



CASE STUDY THREE

Some Chinese partner organisations are more or less obedient implementers of the new restrictive law but often act as unenthusiastic enforcers

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

For nearly thirty years this European organisation has supported and financed what could be termed 'traditional' projects of civil society development cooperation, e.g. in the areas of poverty alleviation, local infrastructure and food security. They have implemented such without an office in China. During the past ten years there was a steady thematic shift from poverty alleviation to the support of the development of a Chinese civil society by capacity building as well as sustainable development.

It developed a broad and diversified partner landscape with thirty partners, about two thirds NGOs and one third universities and government-organised non-governmental organisations. Projects were demand-driven and issues and partners were chosen in free agreement. There was a gap of know-how but no power hierarchy: relations were between equals. While the European NGO was the donor, projects were co-owned, co-designed and co-developed.

The gift of trust and dedicated cooperation mostly was appreciated and often responded enthusiastically. As projects were tuned to meet local needs, local state agencies had a strong incentive to be open, cooperative and even supportive as the projects improved their poverty alleviation efforts. Nevertheless, sometimes there were conflicts and even sanctions, e. g. the blocking of financial transactions towards partner organisations considered as too assertive and for projects deemed as sensitive, but these were exceptions.

In this sense, and within the mentioned limits, the NGO after 2000 experienced for more than a decade a rather facilitating climate of civil society cooperation with China within a rather tolerant framework and a minimum of civic liberties, which are the preconditions of civil society cooperation.

Authoritarianism, or to be more precise, its softer in contrast to its harder varieties restricts freedom but at the same time allows segmented spaces of controlled freedom. These public spaces were a decisive factor accounting for much of the success story of international civil society development cooperation with China - and of Chinese development in general.

Present

While this European organisation has an international presence in many developing countries it has made the conscious decision not to work through a representative offices. Yet after the enactment of the Overseas NGO Law (henceforth: the law) it had to start working with temporary permits. These were to be procured by the local NGOs to avoid administrative overstretch. The ability of Chinese partners to obtain temporary permits was also considered an excellent criteria to gauge the interest of the local NGO partners.

2018 was the first real test year with mixed results. In total the registration process was slow, rough and jolty. Often the local NGOs were badly informed and did not like to contact the new administrative counterparts, the relevant Public Supervisory Units (PSU) and Ministry of Public Security (MPS). As a result Chinese partners organisations have been seeking safe ground in terms of issues, partners and expressing 'loyal' behaviour. A small number of partner organisations withdrew from cooperation and a few even cancelled existing projects. In other cases the access of local NGOs to project finances on their bank accounts was obstructed. Additionally, the yearly permits did not match the project cycle of several years.

Because of the law and its highly selective toleration of issues according to the official agenda (which excludes all kinds of rights issues) and types of NGOs (grassroots or more autonomous NGOs) there is a broad feeling of insecurity and fear of sanctions. Most of the time such caution was due to the perceived political risks whereas in fact threats were applied selectively, both acting as a disincentive of cooperation. Some Chinese NGOs, in particular GONGOs, are more or less obedient implementers of the new restrictive law but often act as unenthusiastic enforcers.

Many Chinese partner organisations, probably most would like to give positive and acknowledging responses to the offered gift of continuing cooperation (finances, trust, cooperation, access to international fora) but do not dare doing so either publicly or privately. Such seemingly loyal responses are masked roles in a game under a heavy and existential autocratic threat. They are due to authoritarian political control and should not be misinterpreted as free and authentic choices. Nonetheless there are still a range of Chinese partners with which trust networks have survived and which are willing to test the limits. Some just react to the current shock and awe approach of the party-state by keeping silent for some time, by hibernating through the political winter and by trying to prepare a comeback under more favourable conditions.

Future

Within this European organisation there is much concern about the barriers of civil society cooperation in the new context but no shock and despair as they had been well prepared for the engagement of the new law. Additionally, because of their global activities, there are alternative options in other poor and cooperative countries and no organisational need of a large China programme. In 2017 within its China programme there was already a strategic paradigm change from traditional development cooperation towards cooperation beyond aid as China no longer is a poor, developing country.

The strategic decision was to phase out completely traditional development cooperation in China with poverty alleviation as main pillar of cooperation. This means as well that they are in an excellent position to negotiate with those partners who still are interested in really engaged cooperation. The new strategic priorities and criteria include: focus on support of development of Chinese civil society and issues beyond aid where no big, unilateral financing is needed; selective focus on fewer, trusted strategic partners (less than ten) with overlapping goals and understandings; development of soft services beyond financing, e. g. capacity building and consultancy for Chinese civil society development; focus on issues where the NGO as a whole has strategic interests on a global scale which are pursued by other departments (migration, south – south) which would allow the potential development of new “business models”. The strategy of cooperation with Chinese civil society is clear. The offered gift is: free, eye level cooperation between equals on beyond aid issues. If this challenging gift would be rejected, disinvestment would be the only option.

EU-China relations beyond aid

The NGO has had no experience with national or European state-to-state dialogues but it supported the participation of Chinese NGOs in several international dialogue formats (Paris Climate Conference, C 20, exchanges on international migration), if this was part of the project application. In their perception, the way European and Chinese NGOs perceive their international roles, are different. Whereas European NGOs are motivated to pursue global public goods (clean environment, ecological and climate survival, peace, etc.), Chinese NGOs feel compelled to represent the perspective and interests of the Chinese nation state. This is a big challenge, because Chinese NGOs experience heavy loyalty conflicts. The hope is that they are learning, how to balance national interests with promoting and negotiating issues of international public goods from a global perspective. The NGO is well positioned and interested to accompany and support these international learning processes of Chinese civil society.

Full version

This European organisation looks back to more than thirty years of civil society cooperation within a development cooperation paradigm. The portfolio of development issues have been changing in time according to the challenges and needs of the the party-state's development framework regarding civil society cooperation. Projects and programmes have moved from topics related to poverty alleviation and food security towards civil society development and sustainable development as new overarching goals.

The real take-off in terms of international cooperation with China happened during the turn of the millennium. The landscape of cooperation with national partners has been very broad. Two years ago there have been cooperation projects with about thirty partner organisations, of which two thirds of partners have been NGOs. The latter do not always have legal NGO status but registered as businesses; the other partners have been government-organised non-governmental organisations (GONGOs) and universities. Their main business model and support is financing projects with freely chosen partner organisations according to agreed-upon project designs. The European organisation itself has never been involved in project or programme implementation; implementation is always being done by a local partner organisation. Both the European funder and the Chinese grantee co-design project goals, project design, project management tools and processes including monitoring and evaluation.

The yearly budget during the last years was about 4–5 Million Euros for about forty ongoing projects, sometimes heavily subsidised by a national government unit in charge of development cooperation. Main achievements in the international cooperation with China have been contributions to poverty alleviation, improvement of local infrastructure and food security, and increasingly capacity building of Chinese civil society. Recently traditional development cooperation with China has been phased out. Today the overarching development goal is no longer to simply feed people but to support the development of a self-sustaining Chinese civil society. This strategic objective is now threatened by the new law.

The booming cooperation in the years between 2008 and 2013 was demand-driven, pushed by the more or less free play of demand of non-state organisations and only marginally affected by political intervention. During this time cooperation issues were freely chosen. Dialogue was based to a relevant extent on free speech within well-known red lines. Cooperation was horizontal and meaningful as there were de facto sufficient spaces for fruitful dialogue. Normally the diverging intercultural understandings of some issues were clarified and bridged by civilised debates. There already were sanctions, e. g. the blocking of financial transactions towards partner organisations for projects considered as too sensitive, but these were exceptions and not yet the rule.

In this sense, and within the mentioned limits, this was a rather semi-liberal phase of civil society cooperation with China. Cooperation was highly valued by Chinese partners and often the 'small c civic freedoms' of free choice of partners, open dialogues and nearly unrestricted learning processes were enjoyed by both sides. Beyond sectoral issues, the fast development of organisational capacities and individual capabilities and the attractive experience of—indirectly controlled—civil society liberties have been the main legacies of this long phase of cooperation.

Present

Registration. This European organisation is operating in many developing countries. As a sponsor of local NGOs its standard mode of operation is one of financing local partner organisations. Only in exceptional cases a representative office has been established in partner countries. As there is no local representative office in China and there are no plans to open a representative office the European organisation had to work with temporary permits. The registration process for temporary activities is managed by the local NGO partners themselves. The European NGO is not directly involved in the administrative process of obtaining temporary permits.

Under this division of labour the European NGO can focus on its core 'business' as funder. At the same time this allows a kind of natural selection of engaged, trustworthy partners as only those partners who are really interested will pursue the challenging and often cumbersome registration process for temporary permits. Yet this kind of registration by yearly temporary permits is not really compatible with a several year project cycle and a given partner's long term commitment to collaboration. Local partners thus have to circumnavigate the rather difficult bureaucratic terrain of their respective Professional Supervisory Units and overcome many administrative obstacles.

2017 still has been a year of transition and a 'grace period' where working without registration was still tolerated. Up to now projects have only in exceptional cases been directly affected. The year 2018 has been the first real test and the results have been mixed, including serious problems during the process of registering for temporary permits. On the Chinese side there was a huge information gap and much uncertainty and hesitation among most partner NGOs. There have been cases throughout 2018 that local partners did not have access to their bank account and could not withdraw project funding. A few Chinese partners feared political trouble and have consequently terminated their cooperation. On the European side there also exists much uncertainty, both in pragmatic terms of financial planning but also in terms of what is politically tolerated and what is not.

Impact of the law on Chinese partners. According to the European organisation the law has produced a number of fundamental problems, some on the administrative and political level and others in terms of information and agency. Administrative costs and efforts have risen considerably and the administrative hurdles—e.g. to register for a temporary permit, to get permission to split the three-year cycle into yearly modules, reporting requirements etc). If a registration fails partners do not have access to their project finances. But there was also a problem of information and agency, probably caused by the atmosphere of uncertainty and the threat of sanctions: Many partner NGOs were insufficiently informed about the law and were reluctant to consult with the new responsible agencies: the Ministry of Public Security (MPS) and Professional Service Units (PSU). Therefore registration was slow, rough and jolty, and project implementation as well.

Besides, the overall political situation in China has become more closed, more rigid and there is more political uncertainty about the red lines and more fear to be sanctioned in case the increasingly invisible red lines are crossed. And the European side is no more certain about the red lines either. Chinese partners similarly have been insecure, if and how to proceed in administrative and in political terms. In particular, the political insecurity regarding potentially sensitive issues like empowerment, public advocacy and participation beyond elite NGOs etc has risen.

Such insecurity and the threat of sanctions have—as a matter of fact—had a deterring effect on Chinese partners. They are now much more reluctant to take risks on issues that previously were considered mainstream (e.g. the problem of left-behind children in rural China) but now could be classified as potentially sensitive. Under threat are a range of so-called critical issues, especially regarding rights. Seen from a sociological perspective grassroots NGOs are now considered sensitive. To make matters worse, the common ground has been reduced as international standards even of sustainability in development projects can no longer be taken for granted. Even the quality of projects is endangered, partly because of the non-compliance with international standards and norms, partly because of risk-avoidance strategies generating a reduced and hesitant overall engagement.

The European organisation was keen to emphasise that it fully understands and respects that there are different intercultural meanings of some sensitive issues, e. g. human rights. But beyond such appreciation of difference people should be allowed to participate and it should be tolerated to strengthen smaller civil society organisations, to give them the necessary public spaces for growth and improvement. Yet in the experience of this European organisation this has become more and more difficult. Besides, overlapping concerns, narratives and common ground have been reduced, in particular in terms of international standards and methods for climate and sustainability projects (e.g. transparency, public participation and monitoring etc). This means that the common ground for international cooperation has considerably shrunk. There are now different understandings of relevant issues. To give an example: from a European perspective the gender issue involves more than a 50/50 rate of women participation; it involves women rights as well, which requires empowerment efforts and the right to or at least toleration of advocacy. Despite the closing spaces for civil society collaboration there are still sectoral differences in terms of overlapping and diverging understandings. Climate politics is still an overlapping issue and a common ground for cooperation – with the restrictions in terms of project design and implementation modalities mentioned before.

Chinese partners have responded to the new law by focusing on non-sensitive issues or by demonstrating political loyalty by cancelling ongoing projects and withdrawing from cooperation altogether. To be on the safe side some Chinese partners now exclusively concentrate on social services and other non-sensitive issues. Some partners—both NGOs and also universities—withdrew because of diverging priorities or to avoid political trouble; a few partners have even canceled ongoing projects.

Such seemingly loyal responses are masked roles in a game under a heavy and existential autocratic threat. They are due to authoritarian political control and should not be misinterpreted as free and authentic choices. Some just react to the current shock and awe approach of the party-state by keeping silent for some time, by hibernating through the political winter and by trying to prepare a comeback under more favourable conditions.

The reasons for the difficulties of EU–China civil society cooperation therefore are complex and sometimes part of a longer trend starting already ten years ago because of the changing landscape of China's development setting the agenda for new challenges of civil society cooperation. The setting of a successful economic development of China from a poor and developing country with many people living in absolute poverty to an industrialised, urbanised country with broad prosperous middle classes, and at the same time persistent inequality, decreased the importance of the issue of poverty alleviation. At the same time new challenges and issues have emerged on the Chinese development agenda: a development model with heavy environmental costs and based on structural inequality including the marginalisation of big groups of the urban population without or with very limited citizen rights.

This changing landscape of development cooperation has been a challenge not only to International NGOs (INGOs) but to the Chinese NGOs to reposition themselves as well. As the European organisation wants to respond to the needs and demands of local NGOs the following overview is useful to understand how Chinese NGO partners perceived and responded to the new challenges of civil society cooperation during the last years in the context of both the new development status of China as an emergent country and of the Overseas NGO Law. The perceptions of Chinese NGOs have been rather diverse and so have their coping strategies:

Some Chinese NGOs—in particular environmental NGOs who have been heavily dependent on international funding—had to shut down because their access to international funding has been blocked. One example is the Yunnan Environment Development Institute (YEDI). This is all the more remarkable since their contribution to regional development had been appreciated by the local government.

Some of the often smaller, rather under-resourced and independent grassroots NGOs had difficulties to understand that under the new conditions of successful poverty alleviation they have to broaden or shift their portfolio beyond poverty alleviation, and that international civil society cooperation has to develop a new focus on present development challenges.

Other Chinese NGOs have benefited from the new possibilities of national funding under the new Charity Law, enacted half a year before the INGO Law, and argue that they no longer need support from international donors.

Last but not least, a few government-funded GONGOs have started to internationalise. This trend happens while many Chinese NGOs and even GONGOs are still dependent on international funding.

Most Chinese NGOs have developed a new feeling of insecurity because the red lines have been blurred, and fear sanctions which have been applied selectively, acting as a disincentive for international cooperation.

Future

The sense of frustration and insecurity unleashed by the new law are palpable and high. Within this European organisation there is much doubt and concern but no shock and despair as they had been well prepared and are not dependent on a large China program. As traditional development cooperation with China with a dominant focus on poverty alleviation had been phasing out before the law, this European organisation had already considered a new strategic orientation. As early as 2017 there had been a strategic paradigm change from traditional development cooperation towards international cooperation 'beyond aid' which takes into account that China is no longer a poor, developing country but the second-largest economy of the world.

With a broad international presence in many developing countries this European organisation is not dependent on their China program; they don't need to expand and they don't need to reach a certain number of projects. On the contrary, the strategic decision is to phase out completely from traditional development cooperation in China with poverty reduction and food security as its previous main pillars. This implies that they are in an excellent position to negotiate with those partners who still are really fitting, interested and engaged in cooperation on relevant issues in the new setting. The new strategic priorities and criteria include a focus on support of development of Chinese civil society and on issues beyond aid where no big, unilateral financing is needed; a selective focus on fewer but interested and reliable strategic partners (less than ten) with overlapping interests and understandings; development of soft services beyond financing, e. g. capacity building and consultancy on issues of Chinese civil society development; looking for issues where the NGO itself has global strategic interests which are pursued by other departments (migration, south–south cooperation etc) which would allow the potential development of new 'business models' and new modes of international cooperation.

This European organisation does not pursue a strategy to continue cooperation at any price as there are no internal pressures to continue their China engagement. If their strategic criteria are no longer met, the option of a complete divestment from China is not excluded as this would allow to release resources from their rather substantial China programme to transfer them to poor countries which still do need international donors and financial support to develop their economy and society.

In recent years the amount of resources spent in China has been reduced substantially as financing has ceased to be the European organisations' main activity. In their view there would be good reasons to continue conditional cooperation with China even on a low level, if feasible, to preserve the trust networks and access, in order to be able to re-start cooperation on a bigger scale if the necessary preconditions for cooperation beyond aid improve in the future.

In the case of this European organisation the strategy of cooperation with Chinese civil society is clear: it is facilitated by the global focus on poverty alleviation in poor and developing countries. Nevertheless, this European organisation still offers the gift of meaningful, trustful cooperation, based on eye to eye level cooperation between equals on civil society development and beyond aid issues cooperation. If this gift would be rejected by the Chinese side, divestment from China will be the only option.

EU-China relations beyond aid

There have been no experiences with national or European state-to-state dialogues but the European NGO has been present at several international dialogue fora and has supported the participation of Chinese NGOs in several international dialogue formats (e.g. Paris Climate Conference, C20, exchanges on international migration etc), if such activities were part of the initial project application. The way European and Chinese NGOs perceive their international roles seem to be rather different. Whereas European NGOs are motivated to pursue global public goods (clean environment, ecological and climate survival, peace, etc) and often are critical of the policies of their national governments, Chinese NGOs often feel compelled to represent the perspective and interests of the Chinese nation.

This is a big challenge for global civil society cooperation, since Chinese NGOs experience strong loyalty conflicts and are still learning how to balance national interests with promoting, deliberating and negotiating issues of international public goods from a global perspective. The European organisation is well positioned and interested to accompany and support these international learning processes of Chinese civil society. An analogous dilemma is true regarding the positioning of Chinese NGOs in neighbouring countries, e. g. Cambodia, Myanmar, and/or Vietnam. Here, local civil societies, which are supported by European NGOs regarding capacity building, advocacy and the mediation of conflicts, often fight against Chinese domination or shrinking civil society spaces supported by Chinese foreign politics.

Chinese NGOs which are guided by the local Chinese Embassies and support Chinese policies are often perceived and treated as 'enemies' when the Chinese state is perceived as hostile to the interests of local civil societies. As the European NGO is present in these neighbouring countries it could and would like to offer advice to Chinese NGOs how they can position themselves in such complex scenarios and how to cooperate with local civil society. This requires some autonomy from the long arm of the Chinese party-state but in the end this would foster the credibility of the party-state's foreign policy promise of being guided by the principles of non-intervention and neutrality.

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