Chinese Environmental NGOs and their Escape from Corporatism

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ABSTRACT

This article analyzes the regulatory context within which Chinese environmental non-governmental organizations (ENGOs) operate, eventually making the argument that Chinese ENGOs face a corporatist regulatory scheme that puts an emphasis on forced representational monopolies and strict registration requirements. Despite these constraints, Chinese ENGOs operate successfully and with some freedom because of three factors: self-regulation, international pressure on the state, and strong state and media relationships. This article investigates these factors and explores how they make a concrete impact in the realm of environmental protection in China.

INTRODUCTION

On April 28,2016, the front page of the New York Times' website ran the headline "China Restricts Foreign Groups in Move to Curb Western Ideas."The accompanying article detailed the passage of the 2016 Foreign NGO law, legislation that requires foreign non-governmental organizations (NGOs) to register with the state police and obtain state sponsorship from a Chinese government agency. The Times framed the 2016 NGO Law's passage as a crackdown on civil society groups, and a consolidation of power on behalf of the Chinese state. This characterization of the law is not inaccurate - however, the 2016 NGO law can also be understood as an extension of the pre-existing state-society relationship that developed following the Tiananmen Square crackdown in 1989. In particular, domestic environmental NGOs ("ENGOs"), have long been regulated under a corporatist-style structure that creates a unique relationship between these organizations, the state, and the Chinese population. Faced with these regulations, Chinese ENGOs use a unique mix of internal and external human capital to achieve their desired political or environmental goals. While Chinese state policy is designed to control ENGOs through corporatist measures, many of these ENGOs operate with a significant amount of freedom because of a combination of self-regulation, international pressure on the state, and strong state and media relationships.

This paper illuminates how, despite nearly three decades of close supervision and regulation, Chinese ENGOs have pursued their political and environmental goals with remarkable success. First, the paper will introduce the basic structure of Chinese environmental governance, in order to explain why China's regulation limiting the efficacy of domestic ENGOs should be designated as corporatist. Next, the investigation will address three reasons why, despite these restrictions, Chinese ENGOs have been mostly able to thrive and achieve their goals. Finally, I will consider the impacts that relative ENGO freedom has had on China both domestically and internationally.

BACKGROUND: CHINESE ENVIRONMENTAL GOVERNANCE

To understand the structure of regulations that Chinese ENGOs face, it is first important to understand the governmental setting in which ENGOs operate. China's environmental governance is fractured and messy because of competing interests, especially at the local level. At the top of China's environmental hierarchy is the Ministry of Environmental Protection (MEP), formerly known as SEPA before its promotion to a cabinet level ministry in 2008. The MEP is charged with implementing Chinese environmental policy and regulating polluters while reporting directly to the State Council which controls its

funding.² In actuality, due to resource constraints, the MEP has very little influence. With a staff size of roughly 300 people, the MEP's staff is less than 2% of that employed by the United States' Environmental Protection Agency.³ Severe understaffing makes the MEP a very small factor in the environmental regulation of China, a geographically massive polity ruled by an equally vast bureaucracy. Further, the power the MEP does have, that to approve environmental impact assessments for projects, has been misused. The ministry has granted approval to multiple dangerous chemical and steel plants near Beijing, Hebei, and Tianjin. The pollution caused by these plants was estimated to have caused almost 10,000 premature deaths in 2011 alone.⁴

Since the MEP has largely failed as the leading environmental protection agency in China, responsibility falls to local micro-level replicates of the MEP: Environmental Protection Bureaus (ERBs). ERBs not only enforce mandates from the MEP, but also draft and implement regulations that cater to their respective jurisdictions. Technically the responsibility of each ERB is to the ministry directly above it. In reality, however, ERBs face political pressure from all directions. Not only must the ERB respond to the desires of the MEP, but it also must coordinate with other governmental bodies in the same geographical jurisdiction (such as construction agencies). This 'horizontal' pressure often conflicts with vertical pressure from the MEP. Furthermore, countylevel ERBs face pressure from the county government. These governments determine funding for the ERBs and influence the appointment of staff to the bureaus. This authority makes ERBs beholden to local governments and prevents them serving as a check on local officials who might make environmentally harmful decisions.5

China's environmental policy structure of having local officials make environmental decisions is harmful because of the commonly held local perception that there is an inherent tradeoff between environmental protection and economic development. Faced with a perceived decision between growth and sustainability, authorities often choose to side with economic development; evaluation criteria for

local officials include regional economic growth rates, but not environmental standards. While MEP tried to change evaluation criteria to include environmental standards, the effort failed because of opposition from local officials themselves.7 Further, many in local governments are influenced by the theory of the "environmental Kuznets Curve," which argues that economic growth is damaging to the environment until a certain income level is reached, after which economic growth improves the environment. This mindset encourages local officials to further ignore environmental damages and solely focus on economic growth, even when both approaches are viable. Unless the entire party leadership gets behind changing the way that local performance is evaluated, the MEP "is likely to remain an island of environmental awareness in a sea of disregard".8

This 'disregard' opens up opportunity for civil society action in the form of ENGOs. Due to explosive growth in the civil society field during the late 1990s and early 2000s, there are now more than 180,000 registered NGOs in China, 5,300 of which are environmental NGOs. These ENGOs engage in a variety of activities that fill the role of what they believe local governments should be doing to protect the environment. China, especially wary of social movements after the Tiananmen Square protests, created a special body of law to regulate NGOs in 1998. These regulations follow a specific socio-political framework which I will analyze next.

CORPORATIST DESIGN OF NGO REGULATIONS IN CHINA

In 1998, China passed the 'Regulation on Registration and Supervision of Social Organizations' (RRSSO) (社会团体登记管理条例). This section will outline one of the main strategies that the law uses to control social organizations and NGOs: control over registration process and procedure. Additionally, this section will explain how registration control defines Chinese NGO regulation as a corporatist structure.

One of the main ways that China has created control over NGOs is through the RRSSO's lengthy registration

process. The RRSSO lays out six steps for registration, three of which must occur before the actual application process even begins. The first measure in the process requires approval from a supervisory organization. This step is essential because it is both the prerequisite for planning an NGO and because the supervisory organization serves as one of the overseers of the NGO throughout its lifetime. 10 These supervisory organizations are groups that are either part of the government or have a very close association with the Chinese Communist Party. Supervisory organizations for ENGOs have included the Ministry of Environmental Protection, the Ministry of Agriculture, the Ministry of Construction, and on a local scale the Beijing Environmental Protection Bureau. 11 The sponsorship requirement is designed to be a way for the government to control NGOs. One of the only reasons a supervisory organization would decide to sponsor an NGO and accept the extra administrative burden required would be if that NGO provided a benefit for the supervisory organization. Since these supervisory organizations are by nature government organs, this selection mechanism ensures that NGOs work in some way to benefit the government.

The second way China designed its registration process to control NGOs was by ensuring a monopoly of representation. The RRSSO states that an NGO can not be registered if "there already exists a social organization in the same administrative district with the same or a similar scope of activity, and there is thus no need to set up another one." Further, the RRSSO strictly limits the geographic boundaries of an NGO's operating area and prevents NGOs from setting up regional chapters outside the geographic scope of their jurisdictions. For example, a national NGO can conduct operations anywhere, but it cannot organize itself into local chapters. On the other hand, a local ENGO in Beijing cannot conduct activities outside of Beijing.¹² Combined, these regulations grant an effective monopoly to an ENGO operating in a given region.

This forced monopoly of civil representation is a key feature of corporatism as a framework for perceiving statesociety relations. Philippe Schmitter defines corporatism as ... a system of interest representation in which the constituent units are organized into a limited number of singular, compulsory, noncompetitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports.¹³

China's mode of NGO governance is congruent with Schmitter's definition of corporatism. The laws barring multiple NGOs from co-existing in a single region satisfy the requirement for "compulsory, non-competitive... categories" of organizations and the control designed by China through supervisory organizations completes the 'exchange' of corporatism as a state-society relationship.

Hsu and Hasmath argue that China has instituted a direct corporatist structure because it desires a "substitute control mechanism for the state." China, they argue, designed the RRSSO to let the country choose the NGOs it desires, legally authorize those NGOs to complete the tasks China wants completed, and force rules and regulations on the NGOs. This delegation of power and control is most obviously seen in government-organized NGOs (GONGOs). GONGOs, such as the Communist Youth League, are NGOs only in name, and mainly serve as proxies for the government. With the explosion in NGOs and the passage of the RRSSO, this corporatist delegation now extends to 'regular' NGOs who also must work in conjunction with the government.¹⁴

Not only do state desires foster a corporatist NGO environment, but competition between local states in China create the need to 'export' to NGOs. Andrew Walder visualizes China's local states as private firms that are driven by their own interests. ¹⁵ If local governments and their officials are judged solely based on economic performance, it seems to be a waste of resources to devote large amounts of time or money to protecting the environment. Instead, the local governments can outsource these functions to NGOs who have the permission of the government to work on social or environmental issues issues with their own

resources, while still remaining under government control. Though this is a broad generalization that does not apply to every municipality (for example, ENGOs and authorities in Shanghai work closely together)¹⁶, most local states have an interest in preserving this corporatist structure.

What are the impacts of this corporatist, civilmonopoly structure? First, it prevents both competition and collaboration between NGOs, both of which would have positive impacts. Competition between NGOs is often over grant money from donors, and the "supply" of donations often increases when multiple NGOs compete for it.¹⁷ Collaboration between NGOs is also important, especially for Chinese ENGOs who often conduct activities to stop location-based construction projects like major dams. The specific jurisdiction of these projects call for action by local ENGOs, yet as previously mentioned, the corporatist design of the RRSSO allows for only one ENGO per jurisdiction, preventing local collaboration. One might assume that the strict regulations of NGOs (including ENGOs) might hamstring their ability to achieve their goals. However, Chinese ENGOs have overcome these regulations for reasons that will be outlined in the following sections.

SELF-REGULATION OF ENVIRONMENTAL NGOS

The monitoring of ENGOs allowed by the RRSSO (activities and funding are consistently examined by the supervising organization to ensure compliance) has resulted in ENGOs selectively choosing the activities they pursue. While some ENGOs have officially violated the law with their actions, many NGO leaders self-censor their organization to ensure it does not cross a line that will cause the government to act. Interviews of NGO directors have found that while supervisory organizations are supposed to be consistently watching NGOs, they typically only intervene when an NGO seems troublesome or makes political or financial mistakes.¹⁸

In order to achieve environmental protection without upsetting their supervisory organizations or the government as a whole, ENGOs aim to promote environmental awareness and action among citizens who have historically viewed environmental damage as a problem to be solved only by the government. As a result, ENGOs adopt approaches such as public lectures, workshops, conferences, salon discussions, field trips, publication of documents and online activism through message boards and social media¹⁹. These are all forms of activism that do an effective job of informing the public about environmental issues while raising no concerns within the Chinese Party-State.

Beyond public awareness spreading, ENGOs also participate in activities that appear at once both "revolutionary" and non-provocative. These can be actions such as political lobbying, creating unofficial alliances based on founders' connections (explored in the next section), and legal action against harmful companies (also explored later).²⁰ These approaches are not within the the typical constraints of a corporatist structure, since they reach into the political and legal sphere they are supposed to be insulated from. However, none of these actions are inherently controversial enough to cause government backlash, so ENGOs engage in them nonetheless.

ENGOs can still avoid confrontation and enter the political sphere by resorting to actions that are "near the boundary between official, prescribed politics and politics by other means"²¹. These actions step into a political 'gray zone' more common in the western world, where NGOs use the official phrasing of the political elite against them to curb their own power and policies.

Finally, ENGOs engage in significant administrative risk management. Ru cites an ENGO that outsourced their organization's accounting to the Beijing Environmental Protection Bureau, thus protecting the NGO from any skepticism that might be caused by hiring an outside consultant. While not every ENGO takes those extensive steps, most do receive financial advice from their supervisory organizations.²²

In summary, while supervisory organizations are legally 'watchdogs' of NGOs, ENGOs have employed self-restraint and regulation in a way that lets the government act in more of a reactive regulatory role. This, in turn, lets ENGO undertake their advocacy

activities with a sense of freedom that isn't inherent in a corporatist structure.

GUANXI OF ENVIRONMENTAL NGO FOUNDERS

Another reason for the success of ENGOs in overcoming corporatist NGO regulations is the elite interconnectedness of their founders. Having connections both amongst founders and between founders and the rest of elite Chinese society allows ENGOs to utilize top human capital to achieve their goals. Ru and Ortolano²³ collected detailed data on 67 of China's ENGOs and their leaders and used that data to draw conclusions about their founders.

One of the main findings of the survey was the conclusion that ENGO founders had strong guanxi amongst one another. Many ENGO founders are part of China's educational elite. Eight-five percent of the founders in Ru and Orlando's study had at least one degree from a college or university. This is far higher than the 5.4% of the general Chinese population who had college degrees when the study was conducted in 2004. After college, 73% of the future founders entered the professional world as business people, professors, government officials, journalists or other white collar professions. Even of those who did not enter the professional world, many were either previously famous environmental activists or educators.²⁴

Guanxi connections can significantly help ENGOs overcome corporatist regulation. ENGO founders can use their networks in the government to help with registration through the Ministry of Civil Affairs. As noted earlier, before even beginning the process of registering as an NGO, organizations must find a supervisory government organization or agency to sponsor them during registration. This can be difficult because government organizations usually see too much risk and too little reward in sponsoring an NGO. This assumption can change, however, if the founder of an NGO is considered an 'elite' or has guanxi with someone in the sponsoring organization. As an example, one ENGO founder who was a well-known environmental economist used his connections inside the

Beijing Environmental Protection Bureau to gain the sponsorship of the Bureau. This example clearly shows how connections and guanxi can be used to overcome one of the most restrictive elements of Chinese NGO regulation: the registration process.²⁵

Not only do ENGO founders have guanxi with those in supervisory organizations, but also with other ENGO leaders. There were 31 significant connections between the 67 ENGOs studied by Ru and Ortlando. Specifically, five main ENGOs have disproportionately influenced environmental activism in China: China Small Animal Protection Association (CSAPA), Friends of Nature (FON), Green Earth Volunteers (GEV), Green Camp and Green Forum. These five organizations had either a direct or indirect influence on the formation of almost 31 ENGOs.²⁶

The connections that ENGO founders wield make a difference in achieving an ENGO's goals. The result of a proposal to build 13 dams on the Nu river is an amazing case study of the impact of guanxi connection on ENGO efficacy. The Nu river is prized by environmentalists, as it flows down from the Tibetan plateau towards Myanmar and is one of the longest undammed rivers in China.²⁷ The founder of one China's bigger ENGOs, Green Earth Volunteers, had a close relationship with a staff member of what is now the Ministry of Environmental Protection. The staff member, sensing political weakness in the project, encouraged the founder to mobilize other ENGOs against the project. This led Friends of Nature, the biggest ENGO in China, to use its access to political institutions to bring an environmentally-friendly perspective to the policy debates occurring inside the government. This influence of the decision making process led then Chinese Premier Wen Jiabao to scrap the Nu River dam project in 2004.²⁸

RELATIONSHIP BETWEEN ENGOS AND THE CHINESE MEDIA

The Chinese media is one of the most important external tools of Chinese ENGOs. Before understanding the interaction between the two, it is first important to understand the background of the Chinese media as it relates to the environment. News media in China has a massive influence; newspaper circulation is over 20 billion copies per year, and state-run Chinese Central Television (CCTV) reaches nearly 95% of the population.²⁹ Environmental reporting in China started with coverage of international events. This coverage followed worldwide demonstrations, like the Greenpeace demonstrations in the 1980's. The point of this coverage was not to educate the Chinese public about environmental issues, but instead to show that there was major opposition to the outcomes of the western economic and government policies.

This policy of allowing environmental news ended after multiple environmentally-focused protests occurred in Tiananmen Square in 1995 and 1996. After these protests Chinese authorities realized that through the media's coverage of international environmental activism, the public was learning how to execute western-style advocacy and dissent; as a result coverage of international environmental issues was banned.³⁰

However, once exposure to international environmental news was banned, the state media began to publish content positively portraying environmental events such as Earth day or World Water Day. The intention of this coverage was to raise general environmental awareness and to encourage environmental action and involvement.³¹

While there is no independent media in China, there are several newspapers and columns that exist solely to report on environmental issues. For example, the first national newspaper to specialize in environmental issues was *China Environment News (CEN)*. The main contribution of CEN is its weekend edition entitled "The Weekly." The front page of The Weekly usually publishes at least one in-depth story per week, and these stories are often critical of the Party-State. The example of CEN and it's "The Weekly" column shows how the Chinese government has opened up to allowing some criticism of its policies, and opportunities for ENGOs to expand their projects.

Just as ENGO founders have a strong connection both between themselves and the government, there is a strong two-way connection between environmental movements and the media. Many of the 400 members of Friends of Nature are journalists or reporters, and many reporters are dedicated environmentalists.³² This connection is critical to overcoming the corporatist structure created by the RRSSO regulations that explicitly try to limit the geographic reach of NGOs. Even if an NGO can not operate officially in an area, it can use the media to spread its message.

Global Village Environmental Culture Institute is an example of an NGO that uses the media to its advantage. While the Institute is first and foremost an environmental NGO, it also serves as a media group that produces programs aired on CCTV and writes articles published in state newspapers. Many of these pieces are not necessarily groundbreaking, but simply informative pieces (for example, about how and where to dispose of batteries) that have a large impact given the reach of CCTV.

Finally, media also had an outsized impact on the Nu River campaign considered in the previous section. Green Earth Volunteers brought together a network of NGOs and instructed them to reach out to the media members in their ranks. Further, the founder of Green Earth Volunteers was a nationally renowned radio journalist who himself had many connections in the media industry. The result was a surprising national media message with over 180 domestic media outlets covering the successful Nu River campaign.³³

Given the rapid spread of technology, media influence and access is more important than ever. Thanks to their guanxi and connections within the media industry, Chinese ENGOs are well equipped to use the state's own news source as a way to overcome China's constricting, corporatist NGO regulations.

CURRENT BENEFITS OF OVERCOMING CORPORATISM

Many of the benefits that have come from ENGO's deployment of self-regulation, guanxi connections and the Chinese media to overcome corporatist regulations are only now coming to light. Chinese ENGOs are stepping outside the norms one would expect them to follow if they were simply adhering to a corporatist structure. These changes in activity are affecting a wide range of people, from individuals who have been wronged by

environmental damages to the global population affected by climate change.

One of the most important recent positive changes for ENGOs has been the revision of China's Environmental Protection Law. At the beginning of 2015, the law was amended to allow qualified NGOs to be litigants in legal suits that dealt with environmental issues. The first successful lawsuit under the amended legislation was won by Friends of Nature and Green Home of Fujian, who sued four men for damaging forestry land. The policy change represents a positive broader shift away from punitive government environmental enforcement and towards legal action that can be settled in courts.³⁴

Finally, Chinese ENGOs are following the lead of many environmentalists and are beginning to focus on climate change as the key environmental issue faced by humankind. Chinese ENGOs were invited to COP21, the Paris Climate Talks, to speak on climate change issues. Many of these ENGOs provided valuable research and policy guidance to Chinese negotiators as they worked out a deal. The corporatist structure of NGO regulations would make this seem impossible as NGOs would be limited to their specific geographic areas. Yet through self-regulation, these ENGOs were able to gain trust with Chinese authorities and make their voices heard in Paris. 35

CONCLUSION

Given the sheer size of China's rapidly growing economy, the country is destined to have a large environmental impact. The government, especially at the local level, too often privileges concerns regarding economic growth over environmental protection. This is where civil society can enter the fray. By connecting the government to its citizens, ENGOs can play a large role in both mobilizing the masses to care about the environment, and using pressure to make political gains. Yet in China, through regulations, these ENGOs are supposed to be hampered. The corporatist structure of the RRSSO prevents competition or collaboration, and requires strict registration practices. Yet Chinese ENGOs have used three strategies to overcome these regulations. First, they self-

regulate their activities; second, they use their connections and guanxi to overcome registration barriers and influence policy; and third, they use mass media to influence the public on environmental issues. The further development of these techniques, along with government policy scaling back on corporatist regulations, would go a long way to making the 1.4 billion people that make up the world's largest country more environmentally-aware.

NOTES

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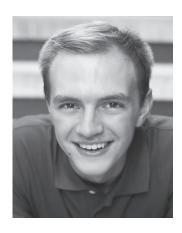
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