

NEW REGULATIONS GOVERNING SOCIAL ORGANIZATIONS IN CHINA: A CIVIL SOCIETY ON THE RISE?



In November 22, 2011 Chinese media reported that the Guangdong provincial government published the 'Plan Concerning Further Fostering and Regulating Social Organizations of Guangdong Province', which contains new provisions governing the establishment of social organizations in the province. According to the new regulations, to come into effect on July 1, 2012, social organizations may directly apply to civil affairs departments for registration without the requirement set by the 'dual registration system' of first securing sponsorship by a state agency or organization.

Eliminating dual registration is an important departure from the status quo. Under this system social organizations are required to register and receive periodic inspections by the local civil affairs departments, and seek the professional sponsorship of a state agency or organization in a related policy area. The sponsoring unit is allowed significant involvement in the social organization's internal operation and decision-making. This system has prevented many organizations from registering, as either due to their "sensitive" area of work or the weak social capital of founding members with local authorities, they do not

succeed in securing such a sponsorship. Consequently, this policy has either driven most of the social organizations underground or has led them to use a loophole in the system and register as business units, a practice that exposes them to taxation. It comes to no surprise that the dual registration system is often presented as the most clear indication that social organizations in China lack autonomy. Therefore, initial reactions to the announcement of the changes in Guangdong province have been very positive. Scholars in the mainland argue that if this provincial level legislation finds its way to national level policy, it will signal a "breakthrough" for the development of "civil society" in China, as the requirement of securing institutional patronage will be removed from the equation between state and social organizations.

For academics outside China who work on state-society relations, the new regulations in Guangdong and their possible adoption as a national policy will inform the ongoing discussion on the form and direction of state-society relations in the PRC. In the last 30 years since the initiation of the reforms, sociologists, political scientists and area studies scholars and students, have been preoccupied with a series of interrelated questions: Is

China developing a civil society that will eventually challenge the Party-state? Can the social environment as developed after the reforms, sustain a civil society that will begin from sectorial demands and eventually push for liberalization and political reform? Is, perhaps, the concept of corporatism closer to describing the direction of social organization in China as Unger, Chan and other scholars have argued¹? So far, the regulatory framework has hindered this discussion as the very visible top-down authoritarian dynamic has distorted actual trends on the ground. If the state's immediate grip on social organizations in the form of the sponsorship requirement is removed, the actual structural configuration between state and society will be unveiled, allowing researchers to examine how social organizations are utilizing the freed social space to advance their aims and influence policy making. Are they going to break free and even antagonize state authority or they will remain directed to the state, largely seeking cooperation in exchange of its assistance and resources? Ultimately, the prospect of removing the dual registration system could permit a more convincing answer to whether a civil society or a corporatist arrangement is actually present or not. In fact, this discussion exceeds the confines of academic life. How one perceives the future directions of China's sphere of social organization has repercussions for: (a)

foreign policy making, by fueling or diffusing arguments on China's "peaceful evolution"; (b) international bodies and NGOs seeking to fund impactful projects and social organizations in China; (c) China itself, as projecting an image of "normality" is essential in the way it is perceived abroad either as a "threat" and the authoritarian "other" or as a "partner"; and (d) the social organizations in China themselves that will operate in a new institutional context. Thus, for academics and policy-makers alike, the removal of restrictions in the operation of social organizations, such as the dual registration system, could signal a "moment of truth". Are we to expect the slow rise of a civil society in China? The answer given here to this question is a negative one.

By applying concepts such as 'civil society' and 'corporatism' that are so heavily associated with western historical experience we may obscure more than we actually explain as we adopt a certain agenda of what to look for and how to interpret it. Wong² alerts us to this danger saying that "even as Chinese historical changes are separated from European developments, they are reunited as functional equivalents to European changes". Consequently, our understanding of social developments in China remains implicitly defined by European experiences. In the Chinese experience of state-society relations we can identify elements of Leninist organization; corporatism in its state or societal forms; and even characteristics associated with civil society. If this coexistence of such a plethora of trends seems "contradictory" to us, this is because we expect to see something else, something more familiar. Wong's remark that "the modern world is filled with states but the ones we have today still bear the marks of the different paths they have travelled" serves as an important guide in how we approach state-society relations in China and elsewhere.



**Prof.
Roy
Bin
Wong**

The discussion on social organizations in China initially developed within a framework constructed around civil society-centred explanations that have exhibited serious empirical limitations. For example, why in the context of marketization, many social organisations in China continue to seek the state's recognition and patronage rather than pursuing independence? And how can the ambiguously named Government Organized NGOs (GONGOs) be approached by social scientists trained in the works of de Tocqueville or Habermas? In this discussion, the preoccupation with civil society in the 80s and 90s gave its turn to 'corporatism', a concept that captures some of the institutional arrangements at place, yet only partially.

What we may identify as 'corporatist arrangements' can be approached as state responses in old problems with deep roots in China's late imperial past. The 1998 regulations on the registration of social organizations are direct ascendants of similar attempts by the Nationalist state, that in turn reflect the Chinese experience of state making since the late empire and its central concern with penetrating local society in order to finance the modernisation program and retain social order. The late imperial state had to rely on the local gentry and its institutions in order to finance its attempt to meet the challenge of imported 'modernity', its guns, trains and ideas. Its Nationalist successor aspired to penetrate local rural and urban society to an unprecedented degree as a means of extraction or resources and for social control. The Chinese state today is trapped between opposing social dynamics of market reform and its continuing attempt to hold a (much more pluralistic) society under control and in line with its developmental and political goals. The enduring feature in all historical phases is that the ability of the state to penetrate society depends on the state's "capacity to create new organizations in the localities and influence, if not control, those that are non-governmental"³. But does this process *need* to create patterns of state-society relations that are identical with western experiences and the ways they have been codified in concepts like 'corporatism' and 'civil society'?

Acknowledging variation in historical experiences can explain phenomena such as the 'Government Organized NGOs', and the shifts and "contradictions" in the orientation of China's social organizations between greater 'relevance' to the social groups they target, or 'loyalty' to the state, that cannot be captured by 'corporatism' and 'civil society', unless we redefine the content of these concepts. Saich⁴ examining the development of social organizations argues that both 'civil society' and 'corporatism' when applied in

The Chinese state today is trapped between opposing social dynamics of market reform and its continuing attempt to hold a (much more pluralistic) society under control and in line with its developmental and political goals.

the Chinese context, have serious explanatory limitations; he describes, instead, a symbiotic relationship, and multiple models of state-society relations that are operating at the same time. The picture that Saich presents is that of a continuous process of negotiation that takes place within the state (as broadly defined to include party organs, state agencies and the mass organizations), and between state and society. Dickson⁵ also disagrees with arguments that see corporatism as a process of decay of the Leninist political system either through a transformation from state to societal corporatism⁶ or as a tendency of civil associations evolving to the direction of civil society.⁷ According to Dickson, the transformation from state to societal corporatism is the outcome of political reform, not the dynamic behind it, hinting that democratization is a prerequisite to societal corporatism rather than the opposite. Instead, he identifies simultaneously practiced ex- ►

clusionary and inclusionary policies within state corporatism that may account for trends identified by scholars without “stretching the concept of societal corporatism beyond recognition”. Yiyi Lu, in her recent book⁸ has argued very convincingly that careful empirical research shows a social reality that exceeds the analytical capacity of the western-centric concepts of civil society and corporatism. According to her analysis, social organisations in China exhibit more autonomy than imagined under the corporatist prism while simultaneously they are more directed to the state than western civil society organizations. Lu described the relation of social organisations to the Chinese state as “depended autonomy”.

The difficulty of capturing social realities in China by using west-centric models becomes more apparent when attempting to interpret conditions observed on the ground. During fieldwork in north China, I visited an “NGO” that operates in the area of migrant workers’ welfare. The organization succeeded due to the devotion, skills and passion of its founder, a migrant worker himself, who started by establishing a hotline for legal issues, offering advice on workers regarding China’s labour law. After a few years of operation the organisation expanded by opening a community centre offering classes and after-school care for children of migrant workers, followed by the establishment of an additional recreation and education centre within an industrial park. In each step, the founder was very careful to include the local state agencies in his initiatives in order to gain support, a strategy that secured him great autonomy, despite setting up a Party, Workers

Union, Youth League and Women’s Federation branch within his organisation. The founder gained financial support and accepted material contributions from local authorities in the form of facilities and equipment that made the expansion of the organisation’s services and presence possible. More importantly, the official backing it received from one of China’s major mass organizations enabled the organisation to present itself as an advocate of the rule of Chinese labour law, fending away suspicions from factory owners. The latter now often require its assistance in order to educate the workers on their lawful rights and thus prevent them from making demands that transcend the legal obligations of the employer. The organization educates Chinese migrant workers on their rights on a daily base, making a valuable and immediate contribution to raising their level of awareness on legal affairs. In addition, it is building a community of migrant workers by offering welfare and recreational services. Part of the organization’s success was that it consciously pursued the state’s help, accepting its penetration by agencies and mass organizations, but simultaneously maintained a very high degree of autonomy in terms of its operation, internal organisation and activities. Thus, while the organisational setting is antithetical to a ‘civil society’ entity, the high degree of autonomy of the organization does not fit a corporatist model either. This is only one example of many similar cases recorded by scholars working on state-society relations in China who argue that a close relationship with the state is a strategy often pursued by social organizations that seek access to resources and official sanctioning of their work in order to be more effective and autonomous⁹.

The above argument against interpreting state-society relations under the distortive lenses of ‘civil society’ or ‘corporatism’, reorients the explanatory framework of the new changes in the dual registration system from the ‘grand theory’ level to more immediate interpretations. The new guidelines are simultaneously a recognition and a very pragmatic answer to the failure of the current registration policy for social organizations. From the state’s perspective the current frame-



A Chinese Migrant Worker

work is counterproductive in two ways. First, the registration regulations drive social organizations underground, to a level that state agencies cannot monitor or control. It is estimated that more than 3 million non-registered NGOs operate in the mainland presently for which the authorities know little or nothing about, approximately 10 times more than the registered ones. My own research on the Communist Youth League has revealed that communication with its own approximately 3 million branches - a large number of which is only nominally active- is hardly maintained, while CYL Committees throughout the administrative hierarchy of the PRC are in the dark regarding the exact number of youth social organizations operating informally. Second, in the context of the state's "declining capacity to implement policy consistently"¹⁰ towards a society that is demanding more state attention in the form of welfare services in order to ameliorate the inequalities created by marketization, the social functions of these social organizations are often welcomed by local authorities. These social services are targeted on groups under heavily moralistic institutionalized prejudice, such as the case of AIDS-related NGOs and those operating in the field of sex workers, or those gaining increasing public and official sympathy such as welfare services for children of migrant workers. Therefore, by removing the "bottleneck" of official sponsorship, state authorities will not only benefit from the social welfare functions of these organizations, but will also get a better access to them, as the latter will seek registration in order to start operating openly, making themselves known.

In addition, the Guangdong guidelines should be viewed in comparison to other local and national state initiatives in the field of governance of social organizations. In 2008 Shenzhen was the first city in China to abolish the dual registration system for social welfare and charity organizations, which now only have to register with the Civil Affairs departments, a decision that was regarded as experimental and served as a blueprint for future policy changes. Then, in April 2010, the central government, in an attempt to control the inflow

of donations from foreign institutions, enforced stricter regulations regarding foreign money transfers to Chinese social organizations. Next, in February of 2011 Beijing municipal government allowed industry and commerce, charities, welfare and social services' organizations to register directly with the civil affairs departments without the requirement of dual registration. This announcement was followed by reports on the press last summer regarding discussions for an eminent nationwide elimination of the

It is estimated that more than 3 million non-registered NGOs operate in the mainland presently for which the authorities know little or nothing about, approximately 10 times more than the registered ones.

dual registration requirement in 2012. Therefore, the recent Plan by the Guangdong provincial government, falls in line with an attempt to streamline the operation of social organizations by making use of their social work capacities, exposing them by 'luring' them over ground, and devising new ways to influence their activities and growth. The new Guangdong Plan also permits the establishment of more than one business associations for the same industry from the prefecture (diji) to the township level (xianji). Furthermore, it stipulates that the sponsorship units formerly offering 'professional management' will now be in charge of 'professional guidance', a term that remains unclear as of its exact content. The above are indications of the CCP's careful and pragmatic approach regarding the governance of social organizations, that solves the problems of current regulations and partially harmonizes law with social reality. ►

In conclusion, the new regulations will consist a 'breakthrough' only to the degree that they will allow existing underground organizations in the field of social work to come to the surface and new ones to start their operation with less red tape in their registration process. However, the actual impact of these changes is far from certain as the conservative reflexes of bureaucracies tend to dilute institutional reforms, while social organizations, as the case of last year's changes in Beijing demonstrated, remain vigilant and apprehensive of new state regulations. Ultimately, despite the gradual abolishment of the 'dual registration system' there is no indication of a swift in the priorities of the local and central state on the one hand, and social organizations on the other. State and society relations in the PRC will continue to develop in a symbiotic context that is malleable to the center's political priorities and pressure from the base, yet it is very unlikely that a 'civil society' mirroring western historical experience is on the rise.

Notes:

* **Konstantinos D. Tsimonis** is a PhD candidate at the School of Oriental and African Studies, University of London. His doctoral research is on China's mass organisations and their potential as political representation mechanisms, using the Communist Youth League as a study case. During 6 years of study and work for various organisations in China, he has published on current Chinese affairs, North Korea, social research methods and modern Chinese literature (translation).

1. Unger, Jonathan and Chan, Anita, 'China, corporatism, and the East Asian Model' *The Australian Journal of Chinese Affairs* No 33 (Jan 1995) ; Jonathan Unger (ed.), *Associations and the Chinese State: Contested Spaces* (M.E. Sharpe Inc: New York, 2008)
2. Wong, Roy Bin, *China Transformed: Historical change and the Limits of European Experience* (Ithaca: Cornell University Press, 1997)

3. Ibid:192
4. Saich, Tony, 'Negotiating the State: The development of Social Organizations in China' *The China Quarterly* No161 (March 2000)
5. Dickson, Bruce J., 'Cooptation and Corporatism in China: The logic of Party Adaptation' *Political Science Quarterly* Vol 115, No 4 (winter, 2000-1)
6. Unger and Chan, *op. cit.*
7. White, Gordon ; Howell, Jude and Shan Xiaoyuan, *In Search for civil society* (Oxford:Clarendon Press, 1996)
8. Lu, Yiyi, *Non-governmental organisations in China* (Routledge: London, 2009)
9. See characteristically the book of Lu Yiyi in which she analyzes similar centripetal dynamics at play in the case of 55 Chinese "NGOs", that inform their relation to the party-state.
10. Saich, *op. cit.* p. 133

References:

- I. Dickson, Bruce J., 'Cooptation and Corporatism in China: The logic of Party Adaptation' *Political Science Quarterly* Vol 115, No 4 (winter, 2000-1)
- II. Lu, Yiyi, *Non-governmental organisations in China* (Routledge: London, 2009)
- III. Saich, Tony, 'Negotiating the State: The development of Social Organizations in China' *The China Quarterly* No 161 (March 2000)
- IV. Unger, Jonathan and Chan, Anita, 'China, corporatism, and the East Asian Model' *The Australian Journal of Chinese Affairs* No 33 (Jan 1995)
- V. Unger, Jonathan (ed.), *Associations and the Chinese State: Contested Spaces* (M.E. Sharpe: New York, 2008)
- VI. White, Gordon ; Howell, Jude and Shan Xiaoyuan, *In Search for civil society* (Oxford:Clarendon Press, 1996)
- VII. Wong, Roy Bin, *China Transformed: Historical change and the Limits of European Experience* (Ithaca: Cornell University Press, 1997)

