

An Analysis of the Dilemma of Implementing the Rule of Law at the Grassroots Level in China—Centered on Rural China

—Implementation of the Rule of Law in China—Taking Rural China as the Core

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Abstract

The Chinese speak of “family” is a very flexible way, and it can even be extended to an infinite distance. It can be a family member with blood ties, a friend with brotherhood, or a family and a country with geographical scope. At a time when China needs more rule of law and fairness and justice, the notions established by blood and geography in traditional culture collide with the needs of today’s China’s development. This paper takes the characteristics of vernacular China as an entry point, and by analyzing its unique attributes deconstructs and distils the cultural conflict, and then analyzes the shortcomings of the rule of law at this stage, pointing out that the countryside with its traditional and modern law should tolerate and coexist hand in hand.

Keywords

Rural China, Rule of Law Construction

1. Introduction

For social governance in China, rural society occupies a great space. According to the Chinese Encyclopedia of Social Sciences, the so-called social structure refers to the comparison of the components or elements of the social system.

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Enduring, stable patterns of interconnectedness. Among them, Mr. Fei Xiaotong's Vernacular China was the most influential, providing a general overview of the social roots of almost the entire China at that time. Zhou Yunqing pointed out that the fundamental characteristic of Chinese grassroots society was vernaculars, and that the Chinese vernacular social structure was generated by the agrarian economy. On the one hand, the Chinese farming economy was self-sufficient, which deprived people of the most important resources for living after leaving the land, and people maintained a simple and stable reproduction process for generations. On the other hand, the integration of the farming economy and farming culture strengthens the stagnation of the vernacular social structure, and blood and land ties become one, and family and land become one. The modernization and transformation of Chinese society necessarily include the legal transformation of rural society. This paper takes the characteristics of rural China as the starting point, extracts cultural conflicts by analyzing the deconstruction of its unique attributes, and then analyzes the shortcomings of the construction and development of rural rule of law at the present stage.

2. Understanding the Unique Developmental Characteristics under Vernacular China

2.1. Self-Referral in the Poor Order Pattern

The basic characteristic of Chinese society is what we call the "disorder pattern" (Fei, 2012). The "differential pattern" is like the ripple of a stone falling on the surface of the water. The "differential pattern" is like a stone falling on the surface of the water, and the surface of the water produces layers and layers of ripples that push out. That is, the more you push farther and farther, the thinner and thinner, and can be released and retracted, and can stretch and shrink the social pattern, and it changes with the time and space they are in and produces different circles. Each individual is a centralized circle based on the different social influences of the individual, and the ripples generated by the circle are associated with the contact. In this way, each individual has a circle centred on himself or herself and at the same time is subordinated to a circle centred on someone superior to him or her. The kinship that is considered to be the first order of precedence in society is this property of generating concentric ripples from stones.

In our traditional Chinese society, especially in the vernacular society, we always start with ourselves regarding the society and the country. In the Book of Rites, we talk about the "Ten Rites", and in the University, we talk about the "Five Rites", including "father and son, husband and wife, ruler and subject, elders and children, and friends" These are the five basic human relationships in society. What is the differential pattern in these "Luns"? It is that when we face the above five ethics, the five levels of ethics, it corresponds to different kinship relationships. Our society also teaches us to adopt different ways to treat people of different levels of relationship and order. To the emperor, to the son of heaven, to the king, to be a subject should learn to be loyal. To parents, one has to

abide by filial piety. To brothers, we must remember brotherhood. For friends, we have to be friends, or we have to be loyal and faithful. We have different ways of treating different people, and the ripples of this circle can be constantly expanded, and it can be stretchable in different situations.

And in this relationship, we have to first restrain ourselves and then push out, to push out, layer by layer “push”, how I am good to my parents, then know how to be good to other parents should also be so good. This is also known as “the old man and the old man of others, the young man and the young man of others”.

In such a society, the boundaries between people and groups are not clear, and there are orderly differences within groups, and the standard of value for treating different people and things is dependent on the existence of differential human order.

2.2. Acquaintance Society of Blood and Land

In the traditional sense of rural areas, the relationship between villages is by and large in a stable state and there is nothing. But when the population in the village increases, they move outward, and two his lineage is continuous out so that a person’s origin and genealogy can be traced back to very distant places. This kind of kinship can be extended indefinitely or can be transferred to other places, but mostly develops along a region, which is the so-called “geopolitical” display.

There is “blood” and there is “geo”, and “geo” and “geo” cover roughly the same area as “blood”. The root of the problem is that we Chinese like to talk about blood. At the root of this, because we Chinese like to talk about blood, climbing relatives, and expanding it, we can say that we also like to talk about geopolitical relations.

So, we talk about fellow countrymen looking at fellowship, foreign workers focusing on gathering and association; acquaintances looking for connections, and even if sometimes these connections are not there, we can still pull connections. When Chinese people go to meet someone, we are not as likely to approach them as individuals as in the West to see if we can become friends or develop a cooperative relationship. If Chinese people make friends or go looking for a job, the first thing they consider is blood relations, and if not, then geographical relations. If there is no geo-relationship, they will start to talk through indirect blood and geo-relationship.

Trust in vernacular society comes from familiarity, and the so-called trust emerges from the reliability and selectivity of the rules of behavior when they are familiar to the point of unthinking, that is, there is no need for a set of tangible laws to govern people’s behaviour as in a non-acquaintance society where each does not know the details of others.

3. Focus on the Conflict of Rule of Law in Our Country in the Vernacular Society

3.1. The Weakness of Legal Awareness Hinders the Promotion of the Rule of Law

In Mencius, the book of “The Heart of Mencius”, it is written that the disciple

Tao Ying asked Mencius, “What if Shun is the Son of Heaven, Gaotao is a scholar, and Goze kill people?” Mencius said, “Shun considered abandoning the world as if he were abandoning his own ship. He stole the burden and fled, followed the seashore and lived there for life, and was happy and forgot the world (Mencius, 2017)”. This is the way we dealt with this kind of problem in ancient China. After China entered the class society, the patriarchal system covered the whole society under the influence of the current national conditions, and the relationship of morality became the most important social relationship. The Confucian school’s series of teachings on human morality not only formed a whole set of Confucian moral philosophy, but also created its own system of distinctive ethical and legal traditions (Zhang, 2014). Therefore, China does not have the Western concept of “all men are equal before the law”, and we do not have the concept of “the king commits a crime and the common people commit the same crime”. There is only “from the Son of Heaven to the common people are all to cultivate their own body for this” that is, the concept of moral cultivation before everyone’s responsibility, which is very unfavourable to the formation of modern “natural human rights” concept, and no “natural human rights This is very unfavourable to the formation of the modern concept of “natural human rights”, and the absence of the concept of “natural human rights” is very unfavourable to the inspiration of “human rights” and thus the consciousness of “civil rights”. Confucianism’s “goodness of nature” can provide a moral shield for the “brightness” of the “king” and the “sainthood” of the “king”. The Confucian “goodness of nature” can provide a moral aura for the “wisdom” of the “king” and the “sage” of the “king”, but it cannot provide a theoretical basis for the strict prevention of the evil measures of misuse of public power out of sexual evil. In traditional Chinese political thought, its bias and inadequacy are also obvious. History proves that relying on the “ruler” to rule officials or the “great official” to rule the “small official” does not work. Neither the emperor’s appointment of “imperial historian” nor the successive generations of ministers work (Zhou, 2003). Because we are a society of differential order, we talk about relationships and rituals. Relatively, each of us is also less conscious of the idea of equal political rights and obligations to each other, and especially the peasants use it less frequently.

And when talking about the development of modern rule of law, we certainly need a correspondingly sound system of rule of law construction. China is a government-promoted legal road, that is the main background to the construction of the legal system of industrial and commercial cities (Zhang, 2008). But the most annoying thing in traditional Chinese society is the lawyers, we used to call litigators, lawsuits, that kind of people are not good people, are to provoke the right and wrong. In traditional Chinese rural society, when there is a dispute or conflict, the system of “resting the lawsuit” is deeply rooted in people’s hearts, and under the natural economic conditions of self-sufficiency and the influence of inherent rural patriarchal relations, it is possible to settle disputes through family and neighbourhood mediation. Confucius advocated that “there must be

no litigation”, which had a long-lasting effect on both the government and the people (Zhang, 2014). Therefore, compared to the rule of law, people usually look for an old man in the village or town who has a particularly high reputation and seniority to teach everyone, and they are more eager to use the inherent civil norms in rural areas to solve problems rather than using the rule of law system to solve them.

3.2. Conflict between Law and Indoctrination

Society speaks not of legal constraints, but of edification. Mr. Fei Xiaotong told a vivid case 60 or 70 years ago: A magistrate who supervised the magistrates once talked to me about many such examples. There was a man who injured his adulterer because his wife had stolen a man. In the countryside this is justified, but and adultery is not a crime, not to mention that there is no evidence, but the assault is guilty. That prefect asked me: how he sentenced good? He understands better, if it is good country people, they know they have done bad things will never come to the court. These scum with a little knowledge of the law, but will be in the countryside for the evil up, the law to protect him.

I also acknowledge the fact that this is very likely to happen. The current judicial system in our country has a very special side effect when practiced in the countryside, it breaks the original ritual order of the countryside, but does not effectively construct a new and stable order of the rule of law in the countryside. The establishment of the rule of law cannot depend solely on the enactment of several legal provisions and the establishment of a number of courts, but it is important to see how the people apply these devices. To go further, the present judicial system has to be reformed in terms of social structure and ideology (Fei, 2012).

This is a very vivid example of how all aspects of life in a vernacular society, where people relate to each other, are under certain rules. Long-term indoctrination has internalized the external rules into an internal concept. The stability of this order also relies more on internal self-correction than on external supervision. So beating up an adulterer can be justified. In such a traditional vernacular society, applying the law in the countryside to directly implement modernization in the Western sense will indeed cause many problems.

Due to the idea of expanding and spreading the “family” as the basic model in traditional Chinese society, such a structure with the main point of social disorder pattern will make it difficult to practice the rule of law and establish a civil society. If there is a slight deviation, the judiciary may become an institution that condones evil in the minds of the villagers, and the influence of the rule of law system will be greatly shaken.

In the modern state, we are talking about maintaining a very clear boundary between this group and the individual. Whether it is the state, social organizations or various groups, individuals join them, and correspondingly have obligations and responsibilities, but relatively individuals are also given rights. This right cannot be violated by society, other people or even the state, and the con-

cept of mutual respect between individuals is very important.

4. Inspiration for the Construction of Rule of Law in China

4.1. The Government Sends the Law to the Countryside Based on the Rural Society

In this era of rapid development, “rule of law” is more adaptable to the times than other ways of social and administrative governance, and the rule of law is an inevitable result of social development, but this in no way means that traditional culture is not adapted to the times. Nowadays, the profound influence of traditional culture is still far-reaching and profound, and the implementation of “ritual” in rural society may have some negative impact on the construction of the rule of law in China, but this does not mean that they are completely opposite. Realizing the clever combination of tradition and modern thinking of the rule of law, giving new connotations to tradition, is one of the effective ways to cope with the changes in social development. We need to “make the construction of the rule of law the top priority of social governance” and “take moral governance as a long-term project to strengthen the foundation of social governance” (Yue, 2020). We need to actively send the law to the countryside, and to make it a long-term project of social governance. To actively send the law to the countryside, this is a way for the state power to establish or strengthen its judicial authority at the edge of its effective power, so that the state power to intentionally implement an effort of order (Su, 2000). “The legal literacy movement is a political mobilization intended to integrate present-day China into a legal community, a top-down reorganization of order expressed as a legalistic effort, and a modern baptism of the national mind (Xi, 2014; Wu, 2013).” In Nanjing, for example, the local people’s court sent the law to the countryside by creating a circuit court under the brand name of “Touring Hundred Villages to Handle Cases” and by conducting special lectures on the rule of law in traffic accidents, private loans, land disputes, property disputes, etc. Hunan Province and other provinces issued similar guidelines such as “Implementation Opinions on Innovation of “Sending the Law to the Countryside”, pointing out the need to innovate the law-prevention team, form a university student law-prevention volunteer alliance, and organize university law students to make use of the opportunity to return to their hometowns during the winter and summer holidays to carry out local “sending the law to the countryside”, the “law delivery to the countryside” activities.

4.2. The Countryside Plays the Leading Role of the Village Sages

Villagers often have good moral inspiration and team cohesion. Most of them are rooted in the local community and have a relatively systematic, comprehensive and familiar grasp of China’s traditional culture, local folk customs and rural conditions; they can use their own advantages and social prestige to set an example to influence, infect and drive the people around them, to convey mod-

ern thinking in a way that villagers can accept, so that farmers can be convinced of the views they export. Thus, they can drive the introduction of rural value advantages, let villagers participate in the resources of rural governance and use the geographical advantage and popularity advantage to build a friendly bridge between the rural and urban areas, introduce rural propaganda policies to promote villagers' relationship regulation and help form a good rural governance model.

In the face of the precious heritage inherited from our ancestors, sages should take the initiative to assume responsibility for cultural revitalization. Actively advocate leadership positions and knowledge class retired villagers, leading the organization of a heritage protection group. While carrying out propaganda work for the protection of ancient cultural relics in the village, strengthening contact with local departments of culture, cultural relics and housing construction, declaring projects, as well as carrying out excavation and finishing work of folk culture and mobilizing active participation of villagers, with special emphasis on mobilizing young villagers to participate.

4.3. To Enhance Citizens' Awareness of the Rule of Law, and Actively Carry out the Promotion of the Law

The basic legal construction of socialist modernization is the embodiment of the common will of the masses led by the working class, and its creation and implementation are made possible by the conscious participation of the masses. Legal propaganda for the masses of peasants is conducive to effectively raising their legal awareness, strengthening their knowledge of the law, enhancing the concept of legal system and establishing correct legal views. Therefore, the concept of a society based on the rule of law is deeply rooted in people's minds, and the work in rural areas should be truly transferred to the track of the rule of law in agriculture (Zhang, 2010). Through the construction of the view of the environment, the construction of the law lecture hall, building a large platform to check the law, the creation of the law stage innovation publicity carrier, and expand the new ways to promote the rural legal system (Luo, 2015).

The state should unwaveringly carry out the present policy of ruling the country by law and insist on strict law enforcement. Awareness comes from practice, and the daily legal practice of society has a great practical influence on the shaping and improvement of citizens' legal consciousness. Therefore, administrative and judicial organs should strictly administer and handle cases according to the law, truly reflecting the authority, power and seriousness and coercive force of the socialist legal system, so as to drive and influence the general public to consciously abide by the law and gain their trust (Li, 2009). After a long period of continuous and repeated practice, a fixed habit and rule of law thinking will be formed, and the legal awareness of citizens will be continuously improved from it.

5. Conclusion

As society progresses, ideas are constantly being innovated. The disorderly pattern and the tradition of ritual rule in rural society do not necessarily pose ob-

stacles to the construction of the rule of law in China today, but both hinder and promote the construction of the rule of law. The influence of traditional thinking makes the delivery of law to the countryside a long way to go, from the weak awareness of the rule of law among citizens under the “resting” system to the conflicting patterns of law and education, which challenge the ability and credibility of legal practitioners and law builders. However, as legal professionals in the new era, we should also recognize the social structure of our country and form a new order that combines the rule of law and ethics. Let citizens participate spontaneously in the construction of a society based on the rule of law, and let them become the builders of the new era on their own. So when legal awareness appears not only in books but also in the fields and in front of the village; when village cadres take the lead in abiding by the law and resolving disputes according to the law, the rule of law can only give people something to look forward to, let them taste the sweetness, and have the energy to believe in the law and abide by it and use it (Jiang, 2016). The range of new perspectives China is adopting should allow all people to see constant progress in China’s rule of law; as NPC spokeswoman Fu Ying pointed out at a press conference on March 4, 2015: “China has had its socialist legal system with Chinese characteristics since 2010. It is an important achievement in China’s effort to rule the country-cording to law (McCardle, 2019).”

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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