



CASE STUDY TWO

From innovative driving force and know-how carrier to that of a junior service partner reduced to the role of an executing agency?

A key objective of this Ford Foundation-funded research project is to monitor and evaluate the state of implementation of China's Overseas NGO Law by documenting the intended and unintended consequences of the new law for European non-profit organisations and their Chinese partners. This case study is based on an in-depth interview conducted after the enactment of the law. It has been anonymised to protect the identity of both the organisation and interviewee(s).

Short version

Past

This European organisation started its China cooperation programme when Chinese civil society began to take off at the turn of the century. It developed a portfolio with three pillars responding to different challenges and focused on different target groups: first, to inform the European public about the complex and contradictory developments in China to foster intercultural—and at the same time, a reflexive and critical—understanding of very different historical trajectories; second, to support dialogue and cooperation of European and Chinese NGOs, and third, to assist the fast developing Chinese civil society in quest for more advanced European civil society know-how. The NGO developed into one of the leading European actors of Europe–China civil society exchange and cooperation, first as one of the leading participants of an official EU–China civil society dialogue, then by launching its own NGO exchange programme.

There have been many achievements after the past years. They have been more narrow and specific in terms of the European public but outstanding in terms of intercultural civil society dialogue, mutual learning processes and networking. These achievements have been possible because there were more or less sacrosanct spaces of free giving and taking of trust and cooperation allowing more or less—despite the autocratic political setting—the free exchange of ideas and know-how between equals.

This gift of cooperation was not only acknowledged, it was responded enthusiastically by nearly all participants, in the first place by the rather young Chinese NGO participants. Though there was a gap of know-how at the beginning of the cooperation, because the European NGO had created the concept of the exchange programme and was the locus of perpetual innovation by learning from experience, the—continuously decreasing—gap of know-how was not translated into a power hierarchy as the know-how was shared between the civil society programme carriers equally.

Overall the programme was co-owned, co-developed and co-managed. It was just natural that the role of the Chinese partner in terms of programme development was increasing over time. This was an expected and natural part of the strategic planning on both sides. Nevertheless, though the intention was to share the know-how to equalise the existing know-how gap, for political reasons the real development after the enactment of the Overseas NGO Law (henceforth: the law) was rather different. The critical issue now is the deforming, excluding and de-owning impact of the development of a power hierarchy by the embedment of free, egalitarian civil society cooperation into the autocratic Chinese party-state hierarchy.

Present

The NGO exchange programme is being continued but there have been mainly two critical effects of the law: first, a crisis of the successful, suitable and satisfying mode of prior egalitarian interaction and second, the poisoning of the trust networks grown by years of fruitful cooperation. There has been a crisis of asymmetrical interaction and power as cooperation developed from a horizontal, eye-level cooperation towards a hierarchically controlled power structure with the Chinese autocratic institutions, the Ministry of Public Security at the top, in the lead eroding the existing trust network. This did not happen in a visible, transparent way but was launched because of hidden choices at the top in terms of partners and issues, legitimised by a narrative of vaguely defined public security risks.

Because of the law and the accompanying political shift towards a new hierarchical power structure with the operative Chinese partner as gatekeeper the role of the European organisation was changing more gradually from being an innovative driving force and know-how carrier of the programme to that of a junior service partner reduced more or less to the role of an executing agency, in particular in China. The evidence for this is strong: in 2018 the European organisation registered for temporary activities, yet in a subaltern role as implementing organisation named by the European funder; the Chinese programme workshop in 2018 was organised without co-ownership of the European NGO, probably because it was not named in the registration papers; the Chinese partner insisted to have the final say on the selection of partners and felt pressured to streamline and censor the content of the exchange programme according to the official public security hysteria, e. g. by trying to exclude issues of social justice deemed as critical – a proposal that fortunately was not accepted by the European partners of the programme; presentations on the workshop were requested—but not allowed—to be pre-screened by Chinese public security. What had been a primarily horizontal, networking exchange programme based on a spirit of free thinking, free speech and free choice and joint working on solutions for international public goods was beginning to be transformed in a rather short time period into a hierarchical relationship with the Chinese partner as gatekeeper of the Chinese autocratic security state. It is not surprising that such a dramatic reconfiguration of the former relationship, contradicting the intrinsic spirit of civil society cooperation which requires trust and a minimum of substantial citizen freedoms, was accompanied by a severe crisis of interaction between the participating actors.

On the side of the European NGO there was a deep frustration about its expropriation as co-owner and effective co-manager of the programme, about the disrespect for its past contributions to the development of the programme and about the partial rejection of its full gift of cooperation. Where before there was the offer of hope and trust in a fruitful future cooperation appreciated by both sides, now the German term “gift” took on its different meaning: a poisoning of the relationship through doubts, disillusionment and mistrust sprouted because of a fertile ground of Chinese 'winner takes all' power play nurtured by suspicion, implicit hostility and enforced complicity and conformity.

Future

Because of the mal-development of parts of the exchange program, in particular the erosion of co-ownership, during the last two years there are severe doubts that a meaningful, open and trustful exchange programme can be continued. Therefore the NGO has opted, as many European organisations, for an experimental approach. They are trying to test if and how far a meaningful cooperation can be continued. The available options for strategic organisational responses to the Overseas NGO Law are heavily dependent on the profile, goals and the resources of the respective organisation and the characteristics of its programme(s). In this case the available options are limited as the exchange programme because of its nature as programme of direct, personal, intercultural exposure cannot be externalised from China to other countries.

Therefore the short-term option in 2019 is to pursue the programme in an experimental way and to closely monitor and assess the program development at the end of the year. Another option of portfolio development pursued is to strengthen the already important engagement in terms of China-related activities in Europe: information of the European public by action research around Chinese civil society issues. The price of the total abandonment of the civil society exchange programme would be high, for the European and Chinese NGOs and for civil society cooperation with China in general. Regarding the political issue of European civil society cooperation with China this NGO considers and advocates options for collective action, e. g. the engagement of European nation states in interplay with the EU to secure favourable conditions of civil society cooperation with China, including sacrosanct spaces of free civil society cooperation between equals. To develop such a vision and strategy, the close collaboration of European civil society and European politics would be needed. First steps of such a dialogue and alliance have already been taken.

EU-China relations beyond aid

The NGO participated in different kinds of 'bilateral' (EU – China) and multilateral civil society cooperation activities. The NGO was involved in both phases of the EU–China civil society dialogue platform which was a very fruitful experience and initiative. It was also present in 2018 at C20, which in principle is considered of being a very useful platform for cooperation with global NGOs, including Chinese civil society. The advantage during the last event was that the spectrum of Chinese NGO participants was rather broad as e. g. Chinese LBGT NGOs were present, whereas in bilateral encounters there often is no opportunity to meet them. On the negative side the number of Chinese participants was so great that they majorized the other participants and tried to dominate the in a more or less Leninist style. This trend became visible when the Chinese NGOs issued a prepared general statement without any consultation with other international NGOs.

Full version

Past

The China-related engagement of this European organisation started in the early first decade of the 21st century and was aimed at different challenges, goals and target groups: first, to inform the often under-informed European public about the complex and contradictory developments in China to foster both, intercultural understanding and a critical assessment, and second, to build bridges by supporting the exchange and cooperation of European and Chinese NGOs, and third, contributing to capacity building of the fast developing Chinese civil society. Fourth, it offers a platform for a plurality of Chinese voices often marginalised or even repressed in China. The steadily developing cooperation portfolio and repertoire became broader and diverse: establishment and managing of platforms of exchange, dialogue and cooperation, partly on a European level; field trips with European partners interested in cooperation but without prior China experience; spreading information about Chinese civil society in Europe as there were many prejudices and no deep knowledge, facilitated by the language and cultural gap, of China and Chinese civil society.

From the beginning the China engagement of the NGO was guided by two key ideas reflecting the asynchronous development of China and Europe: first, that the Chinese policy of reform and opening because of its potential—including the development of a vital but controlled civil society—offered a good opportunity for international civil society cooperation; at the same time, from the beginning the European organisation was well aware that the limits of Chinese civil society development, e. g. the lack of political pluralism and of independent trade unions demanded both a constructive and critical approach.

The European organisation is one of the leading actors of Europe–China civil society cooperation. First, it was a leading partner of an official EU–China civil society dialogue (2008 – 2013) mandated and financed by the EU, where Chinese and European NGOs were invited to dialogue workshops focused on shared issues, exchanging and debating different experiences and perspectives of cooperation. After the end of this project the European organisation continued to be a leading platform of EU–China civil exchange diffusing information by different media on issues of EU–China civil society cooperation and on issues of Chinese development from a civil society perspective including politically sensitive topics (labor rights, human right, Chinese political expansion etc).

The second lead project was an NGO exchange programme which developed steadily over the years. Whereas in the beginning it targeted mainly Chinese grassroots NGOs, later the programme was institutionalised in China with the support of a Chinese civil society umbrella organisation. The role of the European organisation in the programme development was significant: it conceived the idea, developed the design, and launched the programme concept. During the first years of the project it was the main coordinating and monitoring agency introducing programme innovations based on lessons learnt every year. Besides, it facilitated capacity building of the Chinese and the European partners by acting as role model and by facilitating 'learning by doing' during workshops and other interactions

The achievements were manifold: information about China both by digital and traditional media; the potential of Europe–China civil society cooperation was generated and diffused; intercultural networks were launched; some joint projects were initiated; and by comparing different approaches in divergent contexts joint learning processes were facilitated.

Despite the autocratic political setting with a Leninist one-party state the mode of cooperation was—as a matter of fact and within rather clearly defined Leninist limits—open and thus can be considered semi-liberal. This kind of cooperation thus was considered rewarding and fruitful. The atmosphere in these exchange workshops was free and exciting and the learning processes of mostly young participants on both sides were deep and fast, in particular on the Chinese side, as the participants were keen to learn from international more advanced experiences. Slowly within the group of participants an overlapping narrative on shared issues—in particular environment, climate and sustainable development—emerged.

The core group of the EU–China Civil Society Dialogue Programme, about 1.000 participants in total, was rather small, but the impact was much broader because of the diffusion of its results and links to different other broader networks. Authoritarian political control during the first years of the exchange programmes was not absent but softer and more indirect. As a rule, there was no ban and no direct political intervention. The evident overarching Chinese interests in cooperation in this period were to learn as much as possible in terms of NGO and civil society development (eg. legal and institutional framework, advocacy, capacity building, networks, etc.). Though there was a know-how gap and unilateral know-how transfer the relationship was horizontal. The gift of trust and cooperation was highly acknowledged and appreciated by the Chinese partners and was responded with trustful cooperation. The normal intercultural and political conflicts regarding issues, partners, design of the programme and the workshops and other modalities of cooperation could be solved by dialogical negotiation. After a unilateral start there was a co-ownership of the Chinese part of the programme with the Chinese partner, which selected the Chinese participants and was responsible for programme coordination—including the workshops—in China. At the same time, despite the authoritarian political setting, the international standards of civil society cooperation were more or less respected: within the known limits of free speech, no direct censorship and horizontal cooperation on joint or adapted solutions for internationally relevant public good issues.

Present

As a medium-sized non-governmental organisation and think tank with only one important programme with activities in China there was no need for a representative office. The intention is to continue this flagship cooperation project. Yet the administrative effort is high, the political context either restrictive or threatening—as it no longer invites or facilitates trustful cooperation—and the perspectives for the future are uncertain. The continuation of the now seven years old project requires a temporary permit. In this case it was procured by one of the European project sponsors. 2017 was still a transition phase without registration and 2018 with the temporary permit is considered as an experimental phase of 'we will see how it works'.

The impact of the law on the interaction and relationships of the European NGO with Chinese actors is broad and has already had multiple effects: horizontal interaction was changed by the dramatic changes within the Chinese institutional landscape with the lead of the Ministry of Public Security (MPS) and the role of the main partner, under strict surveillance of the Professional Supervisory Unit (PSU), as a gatekeeper within a strict, autocratic hierarchy changed the former horizontal interaction into an asymmetrical power hierarchy with the European organisation now playing the role as junior service partner.

The rules of the game have been changed serving mainly the political interests of the Chinese party-state who is setting the agenda of cooperation according its priorities (sustainable development led by an authoritarian state with very limited citizen participation) and excluding or marginalising actors and issues which are perceived as political risks. Besides, the established trust networks are being eroded by defining INGOs in the Law as potential security threats, by the strict autocratic control of Chinese civil society partners and by excluding NGOs or purging NGO leaders deemed as too autonomous; by policing all involved NGO actors with autocratic methods (censorship, etc.) and sowing fear by—often symbolic—threats the atmosphere of cooperation has been poisoned.

With the law the European organisation, which invented, designed and initiated the present exchange project (the know-how in terms of quality standards and innovation capacity is still with them) was de-owned and lost the ownership of the programme in China mostly to the Chinese partner. Its role changed from initiator, designer and lead partner within a setting of co-development to a role as subordinate service provider with nearly no say regarding strategic and relevant decisions. Therefore the law is perceived as a threat, a threat to the quality of the programme and to the spirit of free, trustful cooperation between equals. In particular the more or less free choice of NGO participants of the programme, and the broad agenda of tolerated issues as well the choice of alternative locations have been suppressed. The final selection of participating NGOs, Chinese and European, will be made by the Chinese partner for vague, dubious unbelievable security reasons. This development is closely related to the new law as the Chinese GONGO partner first insisted that under the new Law they claimed to make the final decisions as they will be held politically accountable from above. After consultations it conceded that decisions are made in co-ownership; in the case that public security rejects a European NGO, the European partner has the right to name a replacement. Its new role is that of a gatekeeper controlling partners and issues because they have to ensure political viability by conformity. There is some uncertain hope that with the probable registration of a representative office of the European funder and the registration of the NGO as service provider for temporary activities the ownership of the programme can be rebalanced a little bit. But strict supervision and potential censorship of content considered as risky will very probably continue.

Yet even before the enactment of the law civil society cooperation had become more difficult: the Chinese partner minimised the influence of the sometimes freethinking voice of the European organisation by relying exclusively on its own organisational infrastructure for controlling the implementation while a long-term Chinese expert supporting programme management in China was discarded. This mirrors the situation of other Chinese civil society organisations where there has been political trouble and leadership purges (e. g. China Development Brief, Friends of Nature). These have been signs of the coming changes which only few experts and participants of international civil society cooperation were willing and able to read. Nevertheless, the law is still another huge step back and a break with the tradition of rather free and fruitful cooperation practices, mainly because it has been designed and is monitored by the Ministry of Public Security instead of the Ministry of Civil Affairs with a spirit of mistrust in International NGOs (INGOs). INGOs are perceived as potential security threats and ideological enemies. The law's operational impact is big: previous European quality standards, which are facilitating exchange, cannot be monitored and sustained; selection of Chinese partners is biased towards GONGOs and politically loyal NGOs excluding grassroots and autonomous NGOs; certain sectors and issues, e. g. labour rights, migrant labour, autonomous feminism, human rights, human rights lawyers, religion, ethnic issues and migration are now taboo subjects and closed activity areas.

The role of MPS, the now leading public security agency, cannot be assessed by their good or bad behaviour in personal meetings. All witnesses agree that the Ministry of Public Security (MPS) and its local agencies try to be as friendly and responsive as possible—within the restrictive parameters of the new law and the culture of MPS for which society is an object of supervision and control with no affinity to NGOs. At first view this looks like that the MPS acts as a neutral or almost benevolent agency to enact the fair rules of the new law. The decisive point is that this is not the case, if we look at it through the frame of the hidden power approach mentioned above. As a matter of fact, the Chinese security state dominated by the logic of exclusive power, hierarchical control and discriminating selection of participants and 'legitimate' issues, is hidden behind good manners and soft-spoken feigned care and responsiveness. The institutional logic of free and mutually acknowledging civil society cooperation in principle is conflicting with the governance mode of autocratic state hierarchies driven by the mistrust that the intrinsic qualities of free and horizontal civil society cooperation are eroding its power. In this sense the INGO Law is an aggressive response to the perceived threat of civil society cooperation.

There have been significant changes in terms of administrative efforts and costs as well. Because of the enormous and rather deterring administrative requirements of the law both partners need much more administrative capacities. This means as well that the Chinese costs of the programme—covered by the European sponsor—have risen significantly but without any benefit to the overall programme.

During the last years the communication between the European organisation and its Chinese partner organisation has been distorted. This was initially due to the general political climate prior to the enactment of the law and later during the process of the law's implementation. Whereas in the past there was an authentic dialogue, during a civil society stakeholder workshop in 2017 a meaningful dialogue about the law was prevented due to the prevailing fearful political atmosphere in preparation of the decisive 19th party congress. Young participants did not dare to discuss the critical European perception of the Overseas NGO Law openly. The climate in the run up to the 19th party congress was characterised by high uncertainty and political taboos and intimidation tactics seem to have been effective to a certain degree. Nevertheless, it is important to avoid misleading binary, black and white evaluations of this complex situation, in particular from the perspectives of Chinese CSOs working under often existential threats.

The repression and seemingly effective silencing of civil society voices is never total but has to be assessed in scalar ways with the necessary openness regarding surprising developments behind the masks of enforced but feigned loyalty. The trend of autocratic silencing by threats may seem the dominant trend, but this view is not shared by all participants. What can or can't be discussed is highly dependent on the political context and conjuncture. The stifling of public debate was partly reversed within the sheltered sanctuary of an international civil society exchange workshop in 2018. Nearly two years after the start of implementation of the law there have been the first lively public debates and a real understanding of the negative impact of the law on European partners. This raises the questions whether or not some Chinese civil society actors—first because of reasonable caution silenced by the Overseas NGO Law—are becoming alive again after a period of hibernation? Or have some new spaces of intercultural civil society debate been re-opened within a new political configuration at the top of the party-state?

Future

Among the potential red lines mentioned by different European organisations (co-ownership denied; no cooperation with grassroots and marginalised groups; exclusion of European and international standards like human rights or rights in general from the agenda of cooperation; prohibitive costs or administrative efforts) the first three are being discussed in this section, not necessary as accomplished facts but as contested issues.

Co-ownership has deteriorated because of the reasons mentioned above but is not denied as a claim; in 2018 Chinese grassroots and marginalised groups were still marginally present, in 2019 much less so. As far as these contested European standards, priorities and issues can be negotiated, the continuation of cooperation is deemed to make sense. Nevertheless, as even social justice issues were contested by the Chinese side as legitimate part of the agenda in 2019—though defended by tenacious European negotiation—the European organisation perceives the future of cooperation as rather uncertain. There are substantial doubts if meaningful cooperation can be continued. Therefore the European organisation has opted, as most European NGOs, for an experimental approach: Trying to test if and how far a meaningful cooperation can be continued.

The available options for organisational strategic responses to the Overseas Law depend on the profile, the resources and the specific goals of the respective NGO and the characteristics of its programme(s) and on its willingness to compromise. In this case the available options are limited as the exchange programme cannot be externalised. Additionally, because relations and programme development are mediated, in the last resort, by a European funder with its own interests and strategies, the options to negotiate and navigate are rather reduced. This kind of exchange programme is anchored in the directly lived personal experiences of the exchange personnel, which cannot be substituted, e. g. by outsourcing to third countries (Hongkong, Taiwan) or to Europe as in the case of short workshops and conferences. The direct exposure of both sides to the foreign culture of the partner NGO in real life is part of the specific concept and mode of intercultural learning. Therefore, the short-term option this year is to go ahead and to closely monitor and assess the programme development at the end of the year. In the case of a negative assessment of perspectives of a meaningful future cooperation, the only available option of strategic portfolio development would be give up on the exchange program and to strengthen the already important engagement regarding China-related activities in Europe: action research and studies around Chinese civil society issues and the exploration and promotion of strategies for joint European projects of civil society and state actors.

This European organisation—in contrast to most European NGOs which seem to be fairly absorbed by their survival challenges—looks beyond its possible individual strategic options. A promising option for collective action, as advocated by this organisation, would be the support by European states including the European Union to secure favourable conditions with sacrosanct spaces of free civil society cooperation between equals. For a successful pursuance of this option a close collaboration of and alliance between European civil society and European states and politics would be needed, to countervail the sketched deformation of civil society cooperation by its embedment into China's autocratic power hierarchies. This organisation is convinced that to constrain the Chinese strategy of exclusive and strict control European civil society needs EU and the European nation state support. European states would benefit greatly from the strategic institutionalisation of civil society cooperation in Europe-China relationships as citizen engagement would mobilise and leverage a signature building stone of European identity and strength. In some European countries there are first steps in this direction, e. g. meetings of China-related NGOs with parliamentarians to debate possible strategies.

EU-China relations beyond aid

This European organisation participated in different kinds of 'bilateral' (EU–China) and multilateral dialogues. It was involved in both phases of the EU–China civil society dialogue programme which was a very interesting and fruitful experience. It also was present at C20 in Hamburg, which is considered a very useful platform for cooperation with Chinese civil society, not least since the spectrum of Chinese NGO participants was rather broad. Chinese LGBT NGOs were present at this meeting, whereas often there is no opportunity to meet them. On the negative side the number of Chinese participants was so great that there was the risk of China dominating the event. This trend became visible when Chinese NGOs issued a prepared statement without any consultation with other international NGOs though they only managed to participate because of the support of European NGOs.

For the near future a national meeting of China-related NGOs with parliamentarians is in preparation. This could and should be institutionalised as regular meeting and finally lead to the institutionalisation of civil society cooperation within national and EU cooperation with China, wherever this is possible. The national Ministry of Foreign Affairs selectively supports European NGOs cooperating with China within its mandate in several ways: registration, clarification of pending questions and protection of legitimate interests of European NGOs. Within the community of China-related NGOs and NGO stakeholder including state actors, in some countries there are regular national meetings regarding the Overseas NGO Law which are not easy to sustain. Before the enactment of the law European Governments already voiced serious concerns and strongly advocated a revision of the law. Such efforts can be considered the first step towards a difficult but necessary intra- and inter-European coalition regarding China's Overseas NGO Law.

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