

Civil society development in the P.R. China

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NGO Research Center at SPPM Tsinghua University



清华大学
Tsinghua University

- 1 Started in 1998
- 1 5 Professors, Visiting Professor, Post-Docs, MPA Course
- 1 Legislation and Public Policies on Chinese NGOs
- 1 Civil Society Index Project, www.civicus.org
- 1 Evaluation, Self-Regulation and Capacity Building of NGOs
- 1 NGOs and Citizens' Political Participation
- 1 NGO Participation in Labor Rights Protection
- 1 Civil Society and the Internet

Civil Society Discourse: Definitions and Perspectives

Sphere of social associations, separate from the state, the market and the family that brings citizens together for diverse forms of social action and interaction

CIVICUS defines *civil society* as

- 1 the sphere or arena, outside of the family, the state and the market where people associate to advance common interests
- 1 Associational ecology (Michael Edwards), rejecting the notion of sharp boundaries

Diversity of associational life may be compared to 'ecosystems', grass-roots groups, non-profit intermediaries and membership associations

Important reference website: www.civicus.org

Challenges for Civil Society and NGOs in China (Mainland)

- 1 Conceptualisation of civil society/NGOs
- 1 Structure of civil society/NGO landscape
- 1 Laws and regulatory framework
- 1 International cooperation
- 1 Conclusions and „windows of opportunities“

Discourse and terminology

- 1 Shimin Shehui (bourgeois)
- 1 Minjian Sheghui (autonomous countervailing power)
- 1 Gongmin Shehui (participatory connotation)
- 1 Fei zuzhi (NGO)
- 1 Fei yingli zuzhi (NPO)

Overall Changes in China

- 1 Sustained economic growth
- 1 Openness to international technology and culture
- 1 Retreat of the planned economy
- 1 towards “rule of law” or “rule by law”?
- 1 New space for social innovations and ways citizens can interact
- 1 Rapid decline in total poverty and increasing aggregate prosperity
- 1 Greater inequalities, vulnerabilities and risks
- 1 tight public security, human rights violations

Decreasing social control of the state

Diversification of values, life styles, moral codes

- 1 Citizens's movement
- 1 Private schools, studying abroad
- 1 Housing: since 1990s
- 1 Health care: 1990s
- 1 Citizens' hairstyle and clothing: early 1980s
- 1 citizens' nightlife (discos, clubs, bars) and popular arts: early 1990s
- 1 Individuals' sexuality: late 1990s

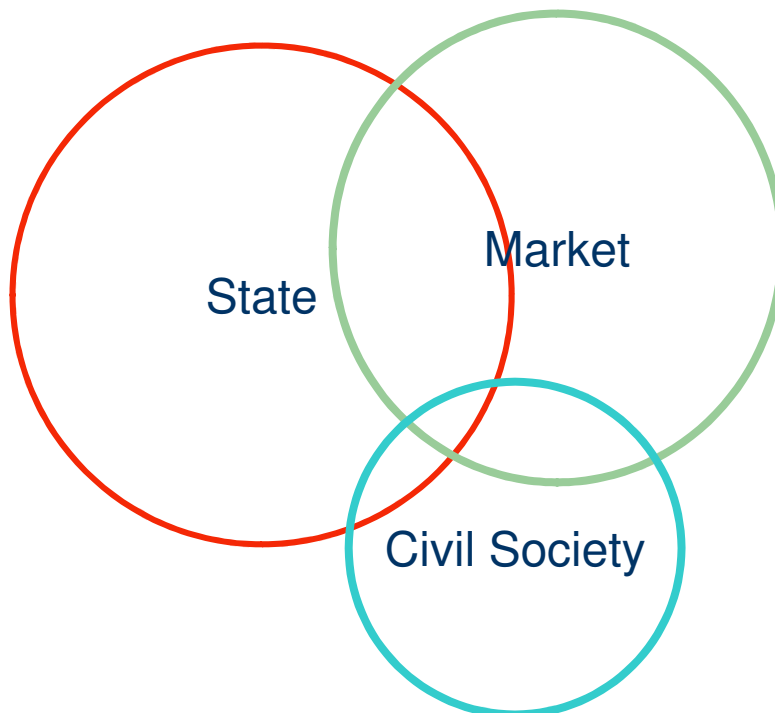
State-Private Sector-Civil Society

- 1 State: hierarchy, rule of procedures, close political oversight
- 1 Private Sector: competition, transaction based culture, contractual arrangements
- 1 Civil Society: solidarity, relation based interaction, interest articulation, social activism.

criteria: non-governmental nature, non-profit distributing, self-governing, voluntary and non-political.

character: advocacy networks, epistemic communities and service providers.

State, Market and Civil Society



Organizational Principles

- Political Power and Hierarchy
- Profit seeking contractual transactions
- Solidarity

Political Science Concepts

- principle of subsidiarity
- multi-level and multi stakeholder governance
- comparative institutional advantages

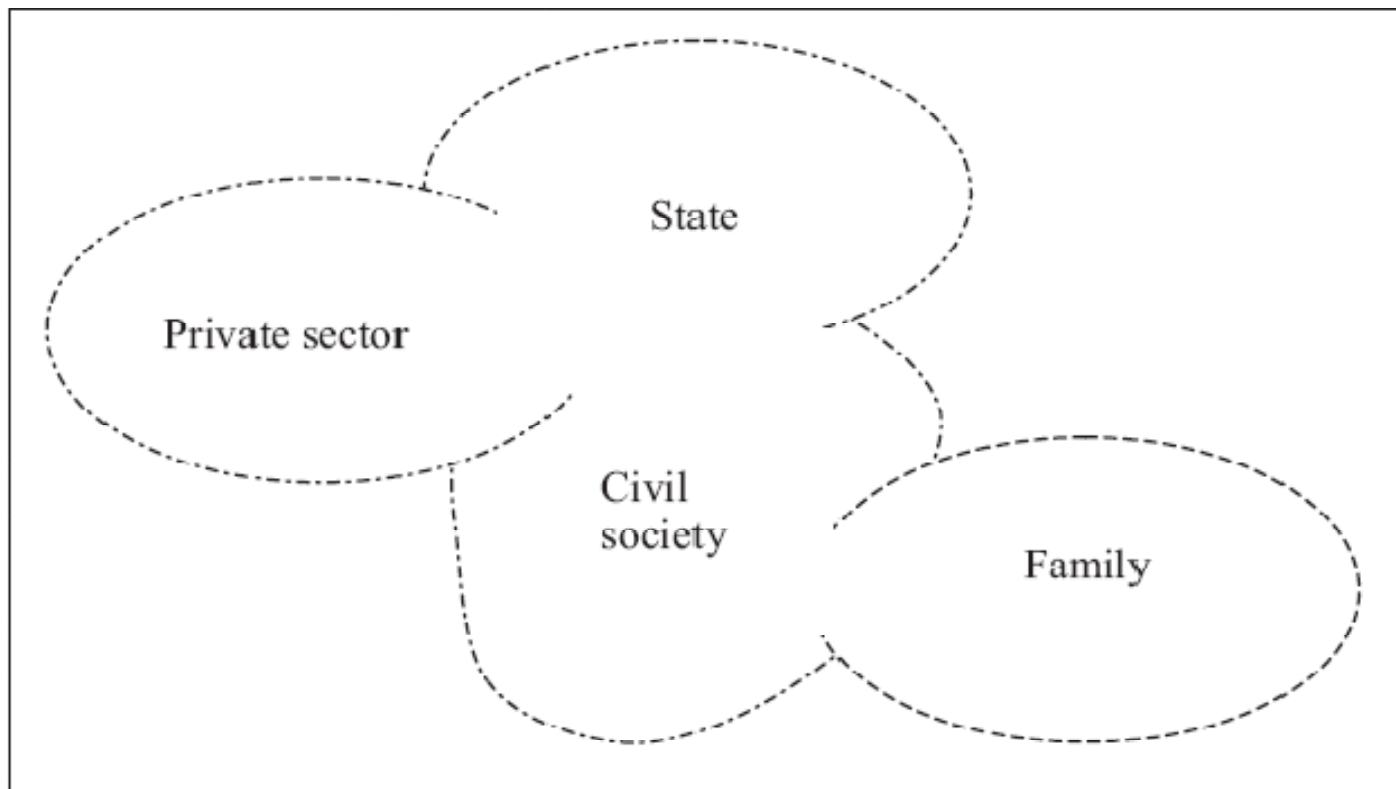
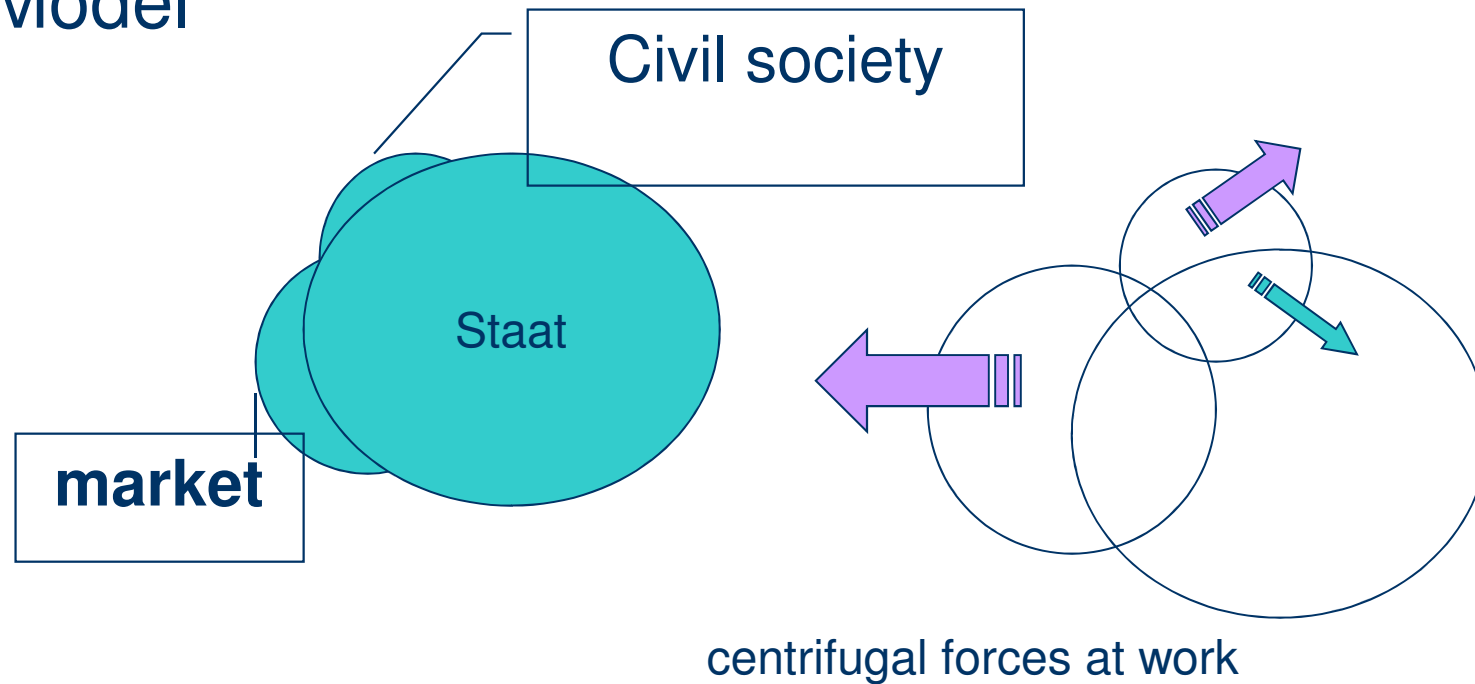


Figure 4: Civil Society Arena's Fuzzy Boundaries

Source: Civicus 2004

Dynamics of state-market-civil society relations

Model



NGOs: criteria and functions

- 1 organized,
- 1 private (institutionally separate from government),
- 1 non-profit distributing,
- 1 non-political partisan,
- 1 self-governing,
- 1 voluntary
- 1 service-provider role
- 1 advocacy role
- 1 innovator role
- 1 accountability tole
- 1 value-guardian role

Ref.: CSI Heidelberg

Social Investement

Characteristics

- 1 Autonomy
- 1 Voluntary nature
- 1 Non-distribution constraint
- 1 Positive externalities
- 1 Normative value base

Contributions

- 1 Times
- 1 Skills
- 1 Knowledge
- 1 Expertise
- 1 Real estate
- 1 Goods
- 1 Services

Reference: CSI Heidelberg

Classification of NGOs

Legal classification:

- 1 associations, foundations, non-profit enterprises, trusts
- 1 Public benefit, mutual benefit NGOs

Political Science classifications:

- 1 service provider and advocacy groups

Other classifications:

- 1 sector wise (environment, health, education), outreach (international, national, local), size, themes/topics, target groups.

Comparative Advantages of NGOs



- Access
- Agenda Setting
- Cross-national
- Empowerment
- Experiments
- Flexibility
- Fundraising
- Innovation
- Mobilisation
- Participation
- Sustainability
- Volunteers

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4. GROWTH & COMPOSITION OF NPOs, SOs & CNIs

Figure 1 Number of SOs, CNIs and Their Aggregate Total Between 1996-2005

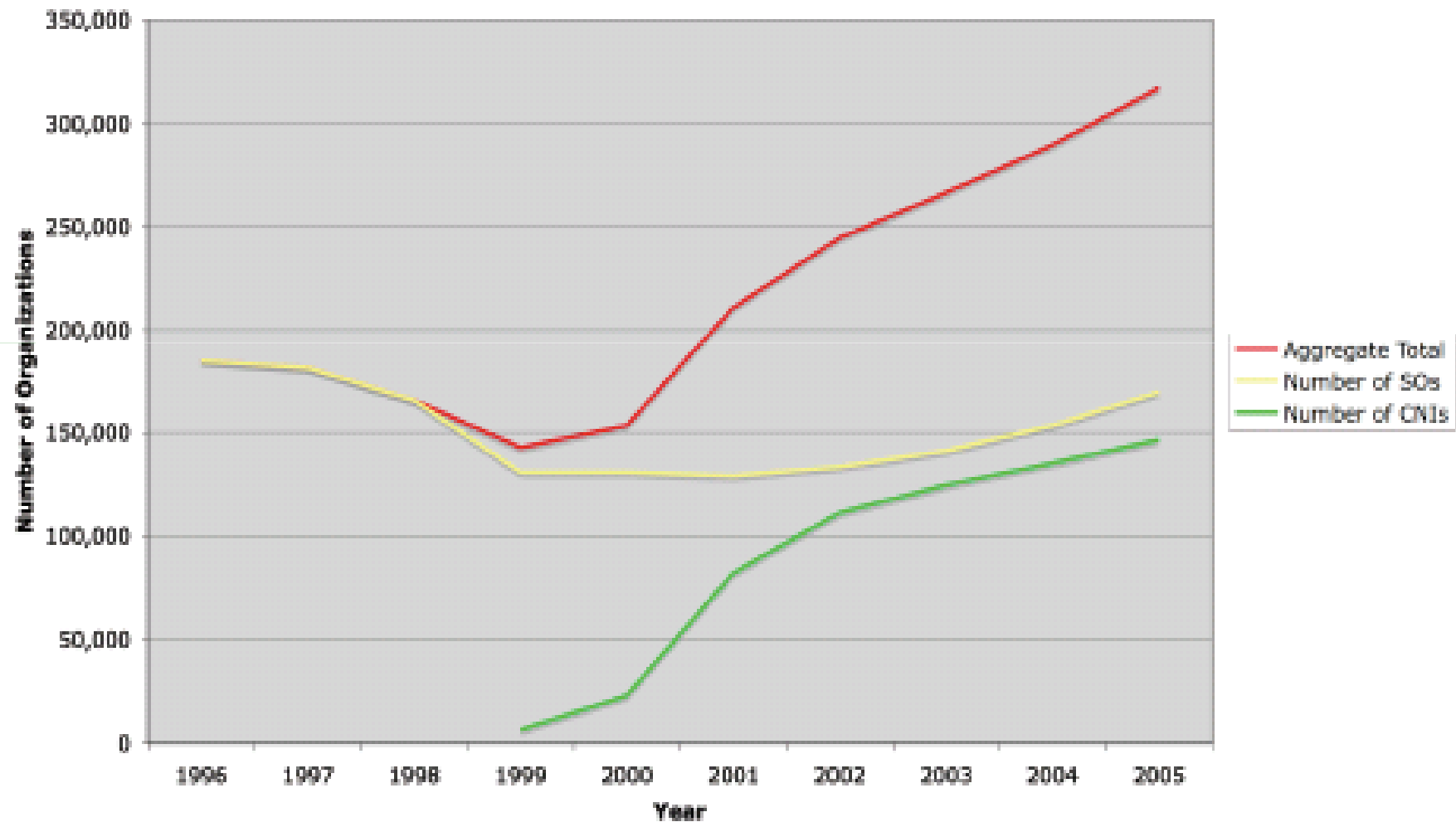


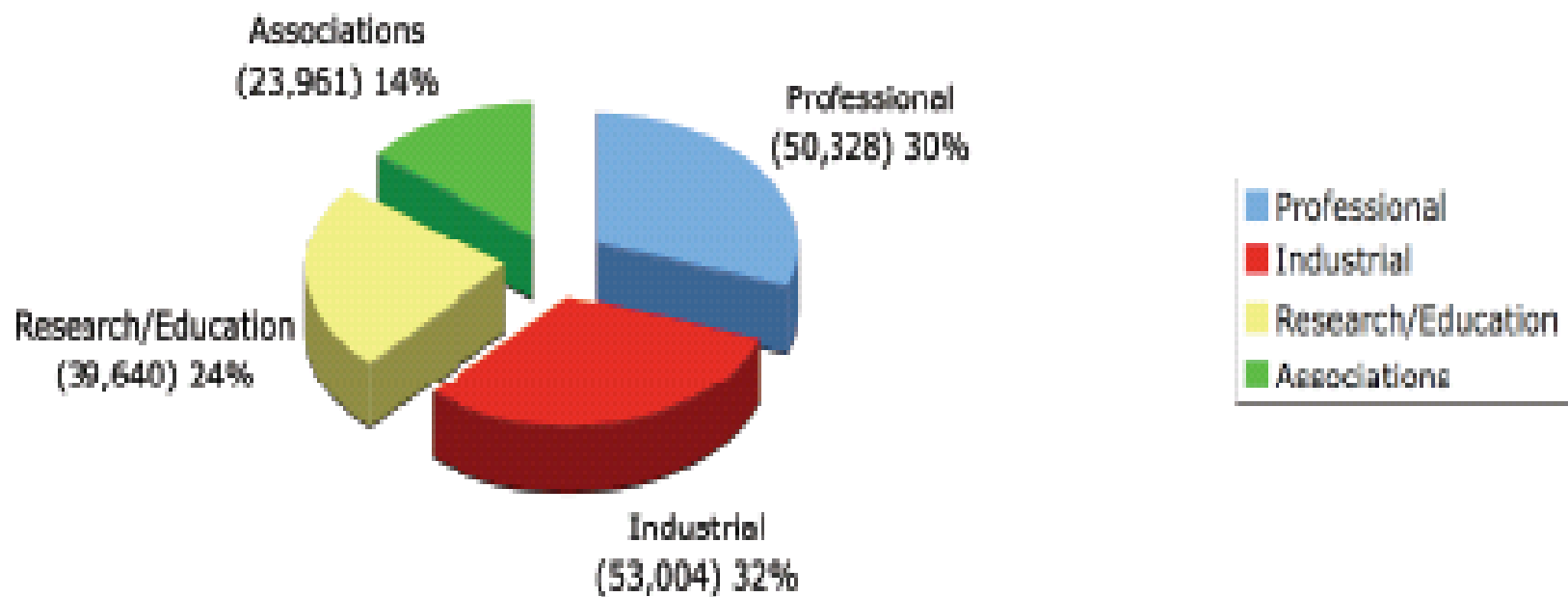
Table 1 Showing A Breakdown of The Categories of NPOs For 1996-2005

Year	Aggregate Total	No. of SOs	No. of CNIs	No. of Foundations
1996	184,821	184,821	-	-
1997	181,318	181,318	-	-
1998	165,600	165,600	-	-
1999	142,665	136,764	5,901	-
2000	153,322	130,668	22,654	-
2001	210,939	128,805	82,134	-
2002	244,509	133,297	111,212	-
2003	266,612	141,167	124,491	954
2004	289,432	153,359	135,181	892
2005	317,000	169,533	146,432	1035

Figures of MoCA: end of September 2007 (+10 percent p.a)

- 1 360 000 registered NGOs with Ministry of Civil Affairs at all levels
- 1 social organizations, including trade promotion associations (195 000)
- 1 private non-enterprise units, such as social service, health and training centers (164 000)
- 1 Foundations (1245), out of them 200 new in 2007, many independent private foundations (about 400), but they are not public fundraising NGOs.

Composition of Social Organizations (2005)



Source MOFCOM (2005), Kaur, IJCSL 4/2006

History of NGO Development

- 1 1911-1949: Republic of China allowed not-for-profit organizations (NPOs).
 - At collapse of Republic, est. 80,000 NPOs
- 1 1950 to late 1980's: NPOs were in reality part of the State or the Party.
- 1 1977-78: Department of Social Organizations established within Ministry of Civil Affairs (MOCA).
- 1 1986: Promulgation of General Principles of the Civil Law (GPCL).
- 1 Source: Professor L. Irish (USA)

History (cont.)

- 1 Regulations published for foundations (*jijinhui*) in 1988 and for Social organizations (*shehui tuanti*) in 1989.
- 1 1998: Provisional Regulations for Regis. & Adm. of “civilian non-business institutions” (*minban fei qiye danwei* or *min fei*)
- 1 2001 Trust Law enacted, but not operational
- 1 2004: Regs. for Regis. & Adm. of Foundations (RAF)
- 1 2005: Regs. for System of Accounting for NPOs (*minjian fei yingli zuzhi kuaiji zhidu*)
- 1 2005: Ordinance to Regulate Religious Activities, replacing 1994 ordinance
- 1 2006 Draft Charity Law in the making
 - Draft was supposed to be presented to NPC in spring of 2007 for enactment before beginning of 2008 Olympics, but MOCA draft now not likely until summer of 2007.
 - Working draft now called the Charity Law

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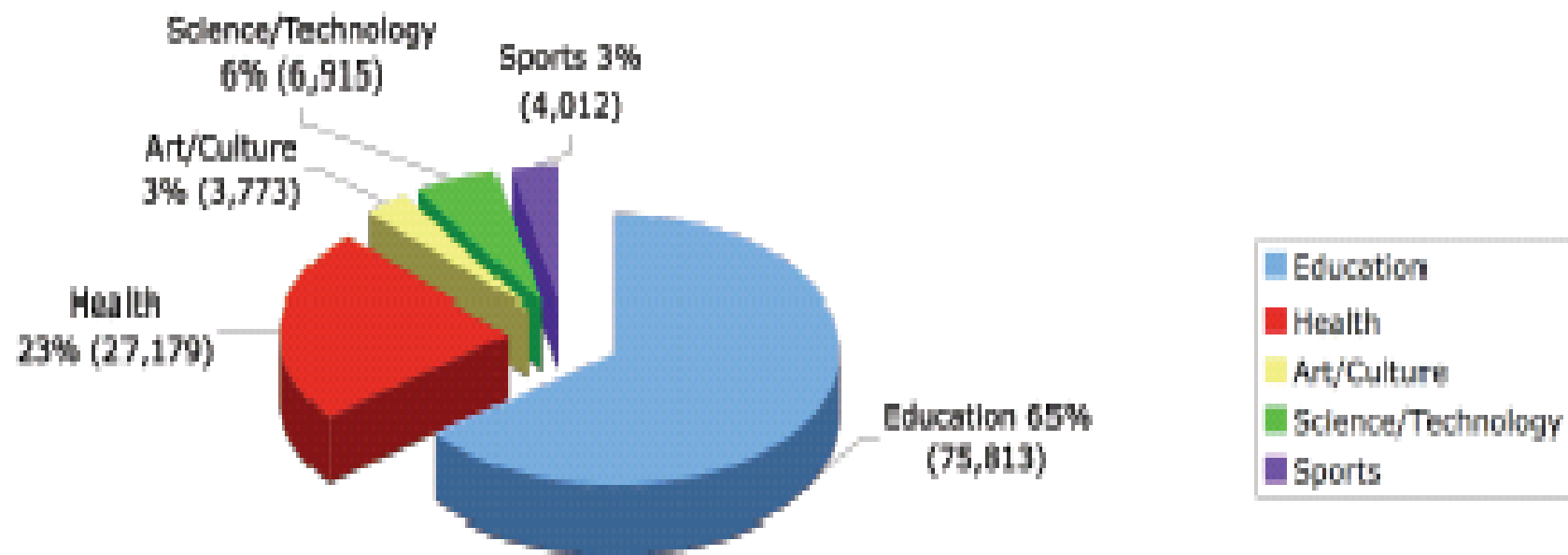
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Composition of Non Profit Enterprises /Civil Non Enterprise Institutions (2005)



Source MOFCOM (2005), Kaur, IJCSL 4/2006

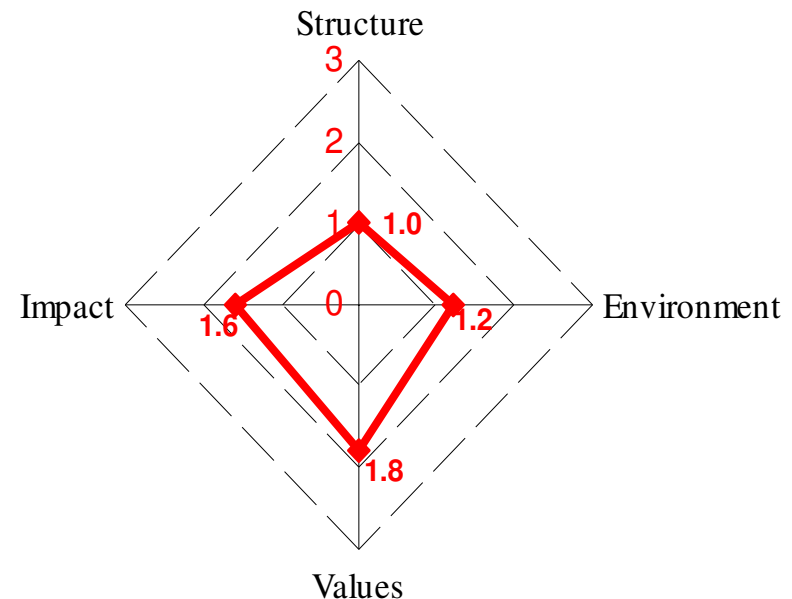
Research Project: Civil Society Index Project:

A nascent civil society within a transforming environment (2003-2005)

Four Dimensions:

- 1 Structure,
 - 1 Environment,
 - 1 Values,
 - 1 Impact,
- 72 indicators

www.civicus.org

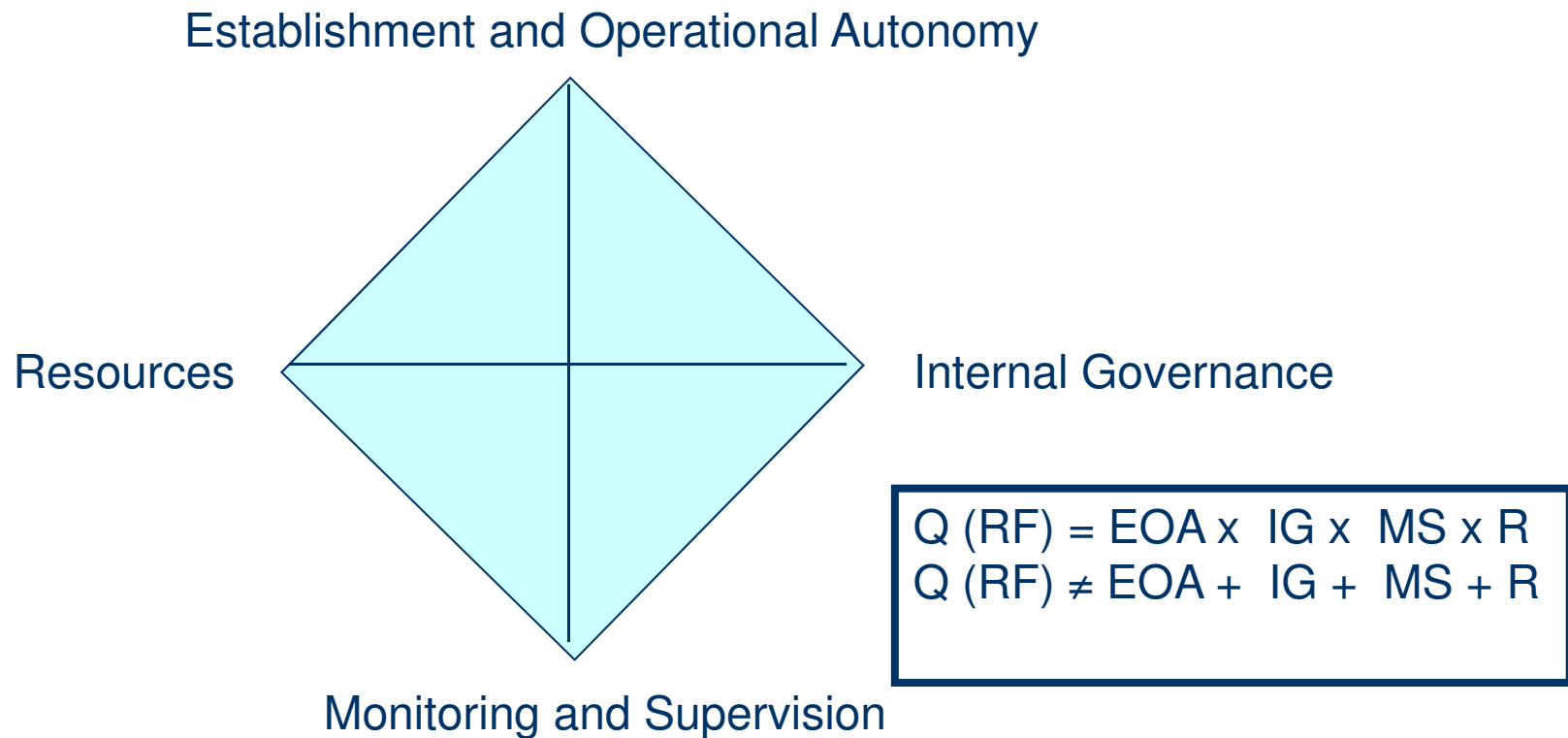


CIVICUS

World Alliance for Citizen Participation

- 1 Action Research on civil society issues
- 1 Civil Society Index with country reports
- 1 Civil Society Watch
- 1 Participatory Governance, Millenium Development Goals, Legitimacy and Transparency
- 1 Resources, Tools and Services
- 1 Annual World Assembly (next 23-27 May 2007)
- 1 Newsletter
- 1 www.civicus.org

Measuring Regulatory Quality



Government approach to NGOs:

- 1 Tolerate and sometimes support freedom of associational and charitable life but within “social order” framework (Prof. Jia), embedded activism.
- 1 Environment Protection is acceptable but if local polluting enterprises are attacked, then it becomes critical,
- 1 HIV-Aids awareness raising is accepted but if it goes along with rights promotion for homosexuals, the nit become critical
- 1 NGOs are nor supposed to branch off the track; unregistered grassroots NGOs such as neighborhood committees are not in accordance with the law, but not in explicit violation of the law, only if they assert themselves too much, they may be called illegal by the Government.

Research Project: NGO and the Use of the Internet

- 1 To which extent do different kinds of civil society organizations use the Internet?
- 1 What role does Internet-based communication play in delivery of services and advocacy work of NGOs?
- 1 Case studies with seven NGOs in Beijing
- 1 See:
http://www.kas.de/proj/home/pub/37/1/year-2007/dokument_id-10115/index.html

Size of NGO sector

- 1 Share of GDP: 0.1% of GDP in China, average about 5% in developed countries
- 1 10 percent growth per annum
- 1 Impact of international activities such as Global Aids Fund
- 1 Long way from “forced” or “state mobilized support” to pro-active voluntary commitment

Main Functions of NGOs in China

- 1 Mobilizing social resources and motivate people, including poor, marginalized and minorities,
- 1 Providing non-profit services,
- 1 Contributing to social harmony,
- 1 Shaping and influencing policy making through advocacy work.

Main Sectors/Activities of NGOs: service provision, advocacy, dialogue

- 1 Professional Associations
- 1 Education: innovative quality services
- 1 Environment: service, awareness, expertise, dialogue
- 1 Health, HIV-Aids (Global Fund): services and awareness
- 1 Disabled People: services, advocacy
- 1 Services for elderly, children, minorities

Key laws and regulations

- 1 Provisional Regulation for Social Organisations (1998), membership based
- 1 Provisional Regulation for Foundations (2004), asset/endowment based
- 1 Provisional Regulation for non-commercial enterprises (1998)*, management of social sectors
- 1 Draft Charity Law, Public Welfare Donation Law, Trust Law, Enterprise Income Tax Law
- 1 *non-profit distributing constraint less pronounced

Registration

- 1 Approval of supervisory organization (zhuguan bumen), Bürgschaftsorganisation, “mother in law”, z.B. Briefmarkenverband über Post angemeldet.
- 1 Compliance with state policy
- 1 Monopoly of representation
- 1 Specifically defined geographical scope
- 1 Ban on regional chapters
- 1 Show minimum membership and capital

....concerning registration

- 1 All legal persons require governmental or designated GONGO as sponsor
- 1 Number of designated GONGOs increased, for example many small NGOs working with disabled persons are registered with China Federation for Disabled Persons
- 1 MOCA registered GONGOs 2 Billion RMB donations, three main foundations more than 2 billion

Types of NGOs

- 1 The mass organizations
- 1 GONGOs, including some major foundations
- 1 Service-based NGOs
- 1 Independent Foundations
- 1 Research or study associations
- 1 Business associations
- 1 Issue-based groups
- 1 Rural associations
- 1 Grass roots groups

Social Organizations

- Min. capital: 100,000 RMB if national; 30,000 RMB if local
- Min. membership: 50 individuals or 30 legal persons
- Sponsorship and oversight by Government or Party body and registration. & oversight by MOCA (“dual management”)
- Regis. can be denied if another SO is already operating in that field in that locale

Mass Organisations

- 1 Most of them established in the early 1950s as part of the party-state system
- 1 Transmission belt between the party and particular social groups
- 1 Subordinate to the party, staffed by state cadres
- 1 All-China Women's Federation
- 1 All-China Trade Unions
- 1 Communist Youth League

GONGOs and Foundations

- 1 Officially managed (guan ban) social organizations, product of governance innovations during the 1980s and 1990s.
- 1 Emerged from within government departments
- 1 Efforts to reduce the size of the government
- 1 GONGOs maintain close relationship to their parent bodies
- 1 Decline of government support
- 1 Some have developed their own momentum of institutional development

Foundation Law PR China

Deutschland

- 1 Provisional Regulations
- 1 Public benefit
- 1 Defined and protected term
- 1 Special status and regulations for fund raising
- 1 Up to 8 Mio. RMB for national fund raising foundations required (**very high threshold**)
- 1 Reference to special status of large donors
- 1 Detailed and “heavy” regulations on internal governance, accountability, transparency

- 1 Civil Code
- 1 Public benefit, private purposes
- 1 Term not protected
- 1 Unlimited fund raising
- 1 500 000 RMB considered as minimum
- 1 Will of founder is largely protected
- 1 Provincial level monitoring
- 1 Lack of transparency for the public

International NGOs

- 1 Registration possibilities for international NGOs: as branch of company, as project or representative office or with local partner.
- 1 Bill and Melinda Gates Foundation, Clinton Foundation, World Economic Forum, Project Hope with new representative offices registered after 2004/2005 color revolutions
- 1 Limitations if charity operations through private account:
 - 1 50 000 USD maximum on private account,
 - 1 US: money laundering problems for private capital exports above 50 000 USD.

Religious Organisations

- 1 Religious/faith based NGOs separately registered with religious department, many Buddhist and local Christian groups are active, need to stay small and work in discrete way
- 1 Example of Amity Foundation (independent NGO related to 3 Self Movement)

Business Associations

- 1 (2) local trade associations and chambers of commerce
- 1 Affiliated to Party front organizations and Industrial and Commercial Bureau system
- 1 All China Federation of Industry and Commerce, All China Chamber of Commerce ad apex bodies
- 1 2019 members in 1998, 5507 members in 2004
- 1 Increasingly independent and decentralised
- 1 Independent chambers in Wenzhou, Qing Dao, alternative forms in Shenzhen, Shanghai

Rural Associations

- 1 Farmer associations
- 1 Many are not formally registered
- 1 Religious groups, temple societies (miao hui), kinship groupings, cultural; organizations, community groups, support for orphans and widows, lanterns associations (deng hui, festivals), business or exchange organisations (jioyi hui)
- 1 Tong Zhihui book focuses on women's issues, old folks associations (laonian xiehui), water users' associations, specialised economic associations, informal financial associations, migrant labour organisations
- 1 Kinship driven associations as riviva; of traditional values, under the cultural revolution they lost their form but not their spirit (Shao Kang)

Examples GONGOs: China Charities Federation

- 1 China Charities Federation, established in 1994 by the MoCA
- 1 National organisation with branches in all provinces
- 1 Charitable work, disaster relief (e.g. flood), including abroad, largest fundraiser
- 1 International network, member of United Way International
- 1 Fan Baojun, former Deputy-Minister of MoCA, as the previous head Yan Mingfu

China Youth Development Foundation

- 1 Established in March 1989 under the All-China Youth Federation and ultimately the Communist League
- 1 Promote the well-being of youth and children in China
- 1 Project Hope (Xiwang Gongcheng) most famous, began in 1989, major fundraising (more than 2 billion Yuan by end of 2002)
- 1 Accused of misappropriation of funds, but addressed it and continues

China Foundation for Poverty Alleviation

- 1 Established in March 1989
- 1 Close links to the State Council's Leading Group of Poverty Alleviation
- 1 Microfinance, maternal and child care at the grass roots level.
- 1 Donations, corporate sponsors, international agencies
- 1 conferences

CANGO

- 1 China Association for NGO Cooperation, founded 1992 under the Ministry of Foreign Trade and Economic Cooperation, registered with MoCA in 1993
- 1 Official counterpart of UNDP
- 1 Membership organization, more than 140 members, German stakes,
- 1 Health care, education, civil society development, environmental protection, gender

Service based NPOs

- 1 Particular type of service to a defined community, educational groups, museums, service groups for retired people
- 1 Some are linked to the Government, some are nested within other organisations, many are registered independently as private non-profits
- 1 Illustrations of innovative service provision
- 1 Number is likely to increase in the context of the reform of the public service units (psu)
- 1 148 000 registered with MoCA in mid-2006

Example: The Funding the Poor Cooperative (FPC)

- 1 Established in 1994 within the Poverty Research Center of the Rural Development Institute of the Chinese Academy of Social Sciences
- 1 Action-research in Microfinance
- 1 Local branches modeled on the Grameen Bank example, special permission to operate as MFI, 15,000 clients

Fuping Vocational School

- 1 Was formed in 2002 by the Economist Mao Yushi and Tang Min, Senior ADB Economist
- 1 Provision of vocational training to rural women
- 1 Trained about 7000 people
- 1 Homeless children, criminal rehabilitation, handicraft training programs

Independent Foundations

- 1 Around 350 (mid 2007), Prof. Wang Ming
- 1 Based on promulgation of new regulation, 2004, providing for both public and private foundations
- 1 Operational foundations or funding foundations
- 1 Jianguo Foundation, established in 1993 by the Shanghai Entrepreneur Qu Jianguo, poverty alleviation, disaster relief, education and care for the elderly

Research or Study Associations

- 1 Many of those registered with MoCA as Social Organizations
- 1 Scholarly research groups, art or performance groups, school alumni associations, may be nested within Universities

Example: Yunnan Reproductive Health Association

- 1 Founded in 1994 by staff of the Kunming Institute of Medicine
- 1 186 members (2006) from a wide range of medical units
- 1 Awareness raising, information and projects in poor areas

China Arms Control and Disarmement Association

- 1 Government linked association, founded in 2001, established within China Institute for International Studies under the Ministry of Foreign Affairs
- 1 Promotes arms control and non-proliferation, (ex-) Government staff
- 1 Example: study associations; sharp revival of interest in Confucianism, classic literature and a range of linked issues

Business Associations

- 1 (1) National industry associations, membership consists of key enterprises of the sector
- 1 Self-management of the sector, research and sectoral development
- 1 (example: China Iron and Steel Association website)

Issue-base groups

- 1 Environmental action groups
- 1 Global Village in Beijing, founded 1996, environmental education and civil society development in the field of environment
- 1 Television programs, publications, media training
- 1 Liao Xiaoyi (Sheri Lao) has been appointed environmental advisor to the Beijing Olympics 2008.

Amity Foundation

- 1 Head Office in Nanjing, another office in HongKong with focus on public relation and networking
- 1 Founded in 1985, Christian based NGOs, but many non Christian staff, affiliated to three self movement, Bishop Ding
- 1 One of the first and probably largest independent NGOs
- 1 Independent means: independent: what to do, where to go and work, whom to work with, pilot projects to convince
- 1 Medical services (e.g. targeting blindness, awareness on save birth), education (village schools reconstrction, re-integration of drop-outs), social services (homes for elderly, kindergardens, family support), small loans, natural resource management and environmental activities (solar stoves, organic farming, awareness)
- 1 Focus on Western Regions since 1992 (8 years before Gov. policy)

Approach

- 1 Participatory social work approach
- 1 Emphasis on social service, not just on spiritual or ornamental aspects of Christian life
- 1 Partnerships/replication/scaling up of projects by Government welcomed
- 1 Capacity building of smaller NGOs and self-help groups (on the basis of shared sympathy and compassion)
- 1 Close cooperation with Nanjing University, joined Development Research Center
- 1 Summer School, Teacher's Programme with foreign volunteers
- 1 Nanjing Amiti Printing Corporation Ltd. (printed already 40 million bibles)

Trends

- 1 Number of grassroots NGOs increases, above 1 million up to 8 million NGOs
- 1 CSR is a trend (areas of concern: environment, workers, community), philanthropy yet to take off. CSR example:
 - 1 ASIMCO, funding but getting managers, employees involved with exposures and local activities, building a loyal workforce, people appreciate social work sometimes more than high-end restaurants
 - 1 15 years to understand how to make money, more than 15 years how to spend money in a meaningful way
- 1 Social enterprises is a trend (so far no tax breaks, new legal person in UK: organizations working for community interest, not yet tax privileges), example in China would be DKT International: condom sale and distribution, Safer Sex
- 1 NGO certification

Earthquake Relief by Google

1 **Donate to Mercy Corps**

Mercy Corps is working together with its long-time local partner, China Foundation for Poverty Alleviation (CFPA), in emergency response efforts to the most devastated areas.

1 **Donate to the Tsinghua Foundation**

The 2008 Sichuan Earthquake Relief Committee by Overseas Chinese was formed by the Silicon Valley Tsinghua Network, Legal Immigration Association, and several other Chinese organizations

1 **First time 200 NGOs, including smaller ones and networks like CANGO, involved in fundraising, operating own relief work accounts.**

Public Benefit Criteria

- 1 Differentiating between Mutual Benefit Organizations (MBO) and Public Benefit Organizations (PBO)
- 1 Only PBO can be used to transform public institutions. Otherwise, it is likely that some public assets may end up in the wrong hands.
- 1 Developing such a bifurcated regulatory regime would be consistent with recent legal developments in Japan, New Zealand, Northern Ireland, and Scotland

The Non-profit (non distribution of profit) constraint

- 1 clearer delineation of the differences between commercial sector entities and noncommercial sector entities
- 1 the single most important feature in distinguishing NGOs from private commercial entities.

TAX LAWS FOR NPOs

- 1 At the request of MOCA and the Ministry of Finance, which is reviewing all Chinese tax laws, ICCSL and an expert from the Tax Science Research Institute presented a 144 page report in 2005
 - (1) describing current Chinese tax laws for NPOs,
 - (2) how tax laws are applied to NPOs in countries around the world, and
 - (3) 32 recommendations for change.
 - It is in English and Chinese on the World Bank China webpage and in English on the ICCSL website:
http://siteresources.worldbank.org/INTCHINA/1503040-1122886803058/20601839/NPO_tax_En.pdf

TAX LAWS FOR NPOs (cont.)

- 1 Examples of recommendations:
 - Distinguish between PBOs and non-PBOs and limit best tax benefits (e.g., deductions for contributions) to PBOs
 - Raise deduction limits to 10% for enterprises, 50% for individuals
 - Equalize deductions limits for domestic and foreign enterprises, which currently can make unlimited deductions
 - Adopt carryforward rules
 - Eliminate need to run contributions through designated NPOs
- 1 Currently only one percent of Chinese companies make charitable deductions

NGO Certification

- 1 inability of the state to supervise growing NGO sector, developing private donations, professionalising fundraising practices
- 1 Trust, quality and accountability of NGOs
- 1 Government-NGO dialogue
- 1 interest in good practices
- 1 ICFO, German model, Swiss Model
- 1 China Charity Donation and Information Center