

The history of the concept of civil society¹

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It is a pleasure for me to be able to speak at the Centre for Civil Society on the concept of civil society. I do so as a historian of political concepts influenced by a German historian, Reinhart Koselleck, who noticed that the meanings of fundamental concepts shift according to their usefulness for and use by various social or political forces. We can trace the renewal in interest in what has recently been called “civil society” to the nineteen-eighties, a time at which intellectuals in the industrialised world called for the mobilisation of social forces in countries in the developing world to work as a countervailing force to the State and the interests it defended. Civil society, i.e. organised society outside the government and the State, was then noted for its capacity to contest the actions and position of the State, and the potential of groups of men and women attached to issues and working from outside the structures of government to participate in policy formulation by contesting the status quo is one of the striking aspects of this institute, the Centre for Civil Society at the University of KwaZulu-Natal, which was founded and given its name in 2001, at a time at which the most recent usage had been popular for over a decade and civil society in South Africa had taken down an oppressive regime. In the movement against apartheid, the question arose as to the place for civil society, indeed as to whether a place for civil society in a new order. The term, “civil society” seemed to designate part of our social, economic and political reality in an unambiguous fashion, and therefore to serve as a useful heuristic tool in talking about politics in a global context. Because of the role of the organisations outside the state in achieving liberation in South Africa, the term, “civil society” was used in the industrialised world of representative democracies to capture what had happened in South Africa and Eastern Europe and was happening in other places in the world.

The term has seemed to reflect a consensus as to its meaning. However, if we trace back the term « civil society » to earlier times, we find its use to have been very diverse. My own interest in political language in Germany has shown me that the different intentions behind the expression, civil society has led to an array of distinctions linked to translations of civil society into German in various forms,

¹ Research for and the presentation of this paper have been made possibly by the French South Africa Institute, Johannesburg.

such as „*bürgerliche Gesellschaft*“, „*Bürgergesellschaft*“, „*Zivilgesellschaft*“, „*zivile Gesellschaft*“ and even „*die Civil Society*“. One benefit of considering this apparently unambiguous English expression in its multiple renditions in a foreign language such as German is that we realise how inconsistently this term in fact has been used. It has been used to express an identity between the totality of humans in a given territory and their political organisation – and according to this interpretation, civil society and the State overlap entirely. It has, on the other hand, also been used to suggest the justified subjection of civil society or civilians to the State, which has been regarded as holding the ultimate legitimacy, whether under democratic or earlier, aristocratic or absolutist auspices. It has also been used to suggest that civil society is that segment of humanity which is predestined because of superior qualification to determine the course of action of mankind and therefore the domination of the State by the civil or bourgeois, presented in a positive and affirmative light. It has been used to suggest that the bourgeoisie dominate the State through civil society, imposing politics that conform to their interests. And since Lorenz von Stein, or more recently Gramsci, it been argued that civil society can act in natural opposition to the State. And from there, we derive an understanding of civil society as an ensemble of spontaneously generated organised individuals articulating interests alongside or in opposition to the State.

The term, “civil society” became widespread globally in the nineteen-eighties and was introduced into political discourse in Germany in the nineteen-nineties using a neologism. For the term had hitherto been rendered as “*bürgerliche Gesellschaft*” as the translation of the Latin *societas civilis* or the civil society of Locke or Ferguson. But since Marx, “*bürgerliche Gesellschaft*” had come to mean bourgeois society and to imply a very different set of assumptions when compared with the term, civil society. It was thus that the Germans began to use the term, “*Zivilgesellschaft*”, which the social scientist Jürgen Kocka viewed as interchangeable with the term, “*Bürgergesellschaft*”, a society of citizens. However, we shall see that these terms do not necessarily imply the same thing, since “civil society” implies forms of organisation that give rise to juridical persons capable of acting differently from isolated citizens. And if Kocka asserts that a renewed interest in civil society came from the experience of the liberation of societies in Latin America and South Africa in the later decades of the twentieth century, renewing links to political thought going back to the eighteenth and nineteenth centuries, earlier political thought had been rendered in German with “*bürgerliche Gesellschaft*”, making it impossible for Germans of the Left in particular to recognise their vision of a part of society that would necessarily make its voice heard in distinction to the State. “*Bürgerliche*

Gesellschaft”, whether that of Hegel or of Marx, had not distinguished itself through its militant political voice. Nineteenth century Germany had seen a bourgeois revolutionary movement, that of the *Vormärz* of 1848, however its failure to gain any sort of power left Germany with intact memories only of a bourgeoisie divided into bourgeoisies, that striving for material gain, the *Besitzbürgertum* of commerce, and the *Bildungsbürgertum*, the educated bourgeoisie, largely content to pursue cultivation within the security of state employ. Ruth Simsa thus argues that “*Bürgergesellschaft*” and “*Zivilgesellschaft*” are far from synonymous, for while “*Zivilgesellschaft*” points to the unofficial status of members of society, the term “*Bürgergesellschaft*” has a “more national and hierarchical character since *Bürger* in medieval times were those citizens with a privileged position,”² The set of terms is one of polysemy, a diversity of meanings, expressing the interests of thinkers and actors with diverse agendas over time.

Historically, we are confronted with disparate uses: On the one hand, we see the use of “civil society” to designate society *as a whole*, initially *identical* with “political society”, the *polis* at the end of the seventeenth century in the philosophy of John Locke, and therefore with the State. From the eighteenth century onwards this concept was linked to a historical teleology or aim, the assumption that society as a whole was evolving towards some quality of “civility”, notable in the enlightened Scot Adam Ferguson’s *Essay on the history of civil society* of the mid-eighteenth century, a work that was promoted in Germany by Herder, In this work, in keeping with an inherent process in man’s evolution, civil societies emerged from “rude nations”, and from Ferguson’s perspective, advanced commercial society, regulated by conventions put into place out of the self-interest of its members, described by Ferguson’s friend, David Hume, led all humans towards that state of society that Adam Smith was describing, in which every man was a merchant, committed to civility out of his own better interest. The imposition of the social peace by a repressive Commonwealth or State in the logic of sovereignty was deemed unnecessary in the increasingly prosperous and liberal British eighteenth century, due to the capacity of individuals to adopt conventions spontaneously which would govern their interaction in a common rise to prosperity under the auspices of civility.

² Ruth Simsa. Die Zivilgesellschaft als Hoffnungsträger zur Lösung gesellschaftlicher Probleme? Zwischen Demokratisierung und Instrumentalisierung gesellschaftlichen Engagements. In: Europäische Integration als Herausforderung – Rolle und Reform der sozialen Dienste in Europa, www.soziale-dienste-in-europa.de, octobre 2001, p. 23.

Still, elsewhere distinctions were made between “civil society” as a part of society which is civil and another part of society, not civil either due to its official characteristics, for instance the State or the Church or due to its pecuniary interest, for instance the Market, or because it was for any other reason characterised as “uncivil”. “Civility” or “civil” is not a value neutral term, but is invariably used positively. But it is used by and large positively to designate differing positions and interests. In the course of the nineteenth century, the German translation, “*bürgerliche Gesellschaft*” took on far more ambivalent connotations, since while “*Bürger*” initially referred to citizen or civilian, it increasingly meant bourgeois in the wake of the influence of Karl Marx. This was no coincidence, as political privileges and liberties were reserved to propertied burghers. “*Bürgerlich*” as an adjective has since been used in praise by those who respect the achievements and aspirations of the middle classes and disparagingly by those who despise their limitations. The fact that the term “*bürgerliche Gesellschaft*”, which had seemed like such an apt rendition for the notion of “civil society” as argued by John Locke or Adam Ferguson, clearly designated something quite different from what was meant by the term “civil society” in late twentieth century political discourse, induced German speakers to adopt a new term, *Zivilgesellschaft*. The German government has recently offered its own definition of *Zivilgesellschaft* in a presentation of the G8: in pluralist and differentiated societies represented by a government (i.e. in representative democracies), *Zivilgesellschaft* is an additional pillar which flanks the State, the market and the family, encompassing “all civic engagement within a country beyond State decision-making processes. This engagement aims at forming the public sphere in influencing State and economic decisions.”³ This corresponds superficially with the definition of the Centre for Civil Society at the University of London: ‘Civil society refers to the set of institutions, organisations and behaviours situated between the state, the business world, and the family’.⁴

It may be noted that in this understanding *Zivilgesellschaft* includes and extends beyond industrial and trade union organisations. *Zivilgesellschaft* is not society as a whole, but the politically committed or engaged part. Kocka describes “*Bürgergesellschaft*” or “*Zivilgesellschaft*” as lying between the State, the market

³ „Unter Zivilgesellschaft versteht man gemeinhin die Gesamtheit des bürgerschaftlichen Engagements in einem Land jenseits von staatlichen Entscheidungsprozessen. Dieses Engagement ist auf die Gestaltung des öffentlichen Raumes durch Einflussnahme auf staatliche und wirtschaftliche Entscheidungen gerichtet.“ <http://www.g-8.de/Webs/G8/DE/Zivilgesellschaft/zivilgesellschaft.html>

⁴ Centre for Civil Society (2001). Report: January 1999-July 2000. Centre for Civil Society, London School of Economics, London, p. 4.

and the private sphere, pointing to local political initiatives, peace demonstrations, non-profit organisations and foundations, unofficial parliaments, NGOs and the like. This part of society distinguishes itself through its self-organisation, its independence and its civility, i.e. its peaceful, non-violent organisation, as well as by its action in the general as opposed to the particular interest. Civil society concerns itself and commits itself to more general things. Commitment in civil society is remote from functions within state institutions and bereft of pecuniary motivation.⁵ Kocka traces this usage back to the 1980s, and its growing topicality was due to an increasing commitment of increasingly informed citizens wishing to play a role and be engaged in the public sphere. Its popularity has other sources as well – as it legitimises any interest group that adopts the term.

Any particular instance can thus wave the banner of civil society to declare that its interests are legitimate because in the general interest, remote from the market because not motivated by financial interest, and remote from the State provided that the civil society organisation is not ensconced in its structures. This part of society is civil through its non-appurtenance. This corresponds to a more historic usage, inasmuch as civil society was used as an expression as a distinction to ecclesiastical society, the society of the Church, or political society, or state officialdom. Non-appurtenance to an official body has thus been a criterion for appurtenance to civil society, and has been used in France during the Fifth Republic to celebrate the appointment of ministers with no elected parliamentary mandate. It was thus that the socialist Prime Minister Michel Rocard celebrated the appointment of a host of non-MPs to the government, while Dominique de Villepin, an elitist administrator, was named Prime Minister by a conservative president having never run for a democratic mandate using similar reasoning. Interestingly, in France, it was thus made political use of by a presidential executive exercising monarchical privileges in appointing or dismissing individuals with no democratic mandate.

Civil society was evoked by U.S. governments to designate the opposition to regimes with which the U.S. has fallen out, while in the European Union, “civil society” was used to legitimise organisations, such as lobbies concentrated in Brussels, allowing the Union to relativize its “democratic deficits” by pointing to collective interests articulated on a transnational scale. Civil society organisations, even those that call for the equality of every citizen, consider their members as having some remit derived from a more general interest or will, based upon the

⁵ Jürgen Kocka. Die Rolle der Stiftungen in der Bürgergesellschaft der Zukunft. in : Bürgergesellschaft / Stiftungen. Aus Politik und Zeitgeschichte, Bonn, B14/2004.

assumption that the civility of an organisation's members mean that the totality of the organisation is superior to the sum of its individual members. Thus, civil society organisations may issue from and lay claim to a legitimacy of grass-roots democracy while wishing to surpass it, and receive State support by virtue of interests which surpass particular interests.

In Germany, the present-day success of *Zivilgesellschaft* is due inter alia to previous misadventures with the State. Thus, the rise of the APO – *ausserparlamentarische Opposition*, the opposition outside parliament from the late 1950s but more particularly in the sixties, seventies and early eighties in the Federal Republic of Germany was due to a number of factors: the readiness of citizens in post-National Socialist Germany to recognise the importance of civil courage and criticism of the State at the time of the revelation of the crimes of the Nazi regime, the reduction of the scope of party representation because of the crushing domination of the Christian Democrats through the nineteen-fifties, an electoral law five-per cent clause designed to eliminate fringe parties and the prohibition of politically extreme parties. The State and its parliamentary organs appeared to represent but a fragment, the most conventional and conservative part of public opinion. Looking back further, since the rise of aspirations to freedom in the nineteenth century, German assemblies had traditionally not managed to give voice to radical dissidents within society.

The APO did not call itself a “civil society”, as the term was not yet popular, on the one hand, and on the other hand because of a flirtation with violent revolution on the part of some of its members. But it paved the way for later “civil society” engagement. In the former German Democratic Republic, “civil society” became a possible outlet not just for engagement, but also for civic bonding at the time of the spectacular fall of a monolithic state.⁶ More generally, an understanding of civil

⁶ Some German-language sources : Brumlik 1991

Habermas 1992 Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats. Frankfurt/Main 1992.

Kneer, G. *Zivilgesellschaft*. Kneer, G. Nassehi, A. Schroer, M. (Hg.): *Soziologische Sabine Reimer: Die Stärken der Zivilgesellschaft in Deutschland. Eine Analyse im Rahmen des CIVICUS Civil Society Index Projektes / The Strength of Civil Society in Germany : An Analysis in the Context of the CIVICUS Civil Society Index Project*. Maecenata Institut für Philanthropie und Zivilgesellschaft. Maecenata Verlag, Berlin 2006,

Michèle Knodt, Barbara Finke (ed.): *Europäische Zivilgesellschaft. Konzepte, Akteure, Strategien. Bürgergesellschaft und Demokratie* ; Bd. 18, VS Verlag für Sozialwissenschaften, Wiesbaden 2005,

Gosewinkel, Dieter/ Rucht, Dieter/ van den Daele, Wolfgang/ Kocka, Jürgen (Hg.) (2004): *Zivilgesellschaft - national und transnational*. Berlin.

society that recalls the hopes of anti-absolutist liberalism explains the popularity of this notion in post-communist states.

Historically, the term “civil society” is traced back to antiquity. The German scholar, Manfred Riedel attributes the renewal of interest in this term to four systems of reference:

- 1) the Greco-Roman system, which goes up to the Scholastics,
- 2) modern natural law (*bürgerliches Naturrecht*) right through to the nineteenth century,
- 3) socialist and revolutionary references and
- 4) post-bourgeois references (*nachbürgerlich*).⁷

In France, in a series of articles in *Commentaires* published in 1989, Guy Berger distinguishes between six distinct conceptions of civil society:

- 1) the Aristotelian conception, taken up by Thomas Aquinas, of a perfect and self-sufficient human group
- 2) the definitions in the tradition of Hobbes, Locke and Rousseau: a higher group of human beings issuing from the desire of individuals to escape the state of nature
- 3) Hegel’s definition: an ethical life stage between the family and the State
- 4) a Marxian definition of a non-political society structured by economic realities and a class system

Zivilgesellschaft und Bürgergertugend : bedürfen demokratisch verfasste Gemeinwesen einer sozio-moralischen Fundierung? ; Antrittsvorlesung, 10. Mai 1993 / Herfried Mußnkler. Humboldt-Universität zu Berlin, Fachbereich Sozialwissenschaften. [Hrsg.: Die Präsidentin der Humboldt-Universität zu Berlin] 1994

Boual, Jean-Claude/ Grütze, Horst (Hg.) (2002): Auf zu einer europäischen Zivilgesellschaft. Paris/Potsdam. Entdeckung der Zivilgesellschaft : ohne Bürger keine Wirtschaftsentwicklung / Alexandra Graf/Lambsdorff/Martin Benkenstein (Hrsg.) Universität Rostock, 2006

Wege zur Bürgergesellschaft : Gewalt und Zivilisation in Deutschland Mitte des 20. Jahrhunderts / hrsg. von Niels Beckenbach, Berlin : Duncker und Humblot, 2005

Zivilgesellschaft, Gemeinwohl und Kollektivgüter / Ute Hasenöhr. Wissenschaftszentrum Berlin für Sozialforschung gGmbH, WZB Berlin : WZB, 2005.

Europäische Zivilgesellschaft in Ost und West : Begriff, Geschichte, Chancen / Manfred Hildermeier ... (Hg.) Frankfurt/Main ; New York : Campus-Verl, 2000.

Zivile Gesellschaft und zivilisatorischer Prozess / hrsg. von Werner Goldschmidt und Thomas Mies, Hamburg : Meiner, 1995.

Wege zu einer zivilen Gesellschaft / Gustav-Heinemann-Initiative. [Hrsg. von Ulrich Finckh], Stuttgart : Radius-Verl., 1994.

⁷ Manfred Riedel. bürgerliche Gesellschaft. in Bd. 2 E-G., 1. Aufl, 1975, p. 719-795. in: O. Brunner, W. Conze, R. Koselleck. Geschichtliche Grundbegriffe : historisches Lexikon zur politisch-sozialen Sprache in Deutschland. Stuttgart, Klett, 1972-1992, p. 720-721.

- 5) the definition of Gramsci: the totality of institutions and groups that manage ideology and finally
- 6) that issuing from Polish critiques of totalitarianism.⁸

The trajectory of this concept, promoted internationally by John Keane⁹ has been documented by Michel Offerlé.¹⁰

Having been attributed to Aristotle as a designation of the polis or political community, the term is used in its present form in ancient Rome, and adopted by Thomas Aquinas in *Somma theologica* as *societas* or *communitas civilis* to describe society as a whole united around great territorial monarchies. Its origins are divine. In the seventeenth century, a more secular attitude is adopted towards society. Thus, Hugo Grotius wrote in *De iure belli ac pacis libri tres* of 1625 that *societas civilis* came from an appetite for society and a social affect, (rather than from God). The distinction, indeed opposition between the State or government on the one hand, civil society on the other, is not formulated for some time. In *Elements of Law*, Hobbes identifies *civil society* and *a Body Politic*¹¹, and John Locke takes on this identity in his *Second Treatise on Government*, in which he deals with “*politick or civil society*”.¹² In Philipp Melancthon’s *Comentari*, *societate civili* was the object of politics, and in Bodin’s *Six Books on the republic*, Bodin had presupposed the unity of the Republic, which was ubiquitously the absolute monarchy, and civil society. In *De jure naturae et gentium*, written between 1672 and 1688, Samuel Pufendorf, influenced by Hobbes, attributed sociability to an instinct for self-preservation. Civility here had come to mean a basis for sociability rooted in the recognition that peacability was in the self-interest of all, a sociability rooted in egotism rather than altruism.

Civil society was not at the time an entity distinct from the State – it was the State. But with the shift from Thomas Hobbes to John Locke and from John Locke to David Hume, we saw a shift in reasoning. Hobbes assumed that peaceable coexistence among men could only be established through some act of violent coercion coming from above, as an alternative to the perpetual violence between

⁸ Guy Berger. Commentaire..

⁹ John Keane. *Democracy and Civil Society*. University of Westminster Press, London, 1988. Keane, John. *Civil Society. Old Images, New Visions*. Cambridge 1998.

¹⁰ Michel Offerlé, *La société civile en question. Problèmes politiques et sociaux*. No 888, mai 2003. La documentation française, 2003.

¹¹ Thomas Hobbes. *Elements of Law*, 1, 19, 8.

¹² John Locke. *Second Treatise on Government*.

men in a state of nature. Locke felt this coercion superfluous, because he was careful to distinguish between a state of nature and a state of war, and did not see men as necessarily involved in a fight to the death. David Hume formulated a form of constructive social coexistence that could exist among humans without force from above, without the hierarchical organisation of human beings, but which would enter into play simply when two humans pursued their own self-interest in a form of spontaneous concertation, similarly to two rowers who row in pace with one another with neither giving the order. Hume called this “sociability”, and the logic has been contrasted with that of sovereignty, in which subordination to a higher authority is the essential element. In the world of material surviving and thriving, this law of sociability is transformed into the phenomenon of market, where exchange, ultimately in moneyed form, allows for a sophisticated division of labour, the logic of which was formulated by David Hume’s friend, Adam Smith, in his *Inquiry into the Nature and Origins of the Wealth of Nations*. Both authors were representatives of the Scottish Enlightenment.

Another member of that circle of friends and associates known as the Scottish Enlightenment, Adam Ferguson wrote an *Essay on the History of Civil Society* which focussed more on the characteristics of an advanced society propelled forward by the commercial instinct, and contrasting civilised society with “rude nations”. It is no coincidence that this thinking emerged in Edinburgh’s intellectual scene, for Ferguson, who had grown up speaking Scottish, had his roots in the rude nation of the Scottish highlands and was looking ahead towards the material progress offered by integration into the United Kingdom following the treaty of union in the early eighteenth century. Civil society was integration into an Empire, much as *societas civilis* had meant integration into the Roman Empire for the vast populations. Civilisation meant the adoption of mores conducive to prosperous and peaceful construction, although civil society had periodically to purge itself of elements of corruption. The notion of progress was making its way into social theory, accompanying the material and economic progress of which Adam Smith was the herald. Civil Society was society which had been civilised.

Ferguson’s considerations on civil society were related to a vision of humans enjoying social and commercial freedoms typical of classical liberalism. But a usage emerged pointing to the potential conservatism of the use of the term. The Franciscan friar, Giacomo Giuliani distinguished between civil society and uncivil society in the work *L’antisocialismo refutato* of 1803, arguing that « *società civile* » was a state of social peace recognising a hierarchy of social inequality that was

God-given and willed, and contrasted starkly with “uncivil society” marked by violence, the pursuit of particular interests, contradictions and unjust. Contestations of the status quo were perpetrated by the uncivil, who set themselves outside the bounds of civil society. The idealist, Fichte, first attracted to and then repulsed by the revolution in France, called for a strong, closed trading State to weld together human beings: “Only the State can bring together an undefined mass of persons into a closed set, a totality, (*Gesamtheit*), it alone can interrogate all those which it adopts within it.”¹³ His closed nation-state was protectionist with respect to all things other than ideas.

Following the propagation of Ferguson’s work on civil society in Germany in translation as “*bürgerliche Gesellschaft*”, and its promotion by Herder, Hegel positioned “*bürgerliche Gesellschaft*” between the family and the State, to which it was subordinate, in his *Philosophy of Right* of 1821. Civil Society consists of private individuals aiming at their own interest. It englobes all individuals and associations within society. We can see here that Hegel’s definition does not square with the characteristics of a more topical definition of civil society: that organisations in civil society be dedicated not to particular interests but to the general good. Hegel’s definition justifies the position of the State as ultimate arbiter in any conflicts of particular interests, inasmuch as Hegel had not elaborated categories to describe any group of individuals banding together to defend the general interest as an organised instance in competition with the State over the right to rule.

Immanuel Kant had begun to use the term in a positive liberal acceptance, describing “*bürgerliche Gesellschaft*” as a society of free commitment of citizens in the absence of absolutist arbitrary rule, religious orthodoxy and social inequalities. However, the space allowed by the sovereigns for the exercise of such liberties was very restricted in Germany, which was a reason for the evolution of the term “*bürgerliche Gesellschaft*” into a pejorative notion. The *Bürger* as a free and engaged citizen seemed less pertinent in the political life of the German Bund, a federation of authoritarian petty princes than the *Bürger* as a *bourgeois*, merely accorded commercial liberties to pursue his own interests egotistically at the expense of the collectivity, particularly in the wake of repressive legislation following aborted liberal revolutions, notably in 1848. “*Bürgerlich*” increasingly takes on the connotations of “bourgeois”, selfish and narrow-minded among

¹³ *ibid*, pp. 9, 13-

intellectuals of the Left, particularly influenced by Karl Marx, with connotations starkly opposed to the idea of civility, tolerance and open-mindedness espoused by the liberal, Kant. It also describes the rechanneling of bourgeois aspirations following the failure of Germany's attempts at liberal revolutions in the 1840s.

This view that “*bürgerliche Gesellschaft*” is a society run by and for the bourgeois squares fully with that of the reactionary, Heinrich von Treitschke, who saw in *bürgerliche Gesellschaft* a sort of meritocracy which allows the best to rise to the top. In the thought of Karl Marx, bourgeois society, *bürgerliche Gesellschaft*, was a society in which the entirety of social norms, laws, the State were superstructures reposing on the economic interests of the dominating, capital-owning classes, the bourgeoisie. “Modern government”, he wrote, “is only a committee that manages the common affairs of the entire bourgeois class.”¹⁴ Thus *bürgerliche Gesellschaft* does not represent the interests of society as a whole, but of the private owners who constitute the electorate in voting systems based upon census. Heinrich von Treitschke, who offered a contribution to a bourgeois sociology in the 1870s, viewed this as the right thing, as did proponents of census electoral systems everywhere in the middle of the nineteenth century. But critics of „*bürgerliche Gesellschaft*“ saw the bourgeoisie not as civil, but egotistical, entailing alienation and the frittering away of the social fabric which had been rooted in social practices that had pre-existed those of the market.

In the nineteenth century, Lorenz von Stein prominently used the expression “*bürgerliche Gesellschaft*” in a liberal and emancipatory understanding related to his own political agenda. He had been a liberal revolutionary in the Duchy of Schleswig which was under Danish rule, so arguing that a “*bürgerliche Gesellschaft*”, a society of civilians existed alongside and in opposition to a repressive State, made perfect sense for him. Here, the relationship of civil society to the State was one of antagonism, and the State was playing the role of the unreasonable oppressor. Von Stein's use thus prefigures the adoption of the term by Gramsci, who was torn between a critique of the social forces of civil society which seemed to be exercising a hegemony on behalf of the status quo on the one hand and those forces of civil society which remained critical of the institutions of conservatism and the State on the other hand.

¹⁴ Communist Manifesto

In fact, the expression “civil society”, although initially identified with the State, the republic, the absolute monarchy, had taken on a possible meaning with the rise of democratic movements opposed to authoritarian, traditional or absolutist State regimes in the middle of the nineteenth century. This use was consecrated by Lorenz von Stein in his own specific use of the expression “*bürgerliche Gesellschaft*”, however a sort of defeatism among the German citizenry and widespread pessimism as to the potential achievements of a citizenry actively engaged alongside the State, as well as the extreme success of a sort of discourse inspired by Marx meant that the expression “*bürgerliche Gesellschaft*” was used mainly in a disparaging way to refer to a society dominated by bourgeois, selfish and consumerist absorptions.

It was thus that civil society discourse seemed to fall into a long slumber in the German-speaking world, as elsewhere, only to take up a new lead in the nineteen-eighties, under the inspiration of the English-speaking invocation of “civil society” movements in remote parts of the world, which courageously opposed States and regimes that were decried around the planet as unjust. South Africa was one such country which had this resounding influence upon discourse around the world, because of the obvious obscenity of the system of injustice that was in place and because the attempts to oppose it through social networks fighting on behalf of justice were cross-border, pointing to the emergence of a civil society that could be termed “transnational”. Thomas Carothers described “civil society” as “one of the favourite buzzwords among the global chattering classes.”¹⁵ Carothers shows how the term is used to claim legitimacy for the multitude of associations asserting that they represent the general interest in some way, shape or form, recognising that they may represent disparate or opposed interests.

The term, “civil society” has thus been applied to organised civil society in late retrospect, and it is interesting to consider how civil society phenomena – associations, clubs, non-profit organisations – were described by the human, social, juridical sciences at that period in which they began to proliferate – the nineteenth and twentieth centuries. Clubs had proliferated in Jacobinian France which never supposed they constituted “civil society”, just as the “Sons of Liberty” in the pre-revolutionary American colonies had seen no need for the term. The revolutionaries of the mythical and seminal revolutions of the late-eighteenth century had declared themselves to be the people, drawing inspiration from Jean-Jacques Rousseau, just

¹⁵ Thomas Carothers; William Barndt; Mustapha Kamel Al-Sayyid. “**Civil society**” *Foreign Policy*; Winter 1999/2000; 117; Academic Research Library, pg. 18.

as in South Africa, the anti-apartheid movement had united under the aegis of the “organs of the people” prior to being dissolved into the various movements of civil society, with at times competing political agendas.

In Germany, the term “*Gemossenschaft*” was used to encompass a multiplicity of meanings, including cooperative, fellowship or comradeship. Otto von Gierke, in his work on German *Genossenschaftsrecht* or the law of associations from 1868 ff, regarded spontaneous social organisations as typical of Germany. He was absorbed by a desire to bond which transcended the mere pursuit of self-interest. But he was little absorbed by the competition between such organisations and the sovereign state, instead representing a sort of corporatist nationalism, based upon the supposedly specifically German capacity to unite, reinforcing the force of the living, but moreover linking preceding with future generations and allowing for development and history. Without the marriage of unity and freedom, (*Einheit, Freiheit*), life would petrify.”¹⁶ Politically, Gierke was initially a liberal, however, liberals in late nineteenth century Germany often called themselves “national” liberals and yearned for a unified German State in which the associations of society might flourish. Fatherland, unity and freedom were catchwords of these liberals, so rather than seek to define themselves through opposition to a State, such liberals sought out a strong nation-state around which to rally, assuming that a *Genossenschaft* could be a synthesis of freedom and unity within an overarching State. Gierke would become a defender of the Second Reich following German unity, and would shift his attention to national unity to the detriment of the host of independent organisations that were spontaneously emerging, defending interests which transcended the particular interest of the individual.

Another distinction was made by the founder of German sociology, Ferdinand Tönnies. In his work, *Gemeinschaft und Gesellschaft* or *Community and Society* of 1887, (recently and misleadingly retranslated as *Community and Civil Society*), Tönnies recognised the importance of the duality of civil society and the State, although he asserted that their duality was chimeral, but affirmed that his own dichotomy of community, (social interactions based upon a sense of affective or traditional appurtenance to a single group), and society, (relations based upon the peaceable pursuit of self-interest) was more profound. In this dichotomy, we find the echo of the distinction made by Schopenhauer in his ethics between behaviour which issues from compassion for one’s fellow human being on the one hand and

¹⁶ Gierke 1868, Einleitung, p.1

behaviour which is essentially based upon self-interest. Tönnies integrates compassion, as opposed to conventions based upon selfishness, into social theory. However, Tönnies' concept of community contains other and different criteria for definition: thus, community is declared to reside in bonds of blood or place and to issue from family ties. The result is a deeply conservative interpretation of man's capacity to feel for others, limited to concentric circles that first encompass parents, spouse and children before becoming increasingly dispersed in relationships of friendship, neighbourliness and the outside world. It was for this reason that the sociologist, Schmalenbach, influenced by Max Weber's category of charisma declared that it was necessary to adopt a concept to point to strong relations of mutual affective affirmation, however outside the family. He chose the term *Bund*, league, the contemporary popularity of which was linked to the tightly knit associations of young men, *Männerbünde*, which abounded from the youth movement of the 1910s onwards and verged on the transgressional. The consequences of industrialisation in the recently united Germany turned the focus of the attention of the classes articulating aspirations from a need for political unity in opposition to the state towards more emotional yearnings which could be satisfied in apolitical associations, as the collective gaze shifted from interests to passions.

Yet Tönnies added an aspect to political and sociological thinking which is of paramount importance in understanding phenomena of civil society as we understand the term today: the notion of the feeling of belonging. Whereas society under the conditions of capitalism is a life system in which individuals are fundamentally yet latently opposed to one another in the pursuit of their self-interest, community is a life-system in which a sense of mutual recognition of appurtenance plays the major role and which is propelled by a capacity for solidarity. Tönnies, who was committed to Enlightenment and the Enlightened natural law that had issued from the thought of Hobbes, Locke, Rousseau and Kant, saw the value in establishing precepts for the governability of the egotists that we as human beings are, thus accepting liberal natural law. But he saw that this vision of human society ignored the actual ethical dimension of mankind, which Schopenhauer had found in the Hindu Vedas and was summarised by the expression, recognise yourself in others or may have been formulated by Christ as love thy neighbour as thyself. And consequently the individualistic, liberal natural law of society should be complemented with a natural law of solidarity of community or *Gemeinschaft*, a thought that preceded similar conclusions by Patrick Bond some one hundred and thirty years in advance.

Various developments in the methodologies of the human sciences accompanied the turning away from the notion of civil society as a term for describing social reality. The most important turn was the move from descriptions of society per se and its development. This turn took place simultaneously in political economy and in the humanities in general, with the appearance of works in 1883 by Carl Menger and Wilhelm Dilthey respectively. The former argued on behalf of an individualising method in economic theory, declaring that the individual rather than any group was the unit of deliberation, decision and action. In Dilthey's Introduction to *Geisteswissenschaften*, or the sciences of the mind, Dilthey debunked the philosophies of history characteristic of earlier nineteenth century German social thought, notably the idealists or the romantics, as well as the positivist theories of sociology such as those of Auguste Comte, all of which reified society and deemed it open to interpretation as a unit: the aim of the human sciences was, Dilthey argued in contradistinction, to understand the singularity of actors who inhabited history. These two philosophical lines of argument, reinforced by the Neo-Kantian epistemology of Heinrich Rickert, fed into the methodology of Max Weber, whose methodological underpinnings in "*Economy and Society*" break down collective action into the "atoms" of the social sciences, i.e. the units of meaning which motivate individuals to act or omit to act as they do, based ultimately upon values which cannot be scientifically founded. The (by definition, according to Weber, subjective) interests of individuals may be related to class, but they may reside elsewhere, and Weber lends no credence to the idea that interests may be "objective", since he holds that wants are irrational. This does not lead him entirely to neglect phenomena now attributed to "civil society": to the contrary, his opening to *Economy and Society* point to collective units that share meaningful orientation, such as the *Verein*, the club, a *Zweckverband* or purposive association founded upon some common values. However, by stressing primarily the rational purposiveness of such institutions, Weber omits that they often gravitate around charismatic leaders.

It is not through the social sciences but particularly through political discourses in industrialised democracies that the term civil society has been regained with a new, narrower and more specific meaning, awarding legitimacy to organisations that formulate general interests in contradistinction to the State, but organisations that need not be perceived of as particularist or selfish in focus. This discourse has been late to reach France, notwithstanding a flourishing non-profit sector based upon the law of associations of 1901, due to another debate which opposes Republicans, those who believe in the necessary subjugation of all individuals to a single

community, the State, and communitarians, who dare to believe that they need state the specific interests of their own communities, transcending the interests of the individual but not identically covering the supposedly universal formulations of interests of the French Republic. The opposition of communitarian and liberal thought has been fought out along similar, but not identical lines in the English-speaking world, where social pluralism is possibly more readily accepted. Civil society is nourished by communities which allow for new formulations of general interest through existing social networks.

Topicality in South Africa and Conclusions

In his narrative of township politics, and of the Alexandra Action Committee, which was to participate in the South African National Civil Organization (SANCO), Mzwanele Mayekiso offers a recital of the transformation of the civics in townships, initially proclaimed organs of the people, into a “civil society” that brought down the apartheid regime and became involved in the adoption of South Africa’s constitution. He declares that “South Africa’s civics have taken the idea of independent civil society a long way, possibly as far as any social movement in the world.”¹⁷ Interestingly, his discourse on civil society reflects the ambivalence of the term in its history. On the one hand, Mayekiso points to the pursuit of “ungovernability” as a strategy for implementing change. In the context of apartheid, the strategy demonstrates that the degree of incivility adopted outside government may well reflect the incivility of government: in the case of regimes akin to slavery, it is perhaps as appropriate to refer to a state of war as to operations of civil society. Another striking aspect of the evocations of “civil society” lies in the tension between the discourse of National Democratic Struggle, oriented around the Marxist, class-oriented need for a putative common class interest, and the ensuing division of that class interest into a multiplicity of competing interests once the political goal of the national democratic struggle is attained. After all, in the statement of its aim, – “a non-racial and democratic society in a free and united South Africa” – the Freedom Charter left enormous scope for that aim’s realisation, which was bound to generate new oppositions of interest and struggles.

¹⁷ Mzwanele Mayekiso “Township politics, Civil struggles for a New South Africa” edited by Patrick Bond, Foreword by Mel King, Monthly Review Press, New York, 1996, p. 12.

Mayekiso acknowledges that “by the early 1990s, nearly all the progressive forces of South Africa were committed to the maintenance of a strong, vibrant civil society, even after liberation.”¹⁸ While Mayekiso sees that “on the one hand, it is clear in South Africa that the most developed organs of civil society serve the bourgeoisie: their chambers of business, their northern suburb ratepayers’ associations, their parent-teachers’ associations, their sport clubs, heritage foundations, cultural associations, and so forth”, he argues that “for working-class people, on the other hand, the organs of civil society include civic associations, trade unions, the women’s groups, youth groups, churches, burial societies, and other organizations, formal and informal, that represent the interests of poor and working people.” Within this context, Mayekiso sees the emergence of three positions: “Within the South African Communist Party, some comrades (led by Blade Nzimande and Mpume Sikhosana of Natal) attacked the idea of civil society as bourgeois, highlighting its capacity for dividing progressive forces from the liberation movement, which would threaten the drive towards socialism. Some liberals (especially Steven Friedman) attacked the idea of civil society as conservative, highlighting its threat to the ability of the state to provide “representativeness, accountability and public contest to the vital areas of social life”. Some progressives (Mark Swilling for example) defended civil society as the basis for what seemed to be a class-free sphere of liberty, even an ‘associational socialism’... From the perspective of the township civic association, it was possible to advocate a fourth position : in favour of organizational instruments of working-class civil society (such as civics, unions, and many women’s and youth organizations) which would serve a ‘watchdog’ role and provide the raw material and energy from which to construct socialist building blocks.”¹⁹ Mayekiso observes the opposition of a bourgeois and a working class civil society struggling “collectively for basic economic rights (housing, health care, education, etc.).” (p. 147) and reflecting the opposition of their interests. Presciently, he notes that “if the movement within the ANC toward meeting basic needs began to falter, it would be logical to expect that working-class organs would continue to press for programs that met those needs. This is the famous ‘watchdog’ function of working-class civil society.” Civil society is fulfilling a watchdog function, while showing that the cacophony of its bark reflects the diversity of its interests.

¹⁸ Mzwanele Mayekiso “Township politics, Civil struggles for a New South Africa” edited by Patrick Bond, Foreword by Mel King, Monthly Review Press, New York, 1996, p. 145.

¹⁹ Mzwanele Mayekiso, p. 146.

As Ellen Meiksins Wood observed in 1990, after the “long and somewhat tortuous history”, at times of identification with the State or with the conservative Establishment, the concept of “civil society” “has become an all-purpose catchword for the left”.²⁰ Gramsci had reformulated the concept of civil society to show how in constitutional states of the West, power was more complex than in openly coercive autocracies, and diffused throughout society through cultural practices. At the time of South Africa’s emancipation from apartheid, the Left had been drawing conclusions from Eastern Europe’s experience with State oppression. From this, Meiksins Wood concludes that “advocates of civil society... are tending to weaken our resistance to the coercions of capitalism.” Wood sees its celebration of diversity and pluralism as opposed to traditional socialism’s preoccupation with class as a pitfall, arguing that the “conceptual portmanteau, which indiscriminately lumps together everything from households and voluntary associations to the economic system of capitalism, confuses and disguises as much as it reveals.”²¹ If we disregard Meiksins Wood’s conflation of “civil society” and the market, her conceptual criticism of “civil society” as a portmanteau is fair, inasmuch as the term automatically legitimises social forces without consideration of their content and their intent. It elevates actors in society in aggregates to a position superior to the sum of their numbers, irrespective of the interests and aims they may be defending. The term is politically, socially and ideologically invariably loaded, depending upon the speaker or writer employing it. Finally, the multiplicity of social entities and organisations which constitute “civil society” cannot, retrospectively, be attributed to a single, sweeping cause, as has been shown by Lester M. Salamon and Helmut K. Anheier, who have pointed out the futility of attributing them in their diversity to government or market failure, or to explain them through mere welfare state theory or interdependence theory.²² Justice can only be done to individual instances by interrogating their histories and the meanings behind their foundation. We would maintain that for the term to have a meaning distinct from the market, while the causes that civil society organisations represent will present a multiplicity of competing interests, those fundamental criteria that Tönnies applied to the

²⁰ Ellen Meiksins Wood, *The Uses and Abuses of Civil Society*” *The Socialist Register*, 1990, Merlin Press, London, p. 60.

²¹ Wood p. 63-65.

²² Lester M. Salamon and Helmut K. Anheier. “Social Origins of Civil Society: Explaining the Nonprofit Sector Cross-Nationally.” *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, Vol. 9, No. 3, 1998.

constitution of his concept of community need also apply for inclusion into the overarching term “civil society”: commonality of interest and compassion.