

CHINA'S RAPIDLY GROWING NON-GOVERNMENTAL ORGANIZATIONS

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Executive Summary

1. The rise of Non-Governmental Organizations (NGOs) indicates profound changes in China. On one hand, decades of social and economic development have given rise to new forms of social organizations and greater interest in volunteerism; on the other hand, the party-state has cautiously welcomed the social welfare role played by NGOs.
2. China allows three types of NGO to register and operate: the social organizations (社会团体或社团), the private non-enterprise units (民办非企业单位) and the foundations (基金会) or branches of the International NGOs (国际 NGO 的分支机构). In addition, there are a much larger number of un-registered NGOs in China.
3. The current rules require organizations to find a related government department as a sponsor and supervisor prior to their registration with the Civil Affairs Department. Religion-related NGOs are supervised by the *State Administration for Religious Affairs* (国家宗教事务局).
4. Many grassroots NGOs can hardly find a government agency to act as their sponsor/supervisor, as this often means more workload and even political trouble for the sponsoring agency. This pushes many NGOs to operate without being registered; the number is believed to be 10 times that of registered NGOs, totaling nearly 410,000 in 2008.
5. To unregistered NGOs performing social welfare functions, the government sees a positive role and applies the principle of “no contact, no recognition and no ban”, but unregistered religious organizations are under much stricter control.
6. As the majority of NGOs are not recognized by the government, their internal governance is often problematic, characterized by a lack of transparency and

irregularity. Some NGO leaders even go as far as embezzling or mismanaging funds.

7. While the number of NGOs has been growing rapidly in China, questions remain as to whether they will be given a larger space by the government or become more autonomous financially and professionally, and engage more extensively with the society.
8. The development of NGOs will remain constrained as long as the Chinese Communist Party (CCP) views NGOs with skepticism. Although there is much to gain if NGOs are allowed to play a larger role in social welfare delivery, the CCP so far is not confident of moving in that direction.
9. The CCP has to rethink its policy towards NGOs. The current situation will lead to many problems if the majority of NGOs continue to operate without a legal status. The CCP would do well to learn to trust NGOs, form partnership, and make them would do well to perform social functions that they have an edge over the government.

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Uneasy Relationship between NGOs and Government

- 1.1 With growing economic and social freedom since the late 1970s, there has been a revival of traditional institutions (lineage, markets and temples) and a rise of new forms of social organizations in China. Non-governmental organizations (NGOs) have come to play an increasingly important role in welfare provision and environmental protection.
- 1.2 Government and NGOs have different strengths in providing and delivering social welfare. Government plays an important role in (1) formulating welfare policies and service plans, (2) implementing laws and regulations, (3) allocating resources, (4) monitoring and evaluating service quality, and (5) providing service in certain areas.¹
- 1.3 The role of NGOs mainly includes (1) providing welfare services, (2) undertaking governments' welfare services projects, (3) exploring welfare resources, (4) providing consultation to government in the policy-making process, and (5) pioneering new services, and advocating human rights, social justice and equality.²

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¹ Ngai, Ngan-pun, (2006). Welfare development: The Role of Government and Non-governmental Welfare Organizations (《福利发展: 政府与非政府福利机构的角色》), Yang Yunzhong, Ed *Macao's social welfare development: characteristics and trends* (in Chinese, 《澳门社会福利发展: 特点与趋势》), Macau: Centre for Macau Studies at the University of Macau. pp. 286-296

² *Ibid.*

- 1.4 In recognition of the strengths of NGOs, the Chinese government has been promoting the “socialization of social welfare” by encouraging NGOs to play a larger role in philanthropy and social welfare. However, the government and NGOs are still devoid of trust, and the development of NGOs in different areas has been uneven. Religious NGOs, international NGOs and NGOs advocating human rights are often viewed with skepticism and subject to much stricter control.
- 1.5 For example, the control upon NGOs was stepped up in 2009 because of the government’s anxiety about politically sensitive anniversaries, including the 60th anniversary of the founding of the People’s Republic of China.³ On 17 July 2009, Chinese officials shut down Gongmeng (Open Constitution Initiative 公盟), a legal aid and research centre founded by pioneering Chinese lawyers. The authority has also revoked the licenses of more than 50 lawyers, many known for tackling human rights issues.⁴
- 1.6 Lawyers from the centre have acted in numerous high-profile cases, most recently representing parents whose children were taken ill due to milk tainted with melamine. Sophie Richardson, Asia advocacy director at Human Rights Watch, pointed out that these NGOs are “precisely the kind of organization whose work the government should value, as it helps ease grievances and minimize unrest”.⁵ Nevertheless, given the fact that China is in a period of rapid transition and social protests are on the rise, the government is concerned that some NGOs may engage in activities that are political in nature, and become a source of political challenge.
- 1.7 In connection with the political constraints, there are two other fundamental problems which are restricting and marginalizing NGOs. Firstly, the legislation process is problematic. Few NGOs are consulted when regulations

³ Anonymous, “Asia: Open Constitution Closed; China, the law and NGOs”, *The Economist*, July 25, 2009, Vol. 392, Iss. 8641, p. 38.

⁴ Tania Branigan, “China officials shut legal aid centre”, *Guardian.co.uk*, 18 July 2009, <http://www.guardian.co.uk/world/2009/jul/18/china-shuts-legal-aid-centre>

⁵ *Ibid.*

upon NGOs are being formulated. As a result, laws and policies enacted are not conducive to building a well functioning NGO sector and forming productive partnerships between government and NGOs.

- 1.8 Secondly, NGOs' finance is fragile. Most of the grassroots NGOs receive little financial support from the government and are struggling to survive. Government provides funds to NGOs according to their political ties. Only those well connected to the government are likely to get some funding from the "professional management unit".⁶ On the other hand, grassroots NGOs rarely get donations from local communities because young NGOs do not have good track records to win the trust from the local people.
- 1.9 Overall, fostering mutual trust between the government and NGOs takes time. NGOs generally operate under severe political and institutional constraints. Despite rapid growth in number, the NGO sector has yet to develop into a full fledged one that acts as a bridge between the society and the government.
- 1.10 The development of NGOs will remain constrained as long as the Chinese Communist Party (CCP) does not want to give a larger space to NGOs. Although there is much to gain if NGOs are allowed to play a larger role in social welfare delivery, the CCP so far is not confident of moving in that direction. At best, the CCP applies the principle of "no contact, no recognition and no ban" to unregistered NGOs performing social welfare functions.
- 1.11 Constraining NGOs are not the best solution or policy, however. The current situation will lead to more problems and tensions if the majority of NGOs continue to operate without a legal status. The CCP will have much to benefit if it has more trust in NGOs, integrate them into the legal framework, form partnership, and make them perform social functions where they have an edge over the government.

⁶ He Zengke, The analysis of the institutional obstacles of the development of civil society organizations in China (in Chinese, 《中国公民社会组织发展的制度性障碍分析》), *Journal of the Party School of CPC Ningbo Municipal Committee* (《宁波党校学报》), 2006(6), pp. 23-30.

Categorizing NGOs in China

- 2.1 China's official definitions of the NGOs are mainly based on their registration typologies. According to China's Ministry of Civil Affairs, all NGOs should be registered as one of the following 3 categories: (1) the social organization (*she hui tuan ti* or *she tuan* 社会团体或社团), (2) the private non-enterprise unit (*min ban fei qi ye dan wei* 民办企业单位),⁷ and (3) the foundation (*ji jin hui*), or the branches of the overseas foundations (*jin wai ji jin hui dai biao ji gou* 境外基金会代表机构).⁸ In the official documents of the government, "civil organizations (*minjian zuzhi* 民间组织)" as well as "social associations (*shehui zuzhi* 社会组织)" are sometimes used to refer to the above 3 categories of NGOs as a whole.⁹
- 2.2 According to the *Regulations on the Registration and Administration of Social Organizations* (*Shehui tuanti dengji guanli tiaoli* 社会团体登记管理条例), "social organizations" are officially defined as "non-profit organizations which are formed voluntarily by Chinese citizens in order to realize the shared objectives of their members and which carry out activities according to their charters".
- 2.3 According to the *Regulations on the Registration and Administration of Private non-enterprise Units* (*Minban feiqiye danwei dengji guanli tiaoli* 民办非企业单位登记管理条例), "private non-enterprise units" are officially defined as "non-profit social organizations which are using non-state assets and formed by enterprise course units (*qiye shiye danwei* 企业事业单位), social organizations and other social forces or citizens".

⁷ There are no universally accepted English terms to refer to the "*min ban fei qi ye dan wei*" in China. For example, Qiusha Ma (2002) translated it as "nongovernmental noncommercial enterprises", while Yiyi Lu (2009) referred to it as "private non-enterprise unit".

⁸ Related documents available at http://www.mca.gov.cn/article/shfw/wmf_wmjzz.shtml (Retrieved on May 20, 2009)

⁹ Many examples could be found at the "website of the social associations" (*shehui zuzhiwang*), which is organized by the "Bureau of Civil Organizations (*minjian zuzhi guanli ju*)" (<http://www.chinanpo.gov.cn/web/index.do>), and the statistic report of the website: <http://www.chinanpo.gov.cn/web/showBulletin.do?id=30642&dictionid=2201&catid=>

- 2.4 According to the *Regulations on the Registration and Administration of Foundations* (*Jijinhui guanli tiaoli* 基金会管理条例), ‘foundations’ are officially defined as ‘non-profit juristic persons who utilize the assets denoted by natural person, juristic person or other organizations to improve the commonweal’.
- 2.5 In addition to the registered NGOs, there are millions of unregistered NGOs. As these unregistered NGOs have more autonomy than the registered NGOs, some scholars argued that the unregistered NGOs are ironically the most promising and functionable NGOs in China. It is estimated that the number of unregistered NGOs is about 10 times that of registered NGOs.¹⁰

Regulating NGOs

- 3.1 At the central government level, the ministries in charge of the NGOs are the Ministry of Civil Affairs and the State Administration for Religious Affairs. The former is responsible for developing, drafting and monitoring regulations regarding the registration of social organizations, foundations and private non-enterprise units.¹¹ The latter is responsible for investigating the status and the theoretical issues of religion, drafting, supervising and propagandizing the regulations and policies on religion, and preventing illegal religious activities.¹²
- 3.2 There are three official regulations issued by the State Council and conducted by the Ministry of Civil Affairs: (1) *Regulations on the Registration and Administration of Social Organizations*, (2) *Regulations on the Registration*

¹⁰ Wang, M. & Jia, X. J. (2003). Problems about Legislation for China’s NGOs (*Zhong guo NGO fa lü zheng ce de ruo gan wen ti*) (in Chinese), *Journal of Tsinghua University* (Philosophy and Social Sciences), Vol. 18, No. S1, 100-106.

¹¹ “The Main Duties” (in Chinese, 主要职责), *the Ministry of Civil Affairs*, retrieved 6 May 2009, from <http://www.mca.gov.cn/article/zwgk/jggf/>

¹² “Introduction to the State Administration for Religious Affairs” (in Chinese, 国家宗教事务局简介), *State Administration for Religious Affairs*, retrieved 6 May 2009, from <http://www.sara.gov.cn/GB/jqgy/>

and Administration of Private Non-enterprise Units, and (3) Regulations on the Registration and Administration of Foundations.

- 3.3 According to these regulations, any social organizations or private non-enterprise units must be approved by and registered with the Civil Affairs departments at the country level or above, and the foundations must be approved at the provincial or central government level.
- 3.4 Furthermore, before applying for registration at certain level of the Ministry of Civil Affairs, the social organization, the private non-enterprise unit and the foundation are required to find a “professional management unit” (*yewu zhuguan danwei* 业务主管单位), a state organ above the county level and is “relevant” to the activities proposed by the NGO, as their sponsor.
- 3.5 Two additional official documents were issued by the Ministry of Civil Affairs (1) “Notice from Ministry of Civil Affairs on related problems of certain associations exempted from the registration of social associations” (《民政部关于部分团体免于社团登记有关问题的通知》), and (2) “Notice from Ministry of Civil Affairs on certain social organizations exempted from the registration of social associations” (《民政部关于对部分社团免于社团登记的通知》). The former Notice allows “people’s organizations” (*renmin tuanti* 人民团体) and “organizations” to operate without registration.¹³ The latter Notice exempts the 11 sub-associations and the provincial level associations of the China Federation of Literature and Art (中国文联) from the registration requirement.¹⁴

¹³ The “peoples’ organizations” include China Federation of Trade Unions (中华全国总工会), the Chinese Communist Youth League (中国共产主义青年团), the All-China Women's Federation (中华全国妇女联合会), Science and Technology Association (中国科学技术协会), the All-China Federation of Returned Overseas Chinese (中华全国归国华侨联合会), China Federation of Taiwan Compatriots (中华全国台湾同胞联谊会), All-China Youth Federation (中华全国青年联合会) and the All-China Federation of Industry and Commerce (中华全国工商业联合会).

¹⁴ The 11 sub-associations of the China Federation of Literature and Art include Chinese Dramatists Association (中国戏剧家协会), the China Film Association (中国电影家协会), the Chinese Musicians Association (中国音乐家协会), the Chinese Artists Association (中国美术家协会), the Chinese Association of the Artists of Quyi (中国曲艺家协会), the Chinese dancers Association (中

- 3.6 Special attention has been given to the governance of the religious organizations. As religious activities are regulated stringently, registered religious organizations are less autonomous than other NGOs (i.e. the academic associations or the voluntary service organizations), and unregistered religious organizations are more likely to be banned based on various regulations.
- 3.7 Religious NGOs and their activities are regulated by the State Council's "*Regulations on the Religious Affairs*" (《宗教事务条例》). The State Administration for Religious Affairs (国家宗教事务局) a vice-ministerial level department under the State Council, is designed specially to supervise various religion related affairs, including the religious NGOs' activities.
- 3.8 Although article 6 of the *Regulations on the Religious Affairs* stipulates that "religious organizations' formation, change and cancellation should be in accordance with the *Regulations on the Registration and Administration of Social Organizations*",¹⁵ there are 48 specific articles in the *Regulations on the Religious Affairs* which regulate the formulation, change, cancellation as well as activities of the religious organizations.
- 3.9 According to the *Regulations on the Registration and Administration of Foundations*, the branches of international NGOs (INGOs) or overseas foundations may register in China; however, there is still a lack of clear regulations regarding the registration of non-foundation-international NGOs and their activities in China.
- 3.10 According to the *Regulations of Branches of Social Organizations, Representative Agencies' Registration* (《社会团体分支机构、代表机构登记

国舞蹈家协会), the Chinese Folk Literature and Art Association (中国民间文艺家协会), the Chinese Photographers Association (中国摄影家协会), the Chinese Calligraphers Association (中国书法家协会), Association of Chinese acrobatics (中国杂技家协会) and China TV Artists Association (中国电视艺术家协会).

¹⁵ "Regulations on Religious Affairs" (in Chinese, 《宗教事务条例》), the State Administration for Religious Affairs (国家宗教事务局), retrieved 6 May 2009, from <http://www.sara.gov.cn/GB//zcfg/xzfg/116b855c-0581-11da-adc6-93180af1bb1a.html>

办法》), the registration of the social organizations from Taiwan, Hong Kong, Macao and foreign countries should be “in accordance with another specific Regulation”. However, the “another specific regulation” has not been issued yet.¹⁶

3.11 Lacking in regular regulations, the government adopts a “case by case” approach to the INGOs. INGOs will have to gain the government’s trust before it could operate in China. For example, while the INGO Green Peace cannot register in China, the China Council of Lions Club was approved by the State Council on June 14, 2005 as a special case. The ‘professional management unit’ of the China Council of Lions Club is the governmental organization “China Disabled Persons’ Federation” (中国残疾人联合会), and the president of China Council of Lions Club, Tang Xiaoquan (汤小泉), is also the Vice-Chairman of China Disabled Persons’ Federation.¹⁷

3.12 In sum, the Chinese government is very concerned about its sovereignty and is very sensitive about foreign influence on the political affairs in China. Therefore, the government is carefully monitoring the development of religious organizations and INGOs, which are more likely to have overseas connections.

NGOs’ Development and Dilemma

4.1 China’s official statistics of “civil organizations (*minjian zuzhi*; 民间组织)” are only available from 1988 (see Table 1). The number of registered NGOs has since been increasing steadily except for the years 1998 – 2000 (see Figure 1). The decline in NGOs is attributed to the stricter regulation on social organizations in 1998.

¹⁶ “Regulations of Branches of Social Organizations, Representative Agencies’ registration”(《社会团体分支机构、代表机构登记办法》), retrieved 21 July 2009, from http://www.bh.gov.cn/att/0/10/00/42/10004233_666981.doc

¹⁷ “The set up of China Council of Lions Club: Does the international NGO open its door in China?” (in Chinese, 《中国狮子会成立：是否为国际 NGO 登陆中国打开门缝》), *Global Link Initiative*, retrieved 20 July 2009 from <http://www.glinet.org/687>

TABLE 1 REGISTERED CIVIL ORGANIZATIONS IN CHINA (1988-2009)¹⁸

Year	Total	Social Organizations	Private Non-enterprise Units	Foundations
1988	4,446	4,446	—	—
1989	4,544	4,544	—	—
1990	10,855	10,855	—	—
1991	82,814	82,814	—	—
1992	154,502	154,502	—	—
1993	167,506	167,506	—	—
1994	174,060	174,060	—	—
1995	180,583	180,583	—	—
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 ¹⁹	289,432	153,359	135,181	892
2005 ²⁰	319,762	171,150	147,637	975
2006 ²¹	354,393	191,946	161,303	1,144
2007 ²²	386,916	211,661	173,915	1,340
2008 ²³	399,390	220,000	178,000	1,390
2009, 1 st Quarter ²⁴	414,614	230,000	183,000	1,614

Source: Social Organizations in China (*Zhongguo shehui zuzhi*; 中国社会组织) and the Ministry of Civil Affairs of the People's Republic of China (*Zhonghua renmin gongheguo minzhengbu*; 中华人民共和国民政部)

¹⁸ “Foundations” are included in the “Social Organizations” before year 2002 for data tabulated here.

¹⁹ Source: “Statistics of Civil Organizations” (1988-2004), retrieved 20 May, from *Social Organizations in China* (*Zhongguo shehui zuzhi*), <http://www.chinanpo.gov.cn/web/showBulletin.do?id=20151&dictionid=2201&catid=>

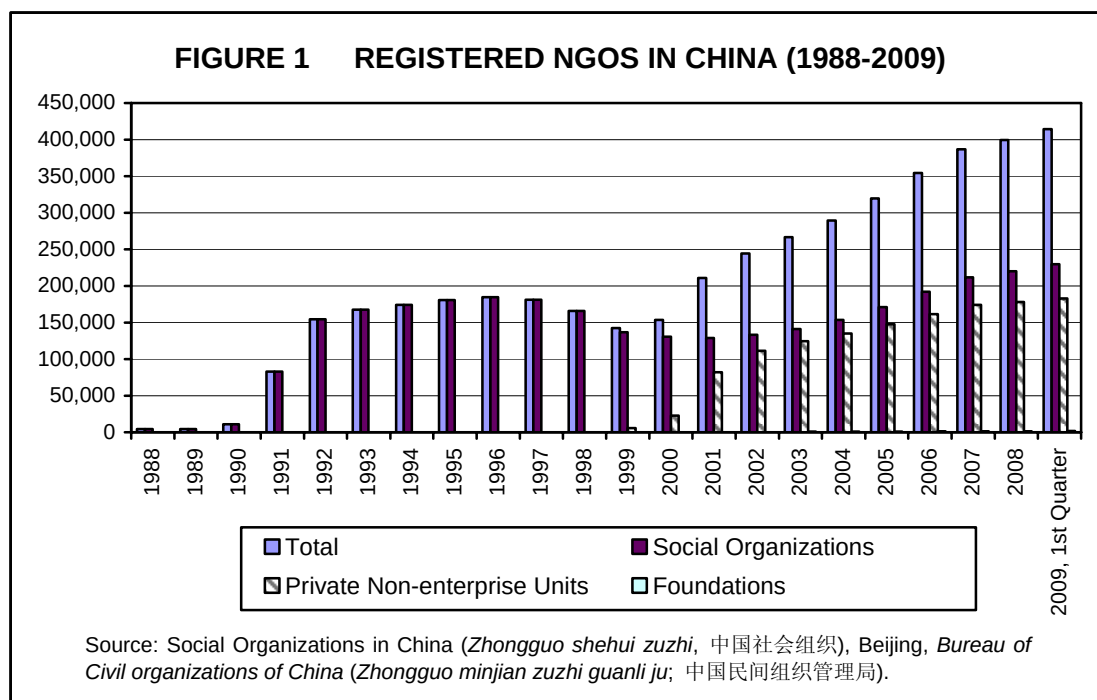
²⁰ Source: “Statistics of Civil Organizations in 2005” , retrieved 20 May, from *Social Organizations in China* (*Zhongguo shehui zuzhi*), <http://www.chinanpo.gov.cn/web/showBulletin.do?id=22371&dictionid=2201&catid=>

²¹ Source: “Statistics of Civil Organizations in 2006” , retrieved 20 May, from *Social Organizations in China* (*Zhongguo shehui zuzhi*), <http://www.chinanpo.gov.cn/web/showBulletin.do?id=7550&dictionid=2201&catid=>

²² Source: “Statistics of Civil Organizations in 2007” , retrieved 20 May, from *Social Organizations in China* (*Zhongguo shehui zuzhi*), <http://www.chinanpo.gov.cn/web/showBulletin.do?id=30642&dictionid=2201&catid=>

²³ Source: “Statistics of Civil Organizations in 2008” , retrieved 20 May, from *Social Organizations in China* (*Zhonghua renmin gongheguo minzhengbu*), <http://cws.mca.gov.cn/accessory/200902/1233554233793.htm>

²⁴ Source: “Statistics of Civil Affairs Quarterly (1st Quarter, 2009)” (*minzheng shiye tongji jibao*) , retrieved 20 May, from the *Ministry of Civil Affairs of the People's Republic of China* (*Zhonghua renmin gongheguo minzhengbu*), <http://cws.mca.gov.cn/accessory/200904/240304550141.htm>



4.2 However, under the current regulations, if the same type of NGO has already been registered in the same administrative area, the area is considered off limits to other NGOs. For example, if there is already an association of environment protection in existence at the city level of Beijing, no new associations of the environment protection association will be approved in Beijing. The regulations therefore restrict the number, type and range of registered associations.²⁵

4.3 Moreover, without competition from other NGOs, the registered NGOs have more incentives to work and comply with the government than to develop themselves into independent NGOs with extensive support from the society.

4.4 The relations between the government and some NGOs are so close that some governments have been presenting the work of NGOs as their own achievements. Some NGOs would also like to offer themselves as propaganda tools to the state.

²⁵ Cooper, C. M. "This is Our Way In": The Civil Society of Environmental NGOs in South-West China, Government and Opposition, Winter 2006, Vol. 41, no.1, pp. 133

- 4.5 However, this is not always the case for many other NGOs. NGOs are required to find a state organ as a “professional management unit” prior to registration; however, not many government agencies are willing to act as their professional management unit as they have to play a supervisory role to these NGOs, thus adding to their workload. As a result, some grassroots NGOs cannot register and remain illegal for years, and some registered as businesses with the Industry and Commerce Bureaus instead.
- 4.6 Strict registration requirements therefore push the majority of NGOs into the unofficial world, which poses a great challenge to the regulation of the NGO sector. While registered NGOs have grown to more than 410,000 over the years (See Table 1), the number of unregistered NGOs is much larger.
- 4.7 Unregistered NGOs are not necessarily banned by the government. As the Chinese government is moving away from being the sole provider of social welfare, it is willing to give a larger role to the voluntary sector, registered or otherwise. The government tends to apply the principle of “no contact, no recognition and no ban” to associations that engage in commonweal service, and refrain from intervening in their activities. Under this circumstance, some unregistered NGOs are very active. For example, a famous NGO named “Lüjiayuan” (绿家园), which successfully conducted environment protection work all over China, is never registered.²⁶
- 4.8 The INGOs can also hardly be registered in China. For instance, the notable INGO Green Peace and Rotary International are not registered in China yet.²⁷

²⁶ Qi, H. (2004). The freedom of association and the system of non-corporate associations (in Chinese, 《结社自由与非法人社团制度》), *Cass Journal of Foreign Law* (《环球法律评论》), 2004, no. 3, p. 303.

²⁷ “The set up of China Council of Lions Club Opens Door for International NGOs in China?” (in Chinese, 《中国狮子会成立：是否为国际 NGO 登陆中国打开门缝》), *Global Link Initiative*, retrieved 20 July 2009 from <http://www.glinet.org/687>

However, the interactions between Chinese NGOs and INGOs are becoming increasingly frequent.²⁸ Some Chinese citizens participate in unregistered INGOs in China and are thus involved in the international cultural and social exchange activities. The membership density of China's INGO per million of population increased from 1.2 in 1993 to 1.9 in 2003, a 60% increase in a decade.²⁹

4.9 Nevertheless, the current official rules upon NGOs remain strict and give government officials the legal right to interfere with or control the activities of NGOs. Unregistered NGOs could be harassed or banned anytime deemed necessary by the authorities.

4.10 In contrast to the strict regulations on registration, the governance on the operation of NGOs is weak. Due to the lack of transparency and democratic decision-making, some NGOs put their private interests above their mission to work for the public. Some NGO leaders even go as far as to steal and embezzle NGO funds by falsifying expenses or investing the money in the stock market.³⁰

4.11 In all, NGOs could be a special third force apart from the government and the business world. To fully develop the potential of NGOs into a viable social force, the government will do well to look into revamping its regulations on the registration and governance of NGOs.

²⁸ Kaldor, M., Anheier, H., & Glasius, M. (2003) (Eds.). *Global civil society 2003*, Oxford: Oxford University Press.

²⁹ Anheier, H., Glasius, M., & Kaldor, M. (Eds.). *Global civil society 2004/5*, London: Sage Publications, 2005, p. 304.

³⁰ More detailed examples can be found in Yiyi Lu, "Non-Governmental Organisations in China", London and New York: Routledge, 2009, pp. 109-135.