

State–society relations under a new model of control in China: Graduated control 2.0

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Abstract

Graduated control models are often used to explain the variety of government treatment of social organizations in China. These models have been slowly losing their explanatory power in recent years, with advocacy-oriented grass-roots groups participating in the policymaking process. Why are these social groups not regulated in the way the graduated control models predict? Based on an analysis of three recent policy advocacy cases, this article proposes a graduated control 2.0 model to explain the new dynamics in Chinese state–society interactions. The upgraded model argues that the government officials' behaviour patterns are influenced by numerous factors such as the inherent nature of social groups highlighted by graduated control models, and inter-ministerial competition – the power position of the state sector and its rival sector in the bureaucratic system. Some contingent factors also play a part, such as timing and the NGO's onstage performance. This research contributes to the ongoing discussion on Chinese state–society relations by developing a theoretical model that highlights both the fragmentation and reactivity of state control over social groups and further unpacks the 'monolithic state' in China studies.

Keywords

Chinese NGOs, state–society relationship, fragmented authoritarianism, graduated control, reactive governance

Why does the Chinese government treat various social organizations differently? Graduated control models are often used to explain this phenomenon. Kang Xiaoguang and Han Heng argue that the state adjusts its treatment of social organizations according to the potential of these organizations to pose a threat and their ability to provide services. As a result,

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grass-roots NGOs are often too insignificant to be noticed by the government.¹ Wu Fengshi and Chan Kin-man suggested another graduated control model, claiming that NGOs are treated differently according to their size, function, and funding source. Both models argue that when social groups are large, foreign-funded, advocacy-oriented, and working on sensitive² issues, they are under stricter control than those that are small, domestically funded, service-oriented, and working on non-sensitive issues.³

Graduated control models are widely cited when it comes to explaining the state–society relationship in contemporary China.⁴ However, as has also been observed, these models cannot sufficiently explain some cases in recent years.⁵ In the past decade, many advocacy-oriented grass-roots groups have participated in the policymaking process, sometimes even at the central level. Moreover, some NGOs that have managed to push forward their agenda are advocacy-oriented NGOs, while others that found themselves in difficulties work in non-sensitive issue areas. Why are these social groups not regulated in the way the graduated control models predict? In other words, what are the factors influencing state–society relations beyond those cited in the graduated control models?

In order to determine the additional factors, I carried out a three-month participant observation as an intern at an environmental NGO (ENGO) in Beijing. I conducted 20 semi-structured interviews with staff members from NGOs working in different issue areas. All the NGOs I interviewed are domestic, although some have been funded by overseas sources at certain periods or for particular projects. They range in size from five full-time staff to around 30. Working at the Policy and Law Advocacy Department of a well-connected NGO granted me access to valuable documents such as the policy proposals I analyse in the case studies section of this article. It also allowed me to participate in conferences and workshops attended by both NGO practitioners and government officials. In a society where state officials are notoriously challenging to get access to, these opportunities were precious.

I chose three advocacy⁶ cases in three issue areas – environmental protection, public health, and women’s rights. I selected these based on knowledge accessibility and information-oriented sampling, which is where a case is selected due to its inherent interest such as the richness and timeliness of the case. In this research, the three advocacy cases all took place within the last 10 years with mixed advocacy results. My interviews with the relevant NGO staff traced the processes that these cases underwent. I analysed the interview transcripts, field notes, and policy documents using Atlas.ti qualitative data analysis software, through two rounds of coding. The initial pre-coding and provisional coding⁷ identified the major themes of the data, and the second round of focused coding linked the theories to the data with the goal of reconstructing the theories.

The data suggest that the government officials’ behaviour patterns are influenced by several factors such as the inherent nature of the social groups (size, funding source, function, etc.), and by the inter-ministerial competition, which is the power position of the relevant department or ministry and its rivals in the bureaucratic system. Other contingent factors also influence behaviour patterns, such as timing and the NGO’s onstage performance.

The inter-ministerial competition and reactivity of the state explain why some groups had positive interactions with the government, despite being categorized by the graduated control models as conducting non-popular activities, and why some groups

failed to maintain positive interactions with the government although they were not active in particularly sensitive issue areas. This influence is not emphasized enough in the current graduated control models. I therefore propose a graduated control 2.0 model to address this and highlight these neglected factors.

This research contributes to the ongoing discussion on Chinese state–society relations by developing a new theoretical model that highlights the complexity and contingency of state control over social groups. Although many scholars have recently introduced new models to explain the state–society interactions in China,⁸ they often downplay the central level inter-ministerial competition and the contingent factors in these interactions, resulting in a model that cannot satisfactorily explain the recent development of diverse treatment of advocacy groups. The graduated control 2.0 model fills this gap. Kevin O’Brien made a call to further ‘unpack the state’ more than a decade ago,⁹ and more progress can still be made. This research represents an effort to advance along these lines.

In the following section, I review the literature on the Chinese state–society relationship, and then introduce the graduated control 2.0 model, highlighting the fragmentation and the reactivity of the state. I then present three up-to-date cases of grass-roots interaction with the Chinese central government that have received much attention but have not yet been satisfactorily explained. These cases illustrate why graduated control models are inadequate, and why we need the 2.0 model for a more precise understanding of state–society relations.

State–society relations in China: A brief review

In the literature on Chinese state–society relations, two theoretical lenses are prevalent – the society-centred civil society theory and the state-centred corporatism theory. Research applying the civil society framework focuses on the agency of social groups and their potential to foster political change.¹⁰ In contrast, corporatism theory denies the agency of societal actors, claiming that the state dominates the game of state–society interaction.¹¹ Although these two frameworks have generated studies that have advanced our understanding of state–society relations in China, they share three major shortcomings. First, these frameworks tend to reduce the Chinese state to a monolithic entity, overlooking the inter-ministerial competition.¹² Second, these two theoretical traditions are likely to perceive society as a whole, neglecting the diversity of social organizations.¹³ Third, they seem to argue that the interaction between state and society is unidirectional – either the state dominates, or the society penetrates, ignoring the multiplicity of state–society relations. Given the complexity of the state and the pluralization of society, these two models have missed important aspects of Chinese state–society relations.

Although civil society theory and corporatism represent two poles in the scholarship on the Chinese state and society, an increasing number of researchers have recently begun to look at Chinese state–society relations from new perspectives.¹⁴ In Andrew Mertha’s analysis of the Chinese policy process, his framework ‘fragmented authoritarianism 2.0’ advances the argument that the fragmentation of the Chinese state has provided more space for NGOs and other peripheral groups to participate in policymaking, and that the framing strategies of social groups play an important role in whether their agendas are accepted by the government.¹⁵ The consultative authoritarian model by

Jessica Teets emphasizes that the state takes a more sophisticated attitude towards social groups at present and that authorities tend to 'wait and see' to decide which groups can be consulted and which groups should be controlled.¹⁶ These advocates of the 'third way' also include a group of scholars who theorize based on their everyday experience, rather than on the extant theoretical traditions.¹⁷ Wu Fengshi introduced, for example, the collective identity of public interest organizations to the current discussion on state–society relations in China, thereby widening the discursive contours of the relevant literature. This term is widely accepted by Chinese social actors but seldom mentioned in English-language scholarship. I have also noticed that the term 'civil society' is increasingly constructed into a negative discursive terrain in China at this time and that some Chinese scholars and officials have been promoting the concept of 'people's society' instead.¹⁸

One of the most well-known 'indigenous' theorizations of Chinese state–society relations is graduated control. Through examining eight types of social organizations, Kang and Han determine that the state categorizes social organizations into five levels according to two inferences: their capacity to deliver public goods and their potential to threaten the state. The organizations high in service-providing potential and low in risks are treated most benignly; the organizations low in service-providing potential but high in risks are treated in an adversarial way.¹⁹ In this system, grass-roots NGOs are categorized as Control Level V, representing loose control, meaning that they are neglected by the authorities.²⁰ Wu and Chan agree that the state–society relationship is a diversified system with social organizations being subjected to varying levels of control. They propose a new model emphasizing the influence of the business nature (service/advocacy; sensitive issue area/non-sensitive issue area), funding sources (government/private/foreign), and the scale (small/medium/large) of the organization. The nature of business stands out as the most important factor.²¹

Both Kang and Han's model and Wu and Chan's model are better at capturing the diversity of state–society relations than the two earlier-mentioned frameworks of civil society theory and corporatism, but they still share essential deficiencies. First, although the said scholars manage to differentiate society into organizations of different size, origin, and business nature, they tend to discuss the state as a monolithic entity. Even though Wu and Chan acknowledge the fragmented authoritarianism, especially the differences between provinces, they do not consider an arguably more critical fragmentation in the policymaking process,²² namely, inter-ministerial competition. Second, although the state does indeed have a strategy at the central level as the graduated control models imply, the state–society relationship is, in reality, also reactive to contingent factors such as the time and on-stage performance of the social group's actions. Although Wu and Chan mention the temporal dimension and the dynamic nature of state control, similar to my argument at first glance, they are different in essence. By the temporal dimension, they mean that the state imposes less strict control in the first one to two years when the organization is small and weak, but that this control increases with the growth of the organization.²³ This temporal dimension is different from my conception of the temporal dimension, which refers to timing and historical junctures. By the dynamic nature of state control, Wu and Chan mean that the state adjusts its control according to NGOs' responses to its control.²⁴ This dynamism is different from the dynamism in this article, which also includes how the state responds to NGOs' action repertoire, as well as how various state sectors react to

social actors based on the power structure within the state system itself. This requires a complex kinematic analysis both vertically and horizontally.

The deficiencies of the graduated control models render these models incapable of explaining certain state–society interactions in China which have taken place in recent years. To be specific, many advocacy-oriented grass-roots NGOs have managed to attract the attention of the Chinese government, contrary to Kang and Han’s suggestion that they are too insignificant to be noticed. Some of these advocacy groups have even achieved some policy success, contrary to Wu and Chan’s prediction that the state treats advocacy groups with hostility. Meanwhile, some advocacy groups that have found themselves in difficulties are not necessarily working in sensitive issue areas, again contrary to both Kang and Han’s and Wu and Chan’s expectation that social groups in non-sensitive issue areas are treated benignly. To reach a more precise understanding of the relationship, two features of the Chinese state should be seriously considered: one is the inter-ministerial competition at the central level, and the other is the reactive nature of governance. Therefore, I propose advancing the graduated control models to re-examine state–society relations in China.

Graduated control 2.0

Inter-ministerial competition

Although China is regarded as a Leninist authoritarian regime where political power is relatively centralized, the Chinese state is far from monolithic. Instead, it is fragmented both horizontally and vertically, reflected particularly in the inter-ministerial competitions and central–local disjoints. The fragmentation is structurally based, and the Chinese bureaucratic system is functionally divided according to issue areas and political hierarchies. This means that the decision-making process and policy implementation process entail bargaining among government sectors that hold seemingly opposite agendas. The theory of fragmented authoritarianism best summarizes this structural fragmentation.²⁵

Since Kenneth Lieberthal, Michel Oksenberg, and David Lampton devised the theory of fragmented authoritarianism, it has been one of the most robust models regarding the Chinese political system. Many studies have used it to explain the political process in China. For example, through the lens of fragmented authoritarianism, Chun Liu found that the inter-ministerial competition and intertwined state control and commercial interests both facilitated and controlled the online gaming industry.²⁶ Similarly, through the study of intergovernmental jurisdiction reform launched by city leaders, Zhenjie Yang demonstrated that the fragmented authoritarianism facilitated the reform miracle in China.²⁷ A modification of fragmented authoritarianism is fragmented authoritarianism 2.0 by Mertha who observed that the policymaking process in China has become increasingly pluralized in recent years, leading to a lower barrier for social groups to enter the policy process. By comparing four policy advocacy cases by NGOs, Mertha emphasized that the policy entrepreneurs’ level of policy participation also depends on their performance, especially their ability to frame the issue effectively.²⁸

The fragmented authoritarianism 2.0 model pointed out the policy space created by the fragmentation. But what is less explored is how the horizontal fragmentation within

the government system, namely the inter-ministerial competition at the central level, influences the behaviour of officials when they undertake advocacy. I therefore suggest focusing on the less explored inter-ministerial competition to investigate its impact on the state sector's openness towards social groups.

From the perspective of inter-ministerial competition, the state sector's openness towards social groups depends on two factors. The first is the power of the ministry, or the position of the government sector in the political system. The second is the power of its rivals, or the position of competing government sectors in the political system. The more powerful the government sector is compared to its competitors within the government, the less it needs social actors to strengthen its position, and vice versa.

Reactiveness in governance

Although the ministerial-level fragmentation breaks down the monolithic state into multiple units, this model only considers the dynamics between government sectors, not the dynamics between government sectors and social groups. In reality, when state officials interact with social groups, they are responding to when the groups act and how they act. That is to say, the state–society relationship can be reactive, meaning the state is responding to stimulus from society. Thus, the second step is to consider the reactivity of the government.

Michael Alan Brittingham argues for a reactive model of nationalist conflict in Chinese foreign policy. In a case study of Sino-US relations, he suggests that the conflict between China and the United States represents the logical outcome of a security dilemma between these two actors who have different concepts of themselves and the Other, and seek to defend their identities against challenges from the Other.²⁹ Similarly, Richard Turcsanyi argues for 'reactive assertiveness' as a trigger of Chinese foreign policy change in the South China Sea. He demonstrates that the best explanation for China's assertiveness in the South China Sea is neither the popular power shift theory nor domestic politics, but reactive assertiveness, meaning that China responds to its perceived challenges and threats from other players in the region.³⁰

Reactive governance is not limited to foreign policy. Although not explicitly using the term reactive, researchers have pointed out that the Chinese government reacts to the size, intensity, and socio-economic class of members of the public who express their outrage online.³¹ In addition, studies have shown that the state reacts differently to social organizations according to the time: during a sensitive period, for example, social organizations are expected to maintain a low profile since the government is more prone to react in this period.³²

This reactive model suggests that government officials act according to contingent factors. One of these factors is timing, meaning that the government is particularly 'allergic' and sensitized during important national or international events. During such periods, NGOs have to keep a low profile or postpone their actions to give 'face' to the authorities.³³ Another factor is social groups' on-stage performance. The more the stimulus, aka the performance, appears like a threat, the harsher the government response is likely to be. When it comes to an NGO's performance, issue framing is critical: if NGO activists frame and present their agenda in a way the Chinese government considers threatening, even though their NGO might not be an actual threat according to the

conventional criteria (e.g. small, domestically based, and working in a non-sensitive issue area), the NGO can find itself in difficulties.³⁴

Graduated control

Although graduated control 2.0 highlights the fragmentation and the reactivity of the state, it does not deny the pre-existence of categorized control. On the contrary, it begins with the assumption that the state has an idea about how various organizations should be treated differently, depending on their contribution and their threat. This is manifested in their size, funding source/s, and business nature. The Charity Law and the Foreign NGO Law, implemented since 2017, have consolidated this central-level categorization through legal measures.

The central-level graduated control, reflected in laws or policies, is general and static, while everyday practice is complex and contingent. The complexity of inter-ministerial competition forces state sectors to consider their own and their rival's positions in the structure. The contingency of social actors' actions, especially their timing and on-stage performance, also influences how officials react to such stimulus. The following case studies illustrate the complexity and contingency of state–society relations, embedded in inter-ministerial competition and reactive governance, to explain why certain social groups are not regulated in the way the graduated control models would predict.

Case studies

Environmental NGOs' advocacy regarding environmental law and policies

Environmental public interest litigation is a legal system that allows social organizations to prosecute polluters. In most countries, ENGOs can be the plaintiffs in such litigation, but the right of Chinese ENGOs to litigate in environmental public interest issues was only consolidated by the Environmental Protection Law in 2015. To fight for this right, Chinese ENGOs have submitted numerous policy proposals on various levels in the past decade. Two earlier proposal attempts in 2005 and 2009 both failed to achieve any immediate results.

In 2011, a revision of the Environmental Protection Law began, representing a window of opportunity for Chinese ENGOs. After staff from Friends of Nature, a renowned ENGO in China, learned that the first draft of the revised law did not mention environmental public interest litigation at all, they immediately launched seminars with legal experts, scholars, and Ministry of Environmental Protection officials to discuss the draft.³⁵ The Ministry integrated the ENGO's opinions and released a list of 34 arguments countering the first draft.³⁶ As a result, rights to environmental public interest litigation were granted to the All-China Environment Federation and provincial-level environment federations in the second draft, but not grass-roots ENGOs. Based on this draft, Friends of Nature collaborated with its fellow grass-roots ENGOs, such as Nature University, the Institute of Public and Environmental Affairs, and the Center for Legal Assistance to Pollution Victims, to write open letters and circulate their arguments through social media.³⁷ Partly due to the efforts of the said ENGOs,³⁸ the National People's Congress

(NPC) Standing Committee Chair Zhang Dejiang stated in the closing meeting of a session of the Twelfth NPC that the legislators should ‘listen to opinions from all sides and actively respond to social concerns’.³⁹ Since the third draft released in October 2013 did not represent a significant improvement on the second, in March 2014 Friends of Nature initiated a seminar with several deputies of the NPC and the Chinese People’s Political Consultative Conference (CPPCC) to draft a new proposal that would grant more NGOs the right to engage in environmental public interest litigation.⁴⁰

In the final draft, passed as the 2015 Environmental Protection Law, ENGOs are allowed to file claims against polluters in the People’s Court as long as the ENGO: (1) is registered with the civil affairs department at or above the municipal level, and (2) has been focusing on environment-related public interest activities for five consecutive years or more.⁴¹ This substantial progress in the Environmental Protection Law represents a successful case of grass-roots policy advocacy.

The traditional graduated control models cannot sufficiently explain this case. According to Kang and Han, grass-roots organizations are too insignificant to be noticed by the state⁴² while, according to Wu and Chan, the advocacy-oriented NGOs do not receive favourable treatment from the government.⁴³ However, in this case, the ENGOs conducting policy advocacy managed to collaborate with officials and achieve policy success, which goes beyond the assumptions of both models. I therefore propose examining the state–society relationship through the lens of graduated control 2.0, which does not reject the idea of categorized control but incorporates it with the inter-ministerial competition and reactive governance.

Firstly, the inter-ministerial competition, including the ministry’s position and its rival’s position in the structure, influences state officials’ attitude towards ENGOs. In this case, the openness of the Ministry of Environmental Protection can be explained by the power struggle at the ministerial level, where the Ministry’s rivals include the National Development and Reform Commission and the Ministry of Industry and Information Technology.⁴⁴ While the National Development and Reform Commission and the Ministry of Industry and Information Technology are among the strongest ministerial-level organs,⁴⁵ the Ministry of Environmental Protection has always been relatively weak since its establishment in 2008. Previously, when it was called the State Environmental Protection Administration, its position was even humbler.⁴⁶ Although the status of the Ministry of Environmental Protection has been growing in recent years, its relative power within the government structures does not seem to have increased.⁴⁷ It is not surprising that the Ministry has to form allies with social forces to strengthen its position in the ministerial-level competition.

The alliance between the Ministry of Environmental Protection and the ENGOs has helped social organizations with their advocacy in many similar situations. During the revision of the Measures for Public Participation in Environmental Impact Assessment of Construction Projects (Measures for short), the director of the policy and advocacy department of Friends of Nature explained how the Ministry of Environmental Protection collaborated with ENGOs:

Before the document was released publicly, the environmental engineering assessment centre of the Ministry already had a meeting with representatives from ENGOs regarding the

Measures. Meanwhile, the media began to report on this. We therefore predicted that the Measures were imminent and we made the necessary preparations.⁴⁸

At the second meeting of the ENGOs to discuss the modification of the Measures, an invited official from the assessment centre also supported the environmental cause. And when the ENGOs decided to write letters to the Ministry of Environmental Protection to ask for an extension of the comment solicitation period, the official even reminded them kindly: 'Write and send it soon. The department responsible for the feedback completes its work today (Friday) at 4:30.' This Ministry of Environmental Protection staff member was invited to stay in the WeChat group of the ENGOs for further insider opinions.⁴⁹

The positive interaction between the Ministry of Environmental Protection and the ENGOs was also visible at the Environmental Social Governance Forum in March 2016, attended by ENGO workers, foundation managers, and government officials. During a speech given by the director of the social division from the Ministry of Environmental Protection's policy research centre, he suggested 10 approaches for the ENGOs to participate in environmental governance and even suggested collaborating with the ENGOs on policy advocacy:

The government is now drafting the Thirteenth Five-Year Ecological Environmental Protection Plan. If you have any suggestions and want me to write a proposal for you, I can do it. Or if you want to write something together, I am happy to collaborate.⁵⁰

This interaction between the Ministry of Environmental Protection officials and the ENGOs sent a signal that the Ministry treats ENGOs as allies rather than rivals.

Secondly, the openness of officials is also a result of reactive governance in response to the timing of NGOs' actions and on-stage performance. Chinese public awareness of air pollution began growing in 2008 and peaked in 2011. In 2014, the Chinese Premier even declared a 'war on pollution'.⁵¹ All these public and political messages served as positive exogenous shocks for environmental policymaking.⁵² In this situation, the NPC and CPPCC representatives were more likely to give their full support to the cause advocated by the Ministry of Environmental Protection and the ENGOs, as we have seen in this case.

In addition, the officials were also reacting to the performance of social groups. The ENGOs engaged in the policy process through writing letters and proposals, as well as organizing seminars and discussions, were not likely to trigger the stress reaction of the government. Moreover, in the policy proposals of the ENGOs from 2011, they managed to frame their agenda in a way seemingly in line with the government agenda, using keywords such as 'harmony', 'beautiful China', and 'public interests',⁵³ which resonated with the officials. The performance of NGOs, regarding action tactics and framing strategies, persuaded the Ministry of Environmental Protection officials and the NPC and CPPCC representatives that they were fighting for the same cause as the government sectors in this issue area.

This case demonstrates that the inter-ministerial competition and reactive governance have influenced the state–society relationship. Firstly, the position of the state sector in the political system, including its power and the power of competing ministries,

influences its openness towards social groups. In this case, the relatively weak position of the Ministry of Environmental Protection and the comparatively strong positions of the National Development and Reform Commission and Ministry of Industry and Information Technology⁵⁴ contributed to the responsiveness of the Ministry of Environmental Protection officials. Secondly, the timing and performance of grass-roots organizations also affect the officials' attitude. In this case, the environmental crisis caused by air pollution and the ENGOs' calm performance contributed to the positive reaction from NPC and CPPCC representatives.

China-Dolls' advocacy of the policy on rare illnesses

Rare illnesses, by definition, only affect a small group of people, but the number of Chinese patients with rare diseases is potentially enormous, given the population of China and the statistic that 6–10 per cent of people globally have a rare disease.⁵⁵ However, China's healthcare system is not prepared to treat these patients who often do not have access to the drugs they need. Even if they do have access, these drugs are usually too expensive for them, and public insurance does not reimburse the cost of the drugs. To help these patients, Wang Yiou and other rare disease carriers established China-Dolls Center for Rare Disorders in Beijing in 2008. China-Dolls was initially supposed to be a service-oriented NGO helping those with rare diseases.⁵⁶ The staff soon realized, however, that in order to substantively transform this group's life situation, policy changes were necessary.⁵⁷

In 2009, China-Dolls joined five other rare disease interest groups to draft a policy proposal regarding legislation on rare diseases, and together they submitted the proposal during the NPC and CPPCC meetings.⁵⁸ This proposal suggested that the government (1) set up national health service institutes for patients with rare diseases; (2) establish a scientific definition of rare disease; (3) provide a drug reimbursement system for patients with rare diseases; (4) simplify the registration process for imported orphan drugs; and (5) promote the research and development of orphan drugs.⁵⁹

Partly due to the advocacy of China-Dolls and peer interest groups, China's State Council established the Rare Disease Committee under the National Health and Family Planning Commission⁶⁰ in 2014, and China published a draft of its first national list of rare diseases in 2017. However, China-Dolls achieved only partial success because the draft only covered 100 diseases, which was far from exhaustive – considering that there are more than 7000 kinds of rare diseases.⁶¹ Hence, advocacy in this case does not seem to be as successful as the previous case of environmental public interest litigation.

As the traditional graduated control models would suggest, rare diseases are not a particularly sensitive issue, which explains why the government is not overly alert. As a grass-roots organization, however, China-Dolls captured the attention of the government. This does not fit the graduated control system proposed by Kang and Han, and as an advocacy-oriented NGO of considerable size, China-Dolls not only survived but thrived, which might not be what Wu and Chan would have predicted. Therefore, this case also calls for another explanatory model.

The inter-ministerial competition influences the attitude of state officials. At the ministerial level, the National Health and Family Planning Commission are responsible for

issues concerning rare diseases. However, the officials from the National Health and Family Planning Commission are quite lukewarm towards China-Dolls, as a staff member from this NGO explains:

We invite state officials to our conference whenever possible. Officials from the Ministry of Civil Affairs have been here, officials from the Disabled Federation have been here, but getting in touch with the National Health and Family Planning Commission is difficult.⁶²

The indifference of the National Health and Family Planning Commission can be explained by the power structure at the ministerial level. The National Health and Family Planning Commission is a combination of the former Ministry of Health (elevated to a cabinet ministry in 2008) and the State Family Planning Commission.⁶³ The position of the National Health and Family Planning Commission in the Chinese ministerial hierarchy is not as clearly defined as the ministries discussed in the previous case. However, there are indicators that the National Health and Family Planning Commission occupies a relatively significant position in the Chinese administrative system, especially after the AIDS and SARS crises in the 1990s and early 2000s. The ability of ministries to acquire central government financial resources is an unwritten measure of their power. During the period 2009–10, thanks to health care reform led by the former Minister of Health Chen Zhu, the central government invested RMB 42.2 billion in health care facilities. This amount is larger than the sum of all the investments the government made in the 30 years since 1979.⁶⁴ As a comparatively large ministerial-level organ with no clearly defined rival, the National Health and Family Planning Commission lacks the incentive to unite with social forces. Therefore, although China-Dolls has attempted to cooperate, the result is less than satisfactory.

Although lacking direct support from the National Health and Family Planning Commission, China-Dolls still managed to realize part of its agenda, thanks to the timing of its actions and performance. In 2014, the ice bucket challenge which went viral worldwide raised public awareness of rare diseases, and it was supported by celebrities from all walks of life. China-Dolls took over this campaign in China, inviting many Chinese celebrities to participate, which put pressure on the relevant state departments.⁶⁵ ‘Both the National Health and Family Planning Commission and Ministry of Civil Affairs posted messages on their official SinaWeibo accounts stating that they have been following the ice bucket challenge’, China-Dolls observed.⁶⁶ In addition to this pressure, China-Dolls’ partial success is also due to its non-confrontational action campaign, such as performance art, seminars, discussions, and policy proposals. Moreover, in its policy proposals, China-Dolls encoded the official rhetoric, such as ‘harmonious society’, to justify its agenda, to indicate that there is no conflict between its agenda and the state’s.⁶⁷ The particular timing, combined with China-Dolls’ action tactics and framing strategies, won the officials’ sympathy and helped China-Dolls implement at least part of its agenda.

This case also demonstrates that the state–society relationship is influenced by ministerial-level competition and reactive governance. The power of a particular state sector, including its position and its rival’s position in the political system, accounts for its attitude towards social groups. In this case, the strong position of the National Health and Family Planning Commission and the lack of direct rivals within the government explains

the lukewarm attitude of the officials from this ministry-level organ. In addition, the officials were also responding to the timing and repertoire of the grass-roots' performance. In this case, the ice bucket challenge that went viral worldwide placed pressure on the National Health and Family Planning Commission. The performance of China-Dolls won sympathy from the NPC and CPPCC representatives who pushed through part of the NGO's agenda despite the less open attitude of the ministry officials concerned.

Feminist Five's advocacy against sexual harassment

More than one-third of university students surveyed said they had experienced sexual violence or harassment, according to a study by the China Family Planning Association.⁶⁸ While the situation of on-campus harassment is alarming, it is even worse off-campus, with up to 70 per cent of female factory workers in Guangzhou stating that they had experienced sexual harassment in the workplace.⁶⁹ Overall, 80 per cent of Chinese women are reported to have suffered harassment in the workplace,⁷⁰ and 13.6 per cent surveyed said they had experienced sexual harassment while traveling on the metro.⁷¹

Faced with this situation, a new generation of Chinese feminists decided to break the silence, the most renowned being the Feminist Five. The Feminist Five refers to five young Chinese women – Wei Tingting, Li Tingting (Li Maizi), Wu Rongrong, Wang Man, and Zheng Churan (Datu). They were detained by police on International Women's Day in March 2015 when they were planning to hand out fliers on buses and metros calling attention to sexual harassment. Their planned campaign was considered 'picking quarrels and provoking trouble', and all five of them were detained by the police and only released after more than a month.⁷² From a long-term perspective, thanks to the domestic and international outcry over this campaign, public awareness of sexual harassment in China has been rising, but the International Women's Day campaign itself was relatively unsuccessful. Not only did the Feminist Five miss the opportunity to deliver their messages to officials and the public, but all of them also ended up with a criminal record for their deeds and one was even barred from leaving the mainland for a decade.⁷³

The graduated control models can partially explain the initial period of the case, with the state being alert to the Feminist Five's activities because of its advocacy. However, these models lose their explanatory power as the case developed. The biggest puzzle is the state's extremely harsh treatment of the activists vis-a-vis the relatively small scale of their movement and the fact that the issue area of this campaign is not inherently sensitive according to the formulations of the graduated control models. Indeed, one can even argue that the anti-sexual harassment agenda is sanctioned by the government because anti-harassment ads from the government-backed All-China Women's Federation appeared in metro stations across Beijing, Shanghai, Shenzhen, and Chengdu in June 2017. In addition, women's rights have always been one of the few issues the Chinese government is willing to discuss in EU–China Human Rights Dialogue.⁷⁴ Although it is reasonable to assume that women's rights are not the most comfortable topics for Chinese political leaders who are mainly older males, gender is not one of the most sensitive issues in the Chinese political spectrum. Why then did such a relatively non-sensitive small-scale campaign trigger such harsh treatment?

Firstly, the inter-ministerial competition had an impact on officials' attitude, specifically the power of the relevant government sector and its rival. In this case, the All-China Women's Federation and Ministry of Civil Affairs are the organs responsible for the area in which the Feminist Five has been active. The Ministry of Civil Affairs is not particularly strong among the ministerial-level organs, and the All-China Women's Federation is a much humbler organization. But neither of them seems to have a clear rival in the bureaucratic system,⁷⁵ so the incentive for uniting with social forces was low.

Secondly, the harsh treatment of the Feminist Five was mainly due to an overreaction from the security department who viewed the Feminist Five as a public security threat, which is perhaps based on the timing of the Feminist Five's campaign and their confrontational style of performance.⁷⁶ The planned campaign took place during the NPC and CPPCC, typical periods when authorities are highly sensitive to social unrest. As one of the five feminists, Li Maizi, stated, 'If you plan any kind of campaign during a sensitive time, the government views it as a confrontation.'⁷⁷ My interviews with other feminists in China also confirmed that the timing and location of the campaign concerned the police. One staff member from a feminist NGO revealed that they often received directives from the police asking them to postpone their activities in the form of 'not now, not there'.⁷⁸ Time and place not only influenced the social impact of a movement; in the particular sociopolitical context, they also symbolized the attitude of the movement organizer. As experienced social activists, the Feminist Five must have been aware of the symbolic meaning of the timing and location of their movement – right before the annual 'two sessions' in the capital city of Beijing – but decided to carry out their protests anyway. This sent out the message that they were not interested in conforming with the established order nor in building a positive relationship with the government. My interview with a new generation feminist close to the Feminist Five confirmed this attitude. She explained that her NGO does not lobby policymakers:

I don't think it is possible to communicate with them [the officials]. I don't think we can change them through lobbying. If the government does not launch a policy or a regulation, it is because they don't want to do it. Maintaining the current status quo is the most comfortable for them. If there is no pressure, they won't change.⁷⁹

This account explains the rationale behind the feminist group's on-stage performance. Unlike the previous two cases described, the Feminist Five did not seek discussions with the officials, but instead took to the streets. This 'provocative' performance caused the government to overreact to a campaign that is neither in a sensitive issue area according to graduated control frameworks, nor on an unusually large scale.⁸⁰ Meanwhile, some researchers have noted that, even in a traditionally conceived sensitive issue area such as religion, if the grass roots maintain a low profile during particular periods, they can survive.⁸¹ This example demonstrates that the state–society relationship in China is more reactive than the graduated control models indicate.

This case once again confirms that the state–society relationship is influenced by ministerial-level competition and reactive governance. The power of relevant state sectors – their own position and that of their rivals – influences their attitude towards social groups. In this case, the weakness of the All-China Women's Federation and Ministry of

Civil Affairs⁸² should have contributed to their positive interaction with the Feminist Five, but their lack of clearly defined rivals decreased their motivation to form alliances. What is more important, the timing of the movement and its relatively confrontational nature made it more sensitive in the Chinese government's eyes,⁸³ which led to the harsh reaction from the police.

Summary

The three cases demonstrate that the openness of respective state organs lies in two features: one is the position of the organs within the overall political system, and the other is contingent factors such as the timing and performance of the social groups. Due to the horizontal fragmentation, if a state sector is relatively weak and facing a strong rival, it is most likely to unite with social groups, and if a state sector is relatively strong and does not have a clear rival, it is least likely to interact with social groups. The positions of the state organs only tell half of the story – the other half lies in the reactivity of the state officials. Officials are more likely to overreact when they are in the stress mode. This stress mode can be affected by the time, for example, the government is more alert during national events such as the NPC and CPPCC, and international events such as APEC, Olympic Games, and G20 meetings. The performance of social groups can also trigger this stress mode. For example, officials are more likely to overreact if social groups use a set of action tactics and framing strategies not accepted by the government. These two inferences from the inter-ministerial competition and reactive governance are not included in the graduated controls. I therefore propose the 2.0 model which advances the graduated control model by incorporating the above-mentioned two factors.

Conclusion

The consensus is that Xi Jinping has been centralizing his political power since 2012, which might lead some to wonder whether the horizontal fragmentation still exists in the new political context. Although rigorous empirical studies are still scarce, a number of researchers have shown that the popular assumption of the fracture between Xi and his predecessors in governance is exaggerated.⁸⁴ In addition, power centralization is not equal to defragmentation of the political system because as long as various state sectors exist in the system, there will be conflicts of interests. Due to these conflicting interests, even a strong man like Xi will still face challenges pushing forward certain policies.⁸⁵ Therefore, despite the new developments on the Chinese political scene, the inter-ministerial fragmentation is far from disappearing.

In 2018, the government reformed the ministerial system: the Ministry of Environmental Protection was renamed the Ministry of Ecology and Environment, and the National Health and Family Planning Commission was restructured into the National Health Commission, which might be a prelude to new dynamics in state–society relations in these issue areas. Although their relative power positions might have changed, the inter-ministerial competition as a factor remains. This means that the position of a government sector in the reformed system would still account for its potential openness towards social groups.

In addition, a more reactive state can also be expected in the new era. Since the party has further tightened its ideological control, there is a clearer division between what can be accepted and what cannot. In this context, if a performance takes place at the ‘wrong’ time using an ‘inappropriate’ repertoire of actions, it is more likely to be interpreted as having crossed the red line, and thus likely to receive an even harsher response. Therefore, an explanation based on inter-ministerial competition and reactive governance should still be valid in the foreseeable future.

Notes

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