

WALKING THE TIGHTROPE: CIVIL SOCIETY ORGANIZATIONS IN CHINA

BY SHARON LIANG

China's burgeoning civil society faces many obstacles. Sharon Liang suggests that possibly the greatest challenge is escaping dependence on government tolerance and overseas largesse.

Brief historical background

Some scholars refer to the 30 years between the founding of the People's Republic of China in 1949 and the commencement of economic reforms in 1979 as China's "total society" period. The distinguishing characteristic of this period was state control and deployment of almost all of society's resources. An individual's most basic conditions for survival could only be arranged through the state systems relating to work units, residency and identity. Under the economic and social structures of the times China was a totalitarian nation with an impotent society, and non-governmental organizations, especially genuine grass-roots organizations, had virtually no space or environment in which to survive and develop.

After 1979, the full implementation of economic reform brought changes to the production and distribution of economic and social resources that made full state control difficult to maintain. Under these conditions, in the 1980s China's civil society enjoyed a 10-year heyday in which some 200,000 social organizations proliferated. During that period approval and management was carried out at all levels of various government departments in a fairly flexible process, but in 1988 the process was unified under the Ministry of Civil Affairs. After the Tiananmen incident on June 4, 1989, the government developed an enormous paranoia against grassroots organizations and groups. It drafted the Regulations for Registration and Management of Social Organizations, promulgated in October 1989, and applied it retroactively to existing organizations in a major housecleaning exercise. These regulations (amended in 1998 to become clearer and stricter) set up a new double-tiered planning and management framework for civil society organizations even as market reforms were breaking down the old planned economy system. This was probably a key turning point in China's overall social evolution.

Three obstacles for civil society

The first obstacle to the registration of a civil society organization under the current system is the requirement for a "sponsoring department" or "supervisory unit" (*yewu zhuguan danwei*).

According to the Regulations for Registration and Management of Social Organizations and the Provisional Regulations for Registration and Management of Popular Non-Enterprise Work Units (promulgated in 1998), the Ministry of Civil Affairs is responsible for registering the organization, and the supervisory unit is responsible for the organization's daily operations. At the time of registration, the head of the organization must provide the registrar with a certificate of permission from the supervisory unit. The supervisory unit is responsible for approving the organization's application for registration, as well as for its political and Party-related activities, its financial activities, its personnel management and its foreign relations and acceptance of funding, and in general acts as the government's watchdog in maintaining strict control of the organization.

Some people have characterized the search for a sponsoring department as "finding a mother-in-law," and the legal requirements for these "mothers-in-law" are very high. Only a government organ under the State Council at the provincial level or above, or a body authorized by such a government organ, can become a sponsoring department for a social organization. According to the principles of graded management, a social organization with a national scope has to find a "mother-in-law" at the national level of government, the difficulty of which can be easily imagined.

Under these circumstances it is easy to understand why a typical social organization such as Global Village of Beijing decided to register itself as a business enterprise under the Ministry of Commerce. The vice-president of the Beijing Global Village Environmental Cultural Center, Song Qinghua, recalls, "At the time we were not able to find a sponsoring department, so we could only register as a commercial enterprise, which causes us a lot of difficulties when it comes to receiving donations or obtaining tax relief."¹

Chen Guangcheng, who is blind, has been shuttling back and forth between Beijing and Yinan County in Shandong Province for the past two years in attempts to

establish a center promoting the rights of the handicapped. He remarks bitterly, "The Ministry of Civil Affairs and the Association of Handicapped People [an administrative-grade official organization] have both visited the center, but neither is willing to be the sponsoring department. To my face they say it's a good project and worth encouraging, but when I ask them to issue us a certificate, they say they need to do further research. Some of these bodies even require us to pay them a yearly 10,000 yuan 'application fee.' If we can't find a sponsoring department, how are we supposed to continue?"

Finding a "mother-in-law" is the greatest difficulty faced by nearly every potential social organization. Even if an organization does find a sponsoring department, this may provide only temporary relief, as the sponsoring department is authorized to unilaterally terminate the relationship at will. Every year organizations lose their legally registered status for this reason and are forced to resume the arduous search for a sponsor yet again.

Apart for the requirement of a sponsoring department, Article 13 of the Regulations for Registration and Management of Social Organizations states, "If in the same administrative area there is already a social organization active in the same or similar area of work, there is no need for a new organization to be established," and the registration agency will not approve the application. Wang Yongchen, the legal representative of the Beijing-based environmental organization Greenhome, says, "From the time we were established in 1996 to the present, Greenhome has not been able to register. And it's not just us – many environmental groups are operating illegally because an official organization, China Environmental Workers' Association, registered first, and no other organizations involved in environmental activities are allowed to register now."

Financial requirements for registration pose another dilemma for social organizations. According to the Regulations for Registration and Management of Social Organizations and the Provisional Regulations for Registration and Management of Popular Non-Enterprise Work Units, national level organizations must have a minimum of 100,000 yuan at hand, while local organizations must have at least 30,000 yuan. Chen Guangcheng observes, "You have to have a lot of money in order to register, but if you don't solve the registration problem, no one will be willing to donate money to you." This aptly summarizes the double bind in which many grassroots social organizations find themselves.

Organizations unable to jump the three registration hurdles have the option of registering as a commercial enterprise or operating covertly. Organizations with no form of registration lack any legal protection, and their sphere and mode of operation are greatly limited. While constantly facing legal challenges on every front, some are unable to survive. All too many social activists hoping to work for the public good have had the discouraging experience of giving up all of the rights enjoyed by a legal social organization.

The varieties of Chinese social organizations

China's social organizations can be divided into three types according to their backgrounds: official, semi-official and popular.

The NGO Research Center of Tsinghua University's Public Administration Department published an interesting report with some startling figures²: in 1998 NGOs received an average of 49.97 percent of their income from government funds and subsidies, a much higher percentage than any other source, including private enterprises, individuals and foreign organizations and governments.

But a closer examination reveals that these government funds are restricted to a very small group of organizations. One scholar, Yu Keping, points out, "The recipients of most of the government's funding and allowances are not the majority of genuine grassroots organizations, but rather are specialist organizations with an official background, including professional, trade and commercial associations established by the government. A few academic research groups also enjoy a portion of the government's subsidies." This type of organization comprises the bulk of legally registered social organizations. Most of them were established with the government's assistance, or are essentially organizations formed within the government structure, and have close ties with government operations. Some scholars refer to these organizations as "Government Organized NGOs," or GONGOs.

GONGOs not only receive financial subsidies from the government, they also receive substantial administrative participation from the government and the Party. The leadership of most such organizations is composed of serving, retired or specially deployed government officials or Party members. Taking trade associations as an example, most chairmen of such associations are not actual participants in their trades, but rather are government officials. For example, the second executive director of the China Industrial Economics Association was previously chairman of the State Economic Council, and the chairman of the Shanghai Consumers' Association is the former vice-mayor of Shanghai.

Official organizations structured, funded and staffed by the government receive special registration status, and some of these organizations don't bother to register at all. Semi-official organizations receive only part of their funding from the government, but still enjoy a lot of advantages in the registration process that are denied to grassroots organizations. As might be expected, GONGOs tend to have a strong bureaucratic bent, and operate in a way very similar to a government department. For example, trade organizations such as the Commercial and Industrial Association or the Consumers' Association have a very bureaucratic structure, and their leaders enjoy many of the privileges of Party cadres. Under these conditions, it will take a long, drawn-out process before these organizations gradually lose their official flavor and become genuine community-based social organizations.

The trade-off for advantages is a loss of autonomy. Xiao Peilin, founder of the Training Services Center for the

Improvement of Mental Skills in Beijing's Fengtai District, observes, "Every decision I make has to be reported to the All China Women's Federation. When I was establishing the school the Federation was very supportive. They gave me funding and rented premises to me. Eventually the school developed and attracted many students, and I began looking at another location with more space and a better environment, which was available at a very reasonable price. But when I submitted a request it was refused, and I had to give it up."

The relationship between Xiao Peilin's school for mentally handicapped children and the All-China Women's Federation provides a typical example of the current relationship between social organizations and their supervisory units. It also illustrates the confusion that results from the inextricable ties, both historical and practical, between the government and social organizations.

Conversely, can it be said that genuine grassroots social organizations, because of their total lack of ties with the government, are able to enjoy a greater measure of autonomy? The fact that most of these organizations are unable to register, or have to register in a different guise (such as a commercial enterprise) causes many of their members and researchers constant worry over their future development and survival.

The current situation for grassroots social organizations is that only a tiny minority have been able to register legally as independent social organizations. A few more manage to operate as subsidiary organizations of official organizations or GONGOs, but without an independent identity. A larger number have registered as commercial enterprises. But the majority have not entered into any form of legal registration and operate in a legal gray area. The government's current response to this situation is not to impose any controls on entertainment and mutual aid organizations; to impose limited controls on public welfare and trade organizations; and to actively suppress pressure groups devoted to rights and other public demands. Under these conditions, because there is no open legal standard or active legal foundation, the government enjoys a great deal of discretion in how it manages these cases, and is seldom challenged.

Under such a system of "rule by law" instead of "rule of law," social organizations face a hostile environment in which to survive and develop. Their future development depends heavily on whether their leadership has any official background or useful social relationships, and whether they are able to cooperate with the government over a period of time. That is why some organizations continue to operate in a sector that is banned to others, and why a particular organization may be allowed to operate during a certain period, but later on is banned. The fate of a popular social organization typically depends on the degree of its political sensitivity and changes in management criteria, and inevitably some are eliminated altogether.

At present in China there are many more social organizations that have been unable to register than those that are currently registered. In practical terms the government can do little to control this situation, but seems unable to

abandon arbitrary or class struggle-type methods of control. The atmosphere of control and resistance provides neither safety nor stability for the development of social organizations, and does not allow for effective management by the government. How to change the relationship between the government and social organizations is a crucial point that must be addressed when considering China's future democratic development.

Money matters

In comparison with the difficulties of registration, the lack of dependable funding is an even greater headache for genuine civic organizations.

"All grassroots social organizations have financial problems," says Zhang Jilian of Friends of Nature. "We plan our activities according to the amount of money we have. We usually have only about 400,000 to 500,000 yuan available in a year, although we've had as much as 700,000 or 800,000. But no one wants to spend money on the organization's basic logistical work, and we often rely heavily on volunteer efforts to solve problems."

Friends of Nature's funding is a pittance compared with, for example, the HK\$ 90 million budget of Oxfam Hong Kong, yet it is one of the most well-funded organizations in China. According to the 2001 study by Tsinghua University's NGO Research Center, nearly 90 percent of China's NGOs record an annual expenditure of under 500,000 yuan, and less than two percent spend more than 1 million yuan per year. And that figure includes the relatively well-funded GONGOs. If only genuine grassroots organizations were considered, the average annual expenditure would be much lower. This gives a clear indication of how cash-strapped China's social organizations really are.

"Grassroots organizations receive no government subsidies, so we have to apply for funding from foreign groups such as the Ford Foundation," notes Greenhome's Wang Yongchen. "When there are environmental education programs such as biological studies and so on, the participants often have to bear their own costs, because we have no extra funds to cover them."

Likewise, Friends of Nature's program expenses are largely covered by foreign organizations. "Right now we have two German foundations who have donated money to our programs," says Zhang Jilian.

But organizations in regions that are less developed economically and culturally have less access to international conduits of funding. For example, there's the Shijiazhuang Women's welfare hotline established by Li Ting. "Our hotline is very influential in Hebei," says Li. "We've done everything by the book, but we just can't raise enough money. We've scraped by for three years, but I don't think we can keep going much longer." She adds, "It's different in Beijing, because there are lots of embassies and social welfare organizations, and communication is very fast. Here in Shijiazhuang it's impossible."

The pursuit of foreign funding is not a fad, but a necessity. "It's much harder to get funding from domestic sources than

from overseas," says Huang Haoming, Executive Director of the China Association of NGO Cooperation. "Nearly 100 percent of our funding comes from overseas sources. Our 20 major donors include the governments of Finland, Japan and Germany, as well as foreign NGOs and the UN Center for Regional Development. In China, there is no tax incentive for individual donations." Huang himself donated a total of more than 1,000 yuan on several different occasions during the 1998 Yangtze flood disaster, but he never received a formal receipt and received no tax exemption. "China has a Public Welfare Donation Law, but it's a complete mess. In practical terms, even if you provide evidence of an individual donation, the tax authorities won't recognize it."

Individual contributions are an important source of revenue for social organizations in other countries. For example, in the year 2000 Oxfam Hong Kong received HK\$79,560,000, or 83.2 percent of its total revenue, from individual donations. According to the Tsinghua NGO Research Center study, Chinese NGOs received on average less than 30 percent of their funding from a combination of membership fees and donations from individuals and corporate enterprises.

Fundraising bottlenecks are a major challenge in this area. In other countries around the world, social organizations obtain most of their funding through government procurement of social services, direct contributions from business enterprises, or individual donations to foundations or directly to their social organization. But in China, the all-powerful government provides nearly all social services, and is not

now (or likely in the future) to be a major source of funding for social organizations. At present the small minority of social organizations that receive government funding are all GONGOs, with grassroots organizations receiving nothing. As far as corporate or individual donations are concerned, although China promulgated its Public Welfare Donation Law in 1999 to provide tax exemptions for donations by corporate enterprises and individuals, the law is vague and lacks detail. In addition, only a small number of organizations can lawfully receive donations, and the maximum amount for an exemption is too low to provide any real incentive to a potential corporate donor.

China's domestic foundations are tightly regulated by the government. Of the 1,200 foundations currently operating, nearly all are government or quasi-government organizations, and most are largely inactive. Because of official fears of too much financial independence among social organizations, and of the possible depletion of funds through market turmoil, the government in 1988 promulgated its Foundation Management Regulations, under which establishment of a foundation requires permission from the People's Bank of China as well as a sponsoring unit and a registration management agent. At the time of application the foundation must be in control of at least 2 million yuan. These conditions virtually rule out the establishment of a grassroots foundation.

China's community welfare and charitable donations are already greatly limited by law, and the majority of enterprise contributions are doled out by a small minority of official



British ethnologist Jane Goodall in Beijing promoting her organization Roots and Shoots, an environmental NGO with 60 branches in China. Many of China's civil society programs rely heavily on the backing of foreign NGOs and foundations. Photo: Reuters.

foundations. Because of systemic official protection, these foundations are subject to very little competitive pressure, and have no culture of accountability toward contributors and very little independent oversight, with the result that their contribution to society compares poorly with the public resources at their disposal. The fundraising methods of official foundations tend to be heavily bureaucratic and fail to instill a sense of public morality and social participation on the part of private enterprises and individual members of the public. A lack of variety in community-based foundations in terms of type, scale and focus results in the loss of a vital link and systematic interface for assembling and distributing public welfare resources.

Apart from all-too scarce foundations, there are very few conduits through which enterprises and individuals can contribute to social organizations and public welfare organizations. Legislative and media controls prevent social organizations from generating much fundraising publicity or launching public fundraising drives. The most common means of raising funds is through the very limited circles of friends and other personal connections. The narrow range and lack of competition among fundraising sources makes it difficult to monitor the use and effectiveness of funds, which is another obstacle to the healthy development of popular social organizations.

At present the operational funds of most of China's social organizations and public welfare organizations come from outside sources such as foundations in Hong Kong, the United States and Europe, as well as various international organizations and foundations of multinational corporations. In core urban areas such as Beijing, Shanghai and Guangzhou, and impoverished provinces such as Yunnan and Guizhou, such outside sources make up the vast majority of funding for social organizations, especially those focusing on poverty relief, environment, women's and children's health, education, and the preservation and development of minority culture. As this source of funding has expanded, government departments and official social organizations have all taken their share, and even some community social organizations have managed to benefit. Some of these funds have even been used to expedite the birth of some genuine grassroots social organizations.

Because of the limited access to domestic foundations, overseas funding sources have become a lifeline for China's social organizations. Although the availability of this resource is a positive development in the short term, in the long term it poses genuine risks. Foreign charities and welfare funds participate according to their own specific directions, goals, judgments, project management styles and work methods, and Chinese social organizations have to conform to these preferences and requirements in order to obtain financial support, potentially limiting their own preferred options. In particular there is the risk of new and vulnerable domestic organizations being overly influenced by foreign operational methods.

Community welfare and social organizations are not like profit-making enterprises that operate in a similar fashion

no matter where in the world they are located; rather, they need to respond to the needs and behaviors of their local constituencies. The creative development of domestic social organizations will inevitably be constrained by the standardized assessment methods of foreign funding sources. In addition, the sources of foreign funds currently available in China are for the most part large international organizations and foundations, and their operational requirements can place an unsustainable burden on rural or grassroots organizations. In any case, even the funds available from foreign foundations and organizations will soon be woefully inadequate for the needs of China's burgeoning social organizations. If domestic sources of funding are not expanded, the development of China's civil society sector will soon reach a dead end.

Conclusion

The economic reforms launched more than 20 years ago have given rise to myriad new economic and social factors that in turn have bred an urgent need for a new social order. Increasingly diverse interest groups also need legal means to pursue their own interests and participate in social and political activities; that is a major impetus to the present development of China's social organizations. Official figures at the end of 1998, indicating the existence of 1,800 social organizations with a national scope and 165,600 operating at the local level, suggest that the number of available social organizations is unlikely to satisfy the interest and demand among the people for organized activity. Reform of legislation governing social organizations has up to the present been largely relegated to scholarly debate, with little effect on the double-tiered management of NGOs beyond some minor changes to the registration system. Eliminating the roadblocks and legislative limitations to the development of China's social organizations will require considerably more progress in the reform of China's political system, in particular a genuine recognition of the constitutional right to free assembly. It will also require a fundamental readjustment to the relationship between the state and society and between the government and the people under a framework of modern political culture.

Translated by Stacy Mosher

1. Quotes for this paper are taken from Li Yong, *Chinese NGOs Fight for Survival* (Zhongguo NGO xiaofeng qiusheng) *Caijing* 63 (July 5, 2002), accessible at www.caijing.com.cn.
2. Wang Ming, Deng Guosheng, Gu Linsheng, "China NGO Research: A Case Study," UNCRD Research Report Series No. 38 (2001).