

On the Obligations of Minority Groups

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Abstract—In academia, the obligations of minority groups have rarely been studied. This paper analyzes from the aspects of philosophical foundation, jurisprudential foundation and realistic foundations, proposes that ethnic minority groups should fulfill their obligations of citizenship, mutual benefit with other groups and give their subjective initiative into play. Only in this way can the preferential policies of ethnic minorities fully play their role, the ethnic minorities truly develop and the overall interests of society be realized.

Keywords—Rights; obligations; unity; preferential policies

I. INTRODUCTION

Minority rights, in addition to civil rights in the general sense, also include the right to get the privilege and concerns of the state. Academic circles have done a lot of research on minority rights, mainly focusing on demonstrating the rationality and legitimacy of minority rights to enjoy state preferential treatment and care. However, little attention has been paid to the obligations of minority groups. As a corresponding category, rights and obligations have been seriously out of balance in the field of research related to human rights for a long time. Of course, this imbalance is deliberately done by some scholars. An important aspect of the research paradigm advocating the right standard is to oppose the obligation standard. Zhang Wenxian pointed out that according to the basic viewpoints of dialectical materialism and historical materialism, the slavery law and feudal law (that is, the law of pre-capitalist society) with the natural economy, patriarchal relationship and authoritarian dictatorship as the economic foundation, ethical foundation and political foundation are based on obligation standard.¹ After the bourgeois revolution and the establishment of the bourgeois regime, the high development of commodity economy and bourgeois democracy requires that the obligation standard law should be transformed into the right standard law. In China, since “human rights” was incorporated into the constitution and the construction of a harmonious society has been advancing continuously, the academic circles have made more in-depth studies on rights. Some scholars have even proposed that the Constitution should not stipulate the basic obligations of citizens. For example, Zhang Qianfan published “*What should the Constitution not stipulate?*” in the *Journal of East China University of Political Science and Law* in 2005. It points out that the Constitution is to protect citizens' basic rights and freedoms and to protect citizens' basic rights from being

infringed by the state. The constitution should not stipulate the basic obligations of citizens. Academia's emphasis on rights and excessive propaganda of rights tend to make people form the concept of only rights and no obligations, which leads to the imbalance of rights and obligations. Especially when it comes to the rights and obligations of ethnic minorities, as a sensitive area in the discussion of human rights, the discussion of obligations has almost disappeared. Rights and obligations are symbiotic in the conceptual framework, and both should be taken into account in the institutional framework. One-sided emphasis on rights and neglect of obligations will lead to imbalances in the operation of the system. Whether formulating relevant policies or studying ethnic issues, we should take the obligations of ethnic minorities into account, rather than talk about obligations as taboos and ignore obligations in the name of emphasizing the protection of rights.

The state protects the rights of ethnic minorities on the basis of the historical exploitation of ethnic minorities by the Han nationality, which puts them at a disadvantage, safeguarding the unity and security, maintaining rights and justice, protecting multiculturalism, respecting the values of human rights and the equality of political ethnicity of all ethnic groups in Marxism². However, there is no requirement for ethnic minorities to fulfill their “corresponding” obligations when enjoying their rights. It only stipulates in Article 52 of the *Law on Regional Ethnic Autonomy* that the organs of self-government in national autonomous areas guarantee that citizens of all nationalities in the local areas have the national rights enjoyed by all citizens, and educate them to fulfill their obligations. It can be seen that the obligations of the people of all ethnic groups in ethnic autonomous areas are the obligations of ordinary citizens, and there are no additional conditions for obtaining preferential policies.

When the system criteria are absent, we can hope that the society will cultivate good consciousness of civil rights and rights culture. Right is an autonomous and self-responsible way of life. When the subjects of rights make their own choices, they must bear the responsibility for the results of their choices. But the special protection for the rights of ethnic minorities has gone beyond the protection of civil rights; it is a paradox to rely on civic consciousness to protect the freedom rights of ethnic minorities which are obviously greater than civil rights. To protect the rights of ethnic minorities, we should not only rely on the organs of self-government and higher authorities of the state and ethnic autonomous areas to fulfill their obligations,

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¹ Zhang Wenxian. From Obligation Standard to Right Standard is the Development Regulation of the Law [J]. *Social Science Front.* No.3, 1990.

² Zhou Shaoqing. On the Value Concept of the Protection of Minority Rights. *World Ethno-National Studies.* No.5, 2011.

but also rely on the ethnic minorities themselves. When ethnic minorities enjoy preferential policies but fail to achieve the desired objectives, in the process of thinking about whether the preferential policy itself is reasonable and effective and whether the implementation is deviated, we should also focus on the object of preferential policies, because minority groups are not a group of lifeless dead things, but people with flesh and blood, emotions, rationality and responsibility.

II. STRENGTHENING THE MORAL BASIS OF THE OBLIGATIONS OF ETHNIC MINORITIES

A. Philosophical Foundation

"In terms of etymology, the earliest concept of obligation in the West was the ancient Greek 'kathékonta'. Its original meaning is 'bearing'. The responsibility that good should be done, evil should be eliminated is what people should bear. The later meaning of 'should' is in agreement with this."³ The original meaning of "kathékonta" is similar to the meaning of "Yi (righteousness)" in Chinese. It said in the book of "Yi • Qian" that the benefits are sufficient for peace and righteousness. It pointed out in the book of "Shuo Gua" that kindness and righteousness are very important to the people.⁴ "Righteousness" refers to relationship between people and things should benefit all things, and it is the principle of dealing with the world. Both the western "kathékonta" and the traditional "righteousness" of our country have the meaning of regulating people's behavior to make it conform to certain moral standards. No matter in which ethnic groups, the individual as a member of the society, should take the interests of society and other people as a reference and bear the responsibility of benefiting all things and others.

The studies on obligations in the West have a long history. Kant defines obligation as "the necessity of behavior arising from the respect for law"⁵, which is the embodiment of good will. He believes that people are people because they are subordinate to some obligations: on the one hand, people are beings in the world, and on the other hand they are subordinate to the law of obligations.⁶ In Kant's argument, the moral law that embodies obligation is universal. "Kant believes that good will refers to the goodness of will itself, which is the only thing in the universe without any conditions, and it is the root of all good. Behaviors motivated by obligation are moral, and it is immoral if we use various preferences as motivations for behavior. The only motive of good will is to do one's duty in order to fulfill one's obligations."⁷ Whether it is due to the special protection of the rights of ethnic minorities, the consideration of national unity and security, or other people's respect for minority cultures, the state assumes special responsibilities for ethnic minorities, but it does not mean that minority groups can completely give up their obligations. As a group that exists together in the society, we should respect the objective laws of things. Whatever they are the preferential policies or special cares. External factors can only play a role

through internal factors. If the obligation is not fulfilled, then there is a moral debt, at least it owes the value of its own existence.

This obligation, which originates from the innate form, transcends the existence of the individual and is closely related to rational self-legislation. "The conscious commitment of obligation reflects the sureness of simple emotional desire and commitment to obligation through rational self-legislation. Meanwhile, it makes people dictate the domination of emotional impulse, and step into the rational freedom kingdom."⁸ The conscious commitment of obligation thus becomes the premise of freedom, eliminates the interference of the interests of the perceptual world, and makes people become free beings beyond the perceptual desires. Whoever really wants to achieve freedom is indispensable to fulfill his obligations.

Kant divides obligations into two levels. One is the obligation of law, that is, the external obligation associated with rights. When the obligation is fulfilled, the right should be enjoyed. The other is the moral obligation, that is, the internal compulsion that has nothing to do with rights. People cannot claim certain rights from others just because they fulfill their obligations, such as charitable acts. Are minority groups also subject of obligations? Although there are few provisions on the obligations of ethnic minorities in laws and regulations concerning ethnic groups, ethnic groups should at least fulfill their civic obligations as stipulated in the Constitution and the Law of Regional National Autonomy. Are the rights and obligations of ethnic minorities equal? In the field of public law, the rights of ethnic minorities correspond to the state power, and the state protects the rights of ethnic minorities by exercising the power. That is to say, the obligations to ethnic minorities are mainly borne by the state, and the state cannot make special demands to ethnic minorities. Does that mean that the rights of minorities are absolute rights?

B. Jurisprudence Foundation

It protects the citizens' rights to pass safely in *The Law of the People's Republic of China on Road Traffic Safety*. It also stipulates that vehicles and pedestrians shall pass according to traffic signals; in case of traffic police on-site command, they shall follow the command of the traffic police; on roads without traffic signals, they shall pass under the principle of ensuring safety and smoothness. That is to say, it stipulates the obligations of pedestrians. In the field of public law, obligations and rights cannot correspond directly, but they are still relevant. In the field of social life, taking philanthropy as an example, with the development of philanthropy, information dissemination is becoming more and more convenient. Donors also require supervising the whereabouts of the donations and ask them to be spent in the right place. This is why media reports about the "Death of Wang Fengya" have caused a great uproar. Is the national preferential policy for ethnic minorities equal to charitable donations? They are different in nature, because the preferential policies for ethnic minorities are based on the protection of differential rights. Although some scholars once believed that the preferential policies for ethnic minorities were based on the protection of vulnerable groups, namely the "non-discrimination principle", in general, preferential policies

⁸ Yang Guorong. Your Rights, My Obligations [J]. Philosophical Studies. No.4, 2015

³ Ye Peng, Jiang Xuelian. Comparison of Concepts of Obligation between China and Western Countries [J]. Academic Research. No.3,1993.

⁴ Kangxi Dictionary [M]. Original edition of the Hanbury and Com-pany. P.82.

⁵ Immanuel Kant. Grundlegung zur Metaphysik der Sitten [M]. Translated by Miao Litan. Shanghai People's Publishing House. P.16, 2002.

⁶ Immanuel Kant. Kants Schriften [M]. P.245, 1993.

⁷ Xu Jinzhong, Guo Ying. Interpretation of Deontology and Teleology in the Comparison of Chinese and Western Moral Philosophy [J]. Philosophical Studies. Supplement of 2005.

are based on the consideration of national unity, equality, mutual assistance and harmony. So, do ethnic groups have specific obligations to fulfill consciously out of love for the motherland, the people, labor, science, socialism, the unity of the country and the unity of all ethnic groups? (Article 53 of the Law on Regional Ethnic Autonomy: The organs of self-government of the autonomous areas shall advocate the common virtues of loving the motherland, the people, labor, science and socialism, and shall educate citizens of all nationalities in their respective areas on patriotism, communism and national policies. Educate cadres and the masses of all ethnic groups to trust each other, learn from each other, help each other, respect each other's language, customs and religious beliefs, and jointly safeguard the unity of the state and the unity of all ethnic groups.) Ethnic groups live in a society where social norms play a role through legal and moral normative system. Objectively, it requires the unity of rights and obligations, and both sides should have objective rights and obligations.

III. STRENGTHENING THE REALISTIC BASIS OF THE OBLIGATIONS OF ETHNIC MINORITIES

A. Foundation of Law and Policy

China's national preferential policies cover a wide range of areas including politics, economy, culture, education, and society, and are very rich in content. They try to narrow the overall gap through systems and policies, and their social effects have a profound impact on the domestic ethnic relations. *The Law of Regional National Autonomy* was implemented in 1984. The provisions on the autonomy rights of organs of self-government and the responsibilities of state organs at higher levels all reflect the preferential policies for the ethnic autonomous areas and the care for the ethnic groups that implement regional autonomy. The provisions of preferential policies for ethnic minorities are embodied in the training and use of minority cadres, foreign trade, finance and taxation, etc. Article 22 of the "*Regional Ethnic Autonomy Law*" stipulates the provisions on the training and use of cadres and staff of ethnic minorities. Article 23 stipulates that enterprises and institutions in ethnic autonomous areas shall give priority to minority people when recruiting personnel in accordance with the provisions of the State. Paragraph 3 of Article 31 stipulates that ethnic autonomous areas shall enjoy preferential policies of the state in foreign economic and trade activities. Article 32 stipulates financial autonomy and preferential terms in ethnic autonomous areas. Article 34 stipulates tax reduction or exemption for certain taxes of local financial revenue of autonomous organs. And Paragraph 2 and Paragraph 4 of Article 37 stipulate policies on ethnic education and culture. The fertility policy for ethnic minorities are generally easing, and in terms of education, the state has adopted policies such as adding extra points in the college entrance examination for ethnic minority examinees, lowering the admission score, and setting up preparatory classes for ethnic minority examinees. It can be seen that the contents of preferential policies enjoyed by ethnic autonomous areas are quite broad. In terms of national criminal law and policy, the policy of "Less Wide" has also been implemented.

B. Consequences of the Absence of Obligations

Ethnic minorities enjoy a large number of preferential treatments, which is the realistic basis of fulfilling their obligations to cooperate with the guidance of various policies and norms. Because we can't achieve the expected social effect only with rights but no obligations, and in the long run, it may lead to the collapse of social functioning. Although laws and policies in this regard are few and vague, emphasizing rights and neglecting obligations is an obstacle to fairness and justice at the institutional level, and rights are difficult to be guaranteed. There are also some rights that have the dual nature of rights and obligations. For example, the autonomy of autonomous organs in ethnic autonomous areas is both right and obligation. In addition, according to Article 21 of the "*Civil Servant Law of PRC*" and the "Notice on Further Implementing the Provisions of the State Council on the Implementation of the Law on Regional Ethnic Autonomy" issued by the Ministry of Personnel, minority cadres have the right to be taken care of in accordance with the law in their employment. Then in the work, they should also strictly demand themselves in accordance with the requirements of the Civil Service Law. At the same time, they should also consciously assume important responsibilities such as safeguarding national equality, implementing the system of regional ethnic autonomy, and coordinating ethnic relations.

The state provides assistance to poverty-stricken minority areas through financial, fiscal and tax subsidies, including the reduction and exemption of agricultural and animal husbandry tax, the skewed proportion of financial funds, support for the livelihood and production of key poor households, non-quota care for agricultural materials, preferential policies for ethnic trade enterprises in impoverished counties, etc. There are also some malign phenomena, for example, in poverty alleviation, a small number of people from Liangshan Yi area have eaten the piglets that distributed by the government for breeding. This is partly due to the poverty reduction measures adopted by the government are inconsistent with the habits of local ethnic groups; on the other hand, it is due to poor communication in the process of poverty reduction. Later, the government also used the method of signing pig farming agreements with local pig farmers to mobilize the enthusiasm of local people. Only when minority groups participate spontaneously and fully mobilize their enthusiasm can they get rid of poverty and get rich.

IV. PATH SELECTION: STRENGTHENING THE OBLIGATIONS OF ETHNIC MINORITIES AND PROMOTING NATIONAL UNITY

When talking about obligations, Liang Qichao said, "Where does right come from? It starts from victory then being chosen. Where does victory come from? It starts from the best one in the competition. How can be the best one? It also should fulfill more obligations."⁹ That is, rights come from winning in competition, and more obligations must be fulfilled in order to win. Namely, rights come from obligations. Rights and obligations are mutually nourishing. Without obligation thought, there can be no sound right thought. Ethnic minorities enjoy preferential policies without corresponding obligations, which is detrimental to the cultivation of their national

⁹ Liang Qichao. Complete Works of Liang Qichao [M]. Beijing Publishing House. P.707, Vol.2, 1999.

character, their long-term development and the development of ethnic relations.

Taking the Tibetan street of Bystreet, Wuhou Temple in Chengdu as an example, many scholars have paid attention to the difficulty of collecting taxes on this street, and analyzed various reasons. Most of them find problems from the perspective of policy-making. However, the Tibetan people are also citizens of our country, and the preferential policies for ethnic minorities do not include the provision of not collecting taxes from ethnic minorities who run business in cities. Taxation is the basic obligation of citizens, and any citizen of our country should fulfill this obligation. If we do not to fulfill our civic obligations, we may gain some economic benefits in the short term, but it will cause dissatisfaction among other citizens and other adverse effects in the long run.

National unity is an important part of China's socialist national relations. Unity is manifested as "joint and several liability" in private law. For example, in civil law, in a debt relationship where the debtor is more than two persons, each debtor is fully liable for the liquidation of the joint debt. In the sense of public law, solidarity is one of the fundamental values of human rights.¹⁰ The freedom of ethnic minorities has no boundaries, but solidarity has boundaries. Regarding our national preferential policies, it is unscientific to base on either the theory of "drive-out" (the present distribution pattern of ethnic groups in China is due to Han nationality squeezes the living space of the minority nationalities) or the theory of "repayment" (The exploitation and oppression of the Han nationality led to the backwardness of the minority nationality in history), because the national historical relations constructed by the two theories are not objective and consistent with historical facts.¹¹ Although they played a positive role in the history of that time, their negative effects gradually appear. The theory of "repayment" and the theory of "drive-out" means that the preferential policy is the unilateral payment of the Han nationality, and the minority nationalities have no obligation to do so. The theory of "support" does not accord with the current situation in China, because ethnic minorities have also made great contributions to the socialist construction of China, and the preferential policies for ethnic minorities are not out of charity and sympathy. The preferential policies for ethnic minorities are born in response to the requirements of "unity", and are the guardian objects of moral norms as well as equality. It promotes the formation of union between individuals with different strengths and weaknesses on the basis of the universal protection of human beings and the recognition of the differences of individual abilities. In this reciprocal relationship, although laws, regulations and policies do not clearly define the obligations of individuals, the individuals of Han and ethnic minority should play an active role in strengthening the sense of belonging of individuals and groups to the collective and the state through mutual support and assistance.

Therefore, in addition to the civic duty, the obligations that minority groups should fulfill also include, the obligation to maintain national unity in accordance with preferential policies, to vigorously develop their own politics, economy and culture with help and care, to enhance their sense of ownership and

give full play to their subjective initiative, transforming blood transfusion into hematopoiesis, and the obligation to offer suggestions and make contributions to the development of the nation and the country. "Human nature naturally prefers rights and evades obligations; market economy, democratic politics and personality culture promote rights and neglect obligations."¹² For minority groups, rights are not and should not be the only pursuit of value, and obligations should not only be the system restriction imposed by government and others. In this way, the role of preferential policies for ethnic minorities can be fully played, the socialist ethnic relations of equality, solidarity, mutual assistance and harmony can be developed, the ethnic minorities can be truly developed, and the overall interests of society can be realized.

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