

Reaction Paper 5/30

This week's readings highlighted the pivotal role that legal agents play in democratization movements in East Asia. Instances such as the role of Minbyun in South Korea, advocating for social change through legal means, and Taiwan's legal mobilization and reform following democratic transition emphasize the significant impact these legal agents have had in their respective countries (Goedde, 2011: 241; Zhu, 2018:9). Hence, the role of legal agent in democratization movement seems to be very important. I will discuss question in this reaction paper which is how do structural and individual factors interact, particularly in the role of a legal agent.

Legal agents play a crucial role in democratization movements in East Asia, their significance stems from their unique position to challenge the status quo and push for legal and political reforms. As advocates of the rule of law, they often serve as watchdogs against government abuses and as representatives of marginalized groups. Their legal knowledge and skills allow them to navigate the complexities of the legal system and use it as a tool to push for democratic changes.

However, I think the literature exaggerate the role of legal agents in East Asia. I think the driving key factor is the control power of authoritarian regime. In China, the government has strict regulations and laws that have constrained the efforts of legal agents who advocate for democratic reforms. A concrete example is the "709 crackdown" that started on July 9, 2015, when China initiated a nationwide operation targeting rights lawyers and activists. This major event led to the detention, interrogation, and prosecution of around 300 lawyers and

activists across the country. This crackdown effectively deterred other legal agents from engaging in similar activities, highlighting the constraints placed upon them by the state-controlled legal system. This indicates that while legal agents can play a vital role in pushing for democratization, but their impact may be severely constrained in environments where legal frameworks are used as tools of control by authoritarian governments, creating the suppressing environment of democratic reform. (Diplomat, 2021)¹

Furthermore, I would like to argue the key factor is structural factor particularly in the control power of authoritarian governments. Despite the democratic transition contributed to the thriving of legal mobilization and legal reform in Taiwan. On the other hand, rights lawyering and social movements in China have faced obstacles due to structural and legal factors that prevent their escalation (Zhu, 2018:29). In Taiwan, the government led by Lee Teng-hui have open mind in democratization, pushing the political reform to open the dialogue between government and civil society (Rubinstein, 2007:451)². Hence, I think the key factor is structural which is the control-power of civil society, not the role of legal agent. When the government could control civil society effectively, the role of legal agent is mute by the structural factor, especially in easing up on its pressure against human rights lawyers. The force of democratization would be quenched by using carrots and sticks policy. It refers to a blend of rewards (carrots) and punishments (sticks) to guide behavior. In the context of China's civil society, Xi's administration uses repression (sticks), like ideological controls and security laws, against activist lawyers and NGOs. However, they also offer incentives (carrots), like domestic financing, to civil society organizations that align with government priorities. (Shieh, 2018)³

In conclusion, individual efforts of legal agents shape the course of democratization in East Asia. While legal agents contribute to democratization, the authoritarian regime's control over structural factors often determines their influence and impact.

¹ William Nee, China's 709 Crackdown Is Still Going On, THE DIPLOMAT, (Jul. 9, 2021), <https://thediplomat.com/2021/07/chinas-709-crackdown-is-still-going-on/>.

² Murray A. Rubinstein, Taiwan: A New History 451 (3rd ed., Routledge).

³ Shawn Shieh, Remaking China's Civil Society in the Xi Jinping Era, CHINAFILE (Aug. 2, 2018), <https://www.chinafile.com/reporting-opinion/viewpoint/remaking-chinas-civil-society-xi-jinping-era>.