacy, virtualization of communication environment does not fundamentally shake the relation between civil rights and state power, we cannot deny that the relation between civil rights and state power has entered into a new development stage.

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