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Ten years of the CRPD's adoption in China: challenges and opportunities

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ABSTRACT

This article examines the challenges and opportunities of implementing the CRPD's rights-based model in China, especially the effects of the diminishing space for civil society on the nascent disability rights movement. A disability rights movement emerged as a direct result of the CRPD's adoption in 2008. Two recent restrictive civil society legislations, however, undermined this process. While the diminishing space of civil society has posed great challenges to the movement by marginalizing the rights advocacy approach, it has created an opportunity for service-oriented disability associations to thrive. While service-oriented associations are often ignored by disability studies scholarship and the disability rights movement, I argue that, through these organizations, persons with disabilities in China have done critical identity work and substantively increased their level of independence in their daily lives. As a result, a disability rights consciousness continues to be built in China, despite governmental hostility to political advocacy.

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The year 2018 marks the 10-year anniversary of China's ratification and adoption of the United Nations' Convention on the Rights of People with Disabilities (CRPD). This article examines the challenges and opportunities of implementing the CRPD's rights-based model of disability in China. Specifically, the article examines the effects of the diminishing space for civil society on the nascent disability rights movement. While the recent civil society crackdown in China has posed great challenges to the movement by marginalizing the rights advocacy approach, it has also created an opportunity for service-oriented disability associations to thrive. While service-oriented associations are often ignored by disability studies scholarship and the disability rights movement, I argue that, through these organizations, persons

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with disabilities in China have done critical identity work and substantively increased their level of independence in their daily lives. As a result, a disability rights consciousness continues to be built in China, despite governmental hostility to political advocacy. As such, this article shows how service provision can play an important role in advancing individual and social change.

The emergence of a disability rights movement in China

China signed the CRPD in 2007 and ratified it in 2008 with no reservations. The CRPD is seen as a benchmark of disability rights by providing a comprehensive international framework that guides domestic legislation and policy-making in disability rights. The CRPD was intentionally designed to engender a paradigm shift towards a rights-based model. As a consequence, shortly after China's ratification of the CRPD, a nascent disability rights movement that used a rights discourse to influence domestic policy and legislation emerged.

A critical example of this new movement was a three-year campaign from 2012 to 2015 that successfully pushed forwards a national policy mandating reasonable accommodation for the university entrance examination. Before that, people with visual disabilities in China were not able to take the examination nor enter university with any kind of reasonable accommodation available. After a series of advocacy efforts of a number of activists, Li Jinsheng, a 46-year-old man with a visual disability, signed up for the examination and applied for reasonable accommodation on 10 December 2013 as an advocacy action. His application was at first refused by the local educational department on account that 'there is no braille exam paper'. That initial refusal created tremendous media coverage from both official and market-oriented media, resulting in the state-level Ministry of Education agreeing to review the decision. On the last day of the examination enrolment period, 18 December 2013, Li was given permission to take the examination and soon became the first student to do so in braille. Later, the Ministry of Education formalized the provision of reasonable accommodations for the university examination for students with visual, hearing and physical impairments in 2015.

As proposed by Zhao and Zhang (2018), the CRPD's right-based language has been adopted by the state in disability rights policies and legislation with advocacy efforts from disabled persons' organizations (DPOs) in China. Optimists even argued that the legal system in China is fully consistent with the social model of disability and is transforming the society into a 'co-prosperity' one for people with disabilities (Tang and Cao 2018).

Challenges of civil society crackdown: marginalization of rights advocacy

However, I argue that this optimistic claim ignored the diminishing space of civil society in China over the past few years through two restrictive civil society legislations, which disproportionally affected rights-based advocacy organizations. This trend has inevitably affected disability rights campaigns by cutting off their financial resources at home and from abroad.

The Administration of Activities of Overseas Nongovernmental Organisations in the Mainland of China, widely known as the Overseas NGO Law, was adopted in 2016. The legislation outlawed domestic non-governmental organizations (NGOs) and individuals receiving any form of funding or delegations from an overseas NGO. This new legislation has had a disproportionate effect on the nascent disability rights movement in China, which has heavily relied on overseas funding.

The CRPD not only provided a comprehensive toolkit of rights discourse and mechanisms, but put the promotion of disability rights at the centre of the international funding agenda. This funding facilitated the emergence of disability rights advocacy that in turn triggered major policy and legislative changes in China since 2008. With the overseas NGO law coming into force, advocacy-oriented NGOs and DPOs now face increasing challenges in attaining both funding and, more importantly, legitimacy, in disability rights-based work. Foreign NGOs that seek to continue to work in China have learned to accommodate the law by adopting a milder approach that curtails their past emphasis of policy and legislation-targeted activities, in order to attain registration status. These new practices have resulted in a sharp decrease of disability rights advocacy campaigns over the past two years.

With overseas funding now limited, grassroots disability NGOs and DPOs have had to turn their focus towards domestic sources of funding, which has left them with two options: domestic donations or public service contracts. Crowdfunding, for example, had become increasingly important for many grassroots civil society organizations, but was restricted by the 2016 Charity Law, which only allows civil society organizations that are formally registered as 'public foundations' to engage in the raising of public funds. The Charity Law, however, did create another avenue. Civil society organizations that provide public services were empowered by changes that outsourced previously governmentally provided social services to 'social organizations' at the local level. Over the past two years, more and more disability rights organizations have sought the legitimacy and funding available for service provision and transformed themselves from advocacy organizations to service providers. By and large, this latter option – pursuing government service contracts – has become the preferred strategy of disability organizations and DPOs.

From advocacy to service provision: opportunity for a solid movement?

At first blush, this transformation makes it look as if the implementation of the CRPD is under threat and the nascent disability movement in China may soon die. The civil society crackdown in China has seemingly threatened the advance of disability rights from both above and below by effectively cutting off disability rights activists in China from financial resources at home and from abroad. In order to survive, many local disability organizations have increasingly begun to transform themselves from advocacy organizations into service providers. Service provision, however, may hold an unlikely opportunity.

The history of the Independent Living Movement in the United States has taught us that fostering self-help and daily living skills are necessary prerequisites for developing a disability rights consciousness and sustaining a movement over the long term. The movement led to the creation of the first Center for Independent Living (CIL) in 1972 and soon spread across the world. CILs provide a wide range of services from peer counselling and personal assistance to training in independent and community living skills and advocacy. These services are run and managed by people with disabilities in response to the community's needs, thus creating a new form of service provision that is independent from medical professionals' control (DeJong 1979). This form of self-organization and service provision empowered the disability community and facilitated the formation of a collective identity, which created a strong foundation to the disability movement and succeeded in making significant policy and legislative achievements in the United States.

The history of Independent Living Movement in the United States can provide a valuable lesson for the development of disability rights in China. Since the introduction of the CRPD, a significant number of international donors and development organizations have come to China to promote disability rights by conducting capacity training programmes with a clear objective of advocating for policy and legislation changes. This development model has been criticized by the NGO-ization literature because local needs and interests are left out of the equation and local organizations are coopted by international actors (Meyers 2016). The disability rights movement in China has been subjected to NGO-ization, which creates a risk of it failing to represent the disability community in China.

According to the most recent national disabled population census, there are about 85 million people with disabilities in China, with 75% of them living in the rural areas, 21% living under the poverty line and 43% of those over 15 years old being illiterate (National Bureau of Statistics 2007). These data not only reflect the marginalization of people with disabilities, but also illustrate that their immediate needs are for basic health care, employment

training, livelihood support and psychological counselling in the here and now, as much as or even more than new legislation and policies at the macro level. Currently, most social services for people with disabilities in China are provided by the China Disabled Persons' Federation, a quasi-government NGO that has long been criticized as unresponsive and lacking a rights perspective (Stein 2010). It is therefore of great importance that persons with disabilities are able to access alternative social services which are provided by and for people with disabilities in response to their needs. As advocacy organizations transform into service providers, new, more responsive, rights-based services are increasingly available.

In recent years, a number of disability services have begun to incorporate a right-based perspective as the result of local DPOs and NGOs. The most famous example is the restructuring of the One Plus One Group of Disability (OPO), arguably the most influential DPO in China. It used to be an advocacy-oriented organization, which submitted the first independent shadow report of the CRPD to the United Nations in 2012. The OPO has been restructuring itself since 2016 and now operates five social service organizations, three social enterprises and one foundation to implement rehabilitation services besides policy advocacy. In so doing, the OPO has become more responsive to the service needs of the grassroots community, attracting more members than it did previously when it only did advocacy.

The effects of service provision, however, go well beyond just access to new opportunities and rehabilitation. Instead, persons being brought together for bottom-up self-help activities increasingly develop a rights consciousness and disability identity. For example, participants of an Independent Living skills training held by Beijing New Life House, a self-help organization of people living with spinal cord injuries, gained awareness of the importance of accessibility in public transportation through the training. More than 20 wheelchair users wrote a *Manual of Accessibility in Metro*, by collecting accessibility information of 318 stops and 17 lines of the Beijing's metro through their in-person experience. The Independent Living training not only empowered people with disabilities skills and confidence for a better quality of life, but also generated a disability consciousness that recognized themselves as a collective group and changed the situation collectively (Groch 1994).

Conclusion

Ironically, there is an unexpected silver lining to China's civil society crackdown: while it may have curtailed the ability of NGOs and DPOs to participate in a disability rights movement and advocate for legislative and policy change, it has also driven NGOs and DPOs to address the immediate needs

of persons with disabilities. By providing services that bring persons with disabilities together for self-help and to impart independent living skills, a disability consciousness has emerged and a collective identity has started to form. The extent to which the transition from rights advocacy to service provision can be adopted as an opportunity of the disability rights movement is still in doubt at this moment. The consolidation of the rights-based model promoted by the CRPD, however, is not possible without being constantly responsive and adaptive to the needs and voices of the grassroots community. Nevertheless, this shows the importance of civil society organizations advancing a rights-based approach to disability in environments where there is limited space for civil society.

Disclosure statement

No potential conflict of interest was reported by the author.

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