

HIST 5518A Term Paper

Growing Civil Society, Strength of Chinese People

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When communists took over everything after 1949, civil society soon disappeared in China. After reform-era started since 1978, civil society began to emerge and enjoyed a fast and unregulated development period until 1989 when CCP repressed democratic movement that year. During this period, NGOs begin to emerge nationwide amid the relaxed political environment in China. After 1989, though government again posed strict control on the formation and operations of NGO, civil society nevertheless struggled to develop largely due to the growing economy, prevailing social problems and caring, brave and ambitious individuals.

Civil Society, in contrast to the state, has several essential characters. A. Autonomous individual. B. Civic association in relation to the state. C. Engaged in more or less organized activities. D. Public sphere 'outside the immediate control of the state but not entirely contained within the private sphere of the family'. I believe these four elements are interrelated, public sphere provides a social space for autonomous individuals and civic organizations to gather, operate and voice, organized civic firms and activities in turn protect autonomous individual's rights from the state while autonomous individuals and civic organization provide the basic foundation for all elements to interact thus forming a civil society.

Based on these characters, I will argue in contemporary China there do exists civil society, but under serious regulatory and bureaucratic control. In this paper I will provide a historical and analytical perspective on the evolution and current position of Chinese civil society, by adopting the rise and struggle of NGO as example. As we shall see,

Chinese people are trying and struggling to voice and organize their strength as citizens but political and regulatory hassles largely hindered their potential.

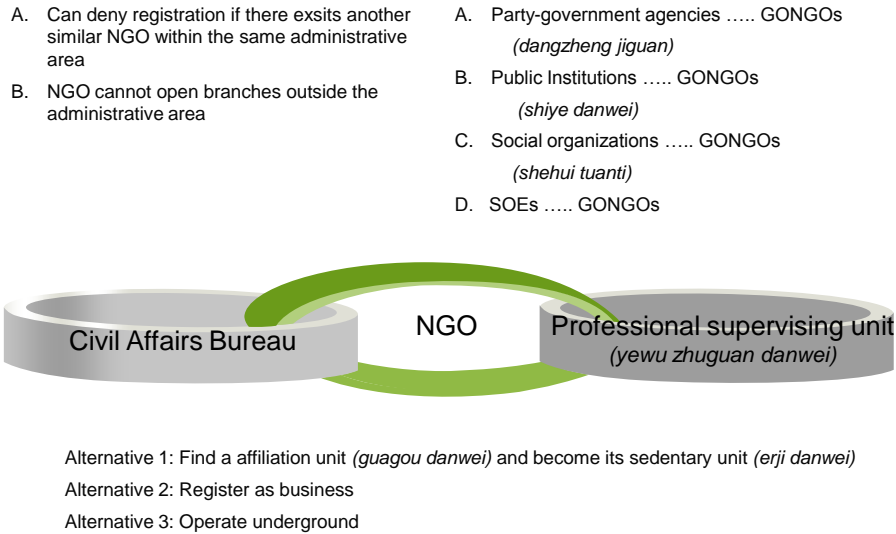
In China, NGO is not a legal term which means there's no law, regulation and government order uses the term Non-governmental Organization. Generally, Social Organizations (*shehui tuanti*, SO hereinafter), Civil, Non-enterprise Unit (*minban feiqiye danwei*, CNEU hereinafter) and Foundations (*jijinhui*) are regarded as NGOs in China. A CCP Politburo Standing Committee meeting in 1996 on NGO management resulted in a series of revised regulations that came in effect later. In 1998, Regulations for Registration and Management of Social Organizations (*shehui tuanti guanli tiaoli*) and Temporary Regulation for Registration and Management for Civil, Non-enterprise Units (*minban feiqiye danwei dengji guanli zanxing tiaoli*) were announced by state council. Together with later published Regulation on the Management of Foundations (*jijinhui guanli tiaoli*) in 2004, these three orders formulated a comprehensive system for regulating NGO in contemporary China while it formalized the supervisory role of bureaucratic and quasi-bureaucratic organizations. Back in 1989, the Division of Social Organizations was created within the Ministry of Civil Affairs (MOCA) to supervise NGO activities. These three acts require every national NGO to register with MOCA and local NGOs register with local civil affairs bureaus. Registration can be denied if “in the same administrative area, there is already a social organization active in the same or similar area of work”, which set up a monopoly of representation in any one sector and geographical area. These acts also speculate that NGOs are not allowed to open branches outside their registered administrative level, which mean if a NGO is registered with a

municipal civil affairs bureau it can't open branches in other cities, which make self-initiated social service organization almost impossible to develop nationwide networks for social good as what is common in other countries. This framework also requires both SOs and CNEUs find a professional supervising unit (*yewu zhuguan danwei*) who is willing to sponsor and supervise their activities when making registration to civil affairs bureaus, which is what Chinese calls "dual supervision" of both the civil affairs authority and professional supervising unit. The rationale behind this awful system is that civil affairs bureau wouldn't be able to supervise all of these registered NGOs, and thus "dual supervision" enables the professional supervising unit to play that role in order to control civil society. It is not difficult to imagine that this "professional supervising unit" must also from the bureaucratic system. In fact, it is. Chinese bureaucratic apparatus is divided into four main categories: Party-government agencies (*dangzheng jiguan*), public institutions (*shiye danwei*), social organizations (*shehui tuanti*), and SOEs. The Party-government agencies form the first tier of the Party-state bureaucracy and are the organizations with the power to carry out and enforce laws and regulations. Public institutions and social organizations make up an extensive network of second-tier organizations created by the Party-state to function as "transmission belts" linking the state and society. During the Mao era, social organizations were developed to encourage masses to participate into devastating political campaigns while public institutions were created to provide essential public welfare to society. After reform took place, many NGOs were created and sponsored by these four types of bureaucratic organizations. These government-organized NGOs (GONGOs) have an interesting dual character. On one hand, one can see them as proto-forms of civil society, with greater autonomy from

the state. On the other, they can be seen as another addition to the bureaucratic structure, serving as part of the state's regulatory apparatus. In fact, these four types of bureaucratic agencies as well as their GONGOs are the "professional supervising units" that NGOs must find in the same field and within the same locality of their operations before legally register with civil affairs authority. This system made individuals who are dedicated for social ambitions impossible to establish independent operations, or even register a legal NGO. In reality, a growing number of NGOs are choosing not to register with civil affairs authorities. Three major alternatives are observed for avoiding "dual supervision". One more regulated end is to register as a secondary unit (*erji danwei*) affiliated (*guagou*) with one of a four types of bureaucracies or their GONGOs thus could avoid civil affair authority's regulation but have to be bounded by affiliation units (*guagou danwei*). Another choice of less regulation is to register as a business with industrial and commercial bureau, though have to pay taxes, they do not need to accommodate themselves with "dual supervision", do not have to find an affiliation unit, do not have to be bound by their area of interest overlapping with that of other NGOs in the same administrative area as well as branch opening restriction. One thing need to be noted these "businesses" operated much like a non-profit NGO, but not a social enterprise as the majority of such "businesses" are established to avoid bureaucratic oppression but not by social entrepreneurship motivation. The least regulated alternative is to operate underground, without any registration. Numerous urban community organizations and grassroots NGOs in rural areas belong to this category, but they are usual of very small size. The following figure illustrated "dual supervision" on NGOs and ways to avoid it.

Figure

Dual Supervision



State apparently is a stronger party in the dynamics of State-NGO relation, but brave and talented Chinese people are pushing the limit and increasing their NGOs' autonomy. Such autonomy is based on working with state in the initial stage of development. I will now examine the subtle State-NGO relationships.

It is necessary for NGOs to negotiate with the state as early as a social mission idea came up, since NGOs need to find professional supervising unit for registration with civil affairs authority or affiliate with such a unit. After establishment, NGOs need state to get access to essential resources to start operations and provide services or solutions. Many start-ups even have to rely on state for office space and staff cost. Once operations started, NGOs enjoy no autonomy under this regulatory framework, many NGOs continue to

negotiate with state for using its networks of branches in other administrative areas to provide more services and scale up solutions. NGOs sometimes may use their supervising or affiliation units' influence to get round bureaucratic hurdles in order to successfully launch projects, or to make a step future to influence policies on behalf of its constitutes.

The effectiveness of such negotiations with state heavily depends on NGOs' institutional and personal connection with supervising or affiliation unit and government officials. Many NGOs devote substantial time, energy and money on establishing and mentioning such connections, by having persons with status on board and getting close to government officials. Negotiations can also be heavily affected by state's attitude toward NGO. Though the general regulatory framework applies nationwide, government's attitude toward civil society can vary among provinces and cities. There're liberal places in China, like in Pearl River Delta authorities tolerated many migrant worker services NGOs who didn't meet the requirement for registration or even working underground; in Shenyang, government offered to help NGOs establish operations in other cities by leveraging its own bureaucratic network. But in Henan, AIDS/HIV NGOs are facing a tough time to survive simply because hard-liners there refused to let civil society solve severe social problems. This kind of negotiation is not a healthy way to develop businesses for social good, but it indeed represents people's creativity and strength under contemporary environment.

Through negotiation with state, NGOs can get some spheres to survive and prosper. Gradually, some will take a step future to pursue autonomy from the state, but such

autonomy is usually embedded in the contemporary environment, which means NGOs must first through improving relationship with government and working around regulatory hurdles to expand network, membership, resources and funding, then try to get independent from the state to create space through initiatives in which the state is not a partner. This is what the Chinese call “Embedded Autonomy”. I observed several ways to achieve such embedded autonomy, which means drifting away from state. Register as business or operate underground is a simple way. Some NGOs are forming ties with others in the NGO community. There already exist intensive informal networks of individuals concerned about a common issue, but such network is still weak on an institutional level, more institutional cooperation is needed in Chinese NGO industry to better share recourses and pilot similar strategies. NGOs need to broaden their funding bases, design incentive frameworks to attract private commercial capital and seek for international funding. But such commercialization and international strategy have inherent risks that such capital is usually on project basis, once a project is finished or failed, funding ends. Many NGOs are also trying to broaden member basis and counting on member fees, but this tactic have limitations since for the majority of social service NGOs, members are volunteers or advocators which certainly are not a proper funding source. A lot of NGOs are also trying to utilize the commercialization of media to launch funding raising, advocacy or other public relations programs but because of CCP’s control over traditional media as well as virtual community, such model can seldom be scaled up. These strategies indeed earned NGOs some embedded autonomy, but bureaucratic hurdles still bound the growth and strength of civil society.

In the following part I would like to present two examples of NGOs' growth and struggle to further illustrate the regulatory structure, the strength of NGO and its strategy in relation to the state.

Habitat for Humanity International, founded by Millard Fuller in 1976 in Georgia, USA, now operates in more than 80 countries. Habitat came to China in 2002 in Yunnan province in a very small scale. Habitat's goal is to build and improve as much as houses as possible worldwide for the needy and create ways for the sustainability of community. Because it can't satisfy "dual supervision" system and even when Habitat registered as a NGO most likely it cannot open branches all over China (unlike register with MOCA, but a national level bureaucracy have to be the professional supervising unit), Habitat China settled in Hong Kong as a non-profit organization in 2006 and opened 5 project offices over five provinces in Mainland China as businesses registered with industrial and commercial bureaus. Habitat China negotiated with government agencies, most time civil affairs authorities to provide microfinance and volunteers for beneficiary families to build or improve their houses in villages, it achieved relative autonomy by relying on its own resources after getting permission from government to operate. The majority of Habitat China's funding is raised from private sectors in Hong Kong, labors are mainly volunteers, including some international volunteers in collaboration with Habitat office in other countries under the coordination of Habitat International. In Hong Kong, they have an independent board. From Habitat China's decade long experience in China, we can clearly see how it struggled to pursue embedded autonomy by first negotiating with government to get legitimacy and resources and then operate relatively independent by

starving to absorbing resources on its own from private sectors. But relations with bureaucrats and government's attitude toward them is still of crucial importance of whether Habitat China can launch more project to help people. When expressing the relation with government, (Kester) Kai Chuen Yim, Managing Director of Habitat China Ltd said, "Connection with government is important. 'Non-governmental' can mean firms outside the government sphere on the one hand, but it can also mean to against government on the other. Our American identity makes us difficult to scale in China." According to (Terrence) Yiu Kai Yuen, a research fellow at Centre for Civil Society Studies, CUHK, Habitat China have to negotiate with Rural Credit Cooperatives, a SOE in China who almost monopolized banking services in villages, to help transfer Habitat's money to beneficiaries because direct money transfer to rural families is prohibited. Slum transformation projects, a common endeavors for Habitat in other developing countries, is impossible to be piloted in Chin since land is state owned and government is sensitive toward mass movement. "We haven't done any mass movement or mass publicity programs, we only have separated projects in China while what I'm eager to develop is large programs that can be scaled up", said Yim sadly.

Beijing Rural Women Cultural Development Center (Beijing *nongjianv wenhua fazhan zhongxin*, Inc, BRWCDC hereinafter), a national SO in China register with MOCA, supervised by All-China Women's Federation (ACWF), was formed by Chairwomen and Managing Director Lihua Xie, former senior editor of one of ACWF's secondary unit, China's Women Daily (*zhongguo funv bao*) in 2001 while BRWCDC board was formed established in 2006 with independent directors joined. Before BRWCDC was

incorporated, Xie was already began to engage in social service targeted to rural women and migrant women workers with the establishment of Center for Migrant Women Workers (*dagongmei zhijia*), Legal Advocacy Group for Migrant Women Workers (*dagongmei weiquan ziaozu*) and Emergency Rescue Fund for Migrant Women Workers (*dagongmei jinji jiuzhu jijin*) in a number of provinces. In the villages, BRWCDC utilized ACWF's network of branches to provide microfinance and personnel for education, job training and legal rights advocacy with 90 percent funding from international sources. BRWCDC are facing with difficulties to balance the conflict of interests between village leadership and women it targets to help, which often become relatively rich and enlightened after being approached. Most times BRWCDC have to get the permission from village Party secretary and village head before it can enter to help, even with the connection with ACWF branches. Again, we can clearly see how individuals with social ambition are striving to achieve embedded autonomy and how government is controlling civil society. Because Xie's connection with ACWF, she was luckily enough to persuade the later to be her supervisor in order to legally register the NGO at national level, also because of connection, Xie was able to utilize ACWF's branches all over China. But certainly BRWCDC tried to be independent from bureaucrats by installing a relatively independent board, raising funds from abroad and recruiting professional teachers, layers, advisers and managers. Government largely tolerated BRWCDC's aggression, despite legal advocacy is repressed and gradually no longer able to be carried out after the three orders of 1996 and 2004 governing were announced. "You can do social service, but the reason behind numerous social problems,

the problem with political and legal system cannot be touched, particularly in these days of Jasmine Revolution”, said Xie.

After 1989, civil society again was seen as contradictory to the government and the orders of 1996 and 2004 formalized bureaucracies’ control over NGO by established a “dual supervision” system under which NGOs must present a professional supervising unit when making registration to civil affairs authority within the same locality. Such supervisor is also from the bureaucratic system. Besides, monopoly registration and branch restraints future blocked civil society. Under this environment in which the state is apparently a stronger party, NGOs will have to negotiate with state for legitimacy, funding, target market, network of branches and other necessary resources to start operations. Such negotiation is heavily influenced by connection with government and government’s attitude. Negotiation with government is often the first step to pursue “embedded” autonomy since without essential resources operations cannot be started and scaled up while people observed those NGOs who were supported by government got less regulatory hurdles. Brave people are now pursuing strategies to push forward the limit, though on a small scale, is foreseeable to drafting their NGOs away and away from state. Habitat China and BRWCDC vividly illustrated such strike, struggle and resistance.

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1. Book: Jonathan Schwartz and Shawn Shieh (2009), "*State and Society Responses to Social Welfare Needs in China: Serving the People*", p22-41
2. Book: Tak-Wing Ngo (2011), "*Contemporary China Studies Economy and Society, Volume III: Civil Society, Citizenship, and Popular Resistance*", p373-398
3. Professor (Willy) Wo Lap Lam's advice on my preparation of Hult Global Case Challenge
4. Face-to-face interview with (Kester) Kai Chuen Yim, Managing Director, Habitat for Humanity China Ltd
5. Seminar by Lihua Xie, Chairwomen and former Managing Director, Beijing Rural Women Cultural Development Center (Beijing *nongjianv wenhua fazhan zhongxin*, Inc)
6. Face-to-face interview with (Terrence) Yiu Kai Yuen, Research Fellow, Centre for Civil Society Studies, CUHK
7. Telephone interview with Ahmad Ashkar, CEO, Hult Global Case Challenge
8. Participation of 3rd Annual Hult Global Case Challenge Shanghai Regional Final housing track competition