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Civil Society and China: Shrinking Space, More Need for Dialog

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Civil society in China is diverse and in a state of upheaval. While organizations in the country act quickly and effectively in crises such as earthquakes and epidemics, from an international perspective they tend to act covertly and hand-in-hand with the state. Their approach arises from a different understanding of civil society engagement and a restrictive legal framework, which was extended to civil society exchanges with other countries in 2017. A report on—and an attempt to mediate between – shrinking civil society spaces and the growing need for dialog with China.

By mid-February 2020, the provincial capital of Wuhan in central China had already been sealed off for more than three weeks. The local government was overwhelmed by the outbreak of the novel corona virus in this city of millions. Civil society forces stepped in and organized services ranging from social assistance and quarantine control to transportation and food supply in

the locked-down city. The digital realm played a central role in their activities.

“Compared to the rigid behavior of state institutions, which clung stubbornly to prescribed procedures and proved incapable of learning, adept people from civil society are really far superior. Their approach is based on real conditions, it is



Volunteers inform citizens about the novel coronavirus in the streets of Wuhan in February 2020 (Photo: Chirag Nagpal @ shutterstock)

absolutely essential that the authorities learn from this and draw lessons from it,” wrote the author Fang Fang on her Weibo blog on February 17, 2020 in lockdown in Wuhan.¹

Fang Fang’s blog entries were read millions of times; along with reports by citizen journalists in Wuhan and hashtags such as #要言论自由, yào yánlùn zìyóu, engl. [I] want freedom of speech. They inspired Chinese people across the country to show solidarity with people in the city. As was the case with the Sichuan earthquake of 2008, the diverse actors that make up Chinese civil society became visible to the outside world, from private initiatives and grassroots non-governmental organizations (NGOs) to government-organized non-governmental organizations (GONGOs).²

Civil society has developed differently in connection with the party-state than in the countries of Western Europe. Civil society organizations increasingly work alongside or on behalf of the state. Nevertheless, they respond to economic and social developments in the country

and take a critical stance toward environmental misconduct by businesses, for example. They share commonalities with civil society organizations in other countries: Chinese organizations also focus on human social existence and the need for resources. However, a liberal understanding of civil society does not adequately explain the function of organizations in China.

The “third sector,” as civil society is sometimes called in Germany, is pluralistic, participatory, and organized from the bottom up. It champions the common good and takes an independent, sometimes even antagonistic position toward state and economic interests. “NGO” is the most commonly used term for civil society organizations. Civil society should characteristically promote democratic processes. At the same time, it acts in different ways everywhere. It is a watchdog and service provider, demonstrator and researcher, advisor and prosecutor. But how does it act in the context of an authoritarian state like the People’s Republic of China?

Civil society with Chinese characteristics

For years, academics have questioned whether an independent civil society sphere exists in China. As social processes became more ideologically charged under Xi Jinping, the extent to which the socio-political definition of the “third sector” in Germany differs from the reality of civil society in China became clear. The translation *gōngmín shèhuì* 公民社会, which is rooted in civil society democratization processes, and *shìmín shèhuì* 市民社会, which draws on the Marxist concept of civil society, are not entirely suitable for civil society in China.

Decoding China Dictionary

The Chinese leadership has never embraced the term “civil society” in domestic political communication. Despite the proliferation of private-run NGOs and foundations since the 1980s, party- and government-organized organizations (GONGO) still play a major role. The policy focus has been on regulating this growing sector and making sure all social organizations (社会组织) are supervised and tied to party and state organs.

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Both terms reflect a different understanding of and range of action for civil society. In civil society dialog work with China, the term *mínjiān* 民间, people-to-people, is used. Observers outside of China have difficulty understanding the constrained and codified discussions about social issues between its civil society actors, the Party, and the state. The penetration of Chinese civil society is not limited to close connections with state institutions, through GONGOs for example. Party-organized non-governmental organizations (PONGOs) also influence civil society.³

As of January 2021, according to official statistics, there were over 900,000 registered civil society organizations in China.⁴ They can register as 1) social service organizations *shèhuì fúwù jīgòu* 社会服务机构; in documents and statistics often listed under the older designation private non-enterprise units, *mínbàn fēiqǐyè dānwèi* 民办非企业单位, 2) member-based associations, *shèhuì tuántǐ*

社会团体, or 3) foundations, *jījīnhuì* 基金会. The first group is the largest, while the self-designation “NGO” is especially common in the second. There are fewer than 10,000 foundations in the third group,⁵ but financially they are the strongest category.

The number of civil society actors acting outside of the registration framework should not be underestimated. Some are officially registered as businesses. Community and village associations are not represented in the statistics, nor are digital interest groups. However, with the March 2021 campaign to “root out and rectify illegal social organizations,” *dǎjī zhěngzhì* 打击整治, the space for unregistered civil society actors continues to shrink.

Economic and social transformation

China’s civil society has undergone major changes over the past 40 years. A rising standard of living produced a Chinese middle class. Its members were educated, aware of their rights, and had the freedom to engage in volunteer work. Most organizations are comparatively young. The state played a role in activating some of them.⁶ For example, some organizations were initiated by ministry departments or are led by former ministry officials. No matter where citizens are involved – whether in party-led mass organizations (e.g. the All-China Women’s Federation or the All-China Federation of Trade Unions), GONGOs, PONGOs, NGOs, or social enterprises – an antagonistic attitude toward the state or the Party is not tolerated.

In October 1989 the first Regulations on the Administration of the Registration of Associations were issued. Civil society organizations were given a legal status in this way, but it was very narrowly defined. For years, many continued to operate in a gray area without registering. Since 2013, in addition to foundations, organizations have been able to register directly with the Ministry of Civil Affairs. In 2016, the long-awaited Charity Law came into force.⁷ It aims to promote the administrative and financial professionalization of the entire philanthropic sector.

A process of differentiation could be observed in China’s civil society sphere until around 2014. Environmental protection organizations in particular multiplied rapidly in the face of massive

The legal framework for civil society in China⁸

1950

社会团体登记暂行办法

Interim Procedures on the Registration
of Associations

1986

民法通则

General Principles of Civil Law

1950

1980

1988

基金会管理办法

Regulations on Foundation
Administration

pollution resulting from China's economic development. Beyond environmental issues, areas of focus diversified steadily: culture, sports, business, research, gender, social minorities, labor rights, and human rights. Since 2015, a small number of environmental NGOs that meet the Party-state's numerous requirements have even been allowed to take companies to court. Organizations such as the Center for Legal Assistance to Pollution Victims (CLAPV) have already done so successfully. However, cases brought by civil society organizations remain a rarity. In this area as well, state institutions have taken over the fight against environmental pollution on behalf of the population.

Sensitive civil society topics

Today we see both bottom-up and top-down development of civil society structures. The latter unfolds through state regulation and control, as well as topic-specific bans and persecution. Again and again, these actions reduce or obstruct the scope for action for Chinese civil society. One example of this is citizen activism in the early 2000s that engaged for human, labor, and land rights. This oppositional behavior was met with rapid and sweeping suppression by the state. In 2014/2015 scores of activists, academics, and lawyers were placed under house arrest, tried, and sentenced to prison. Among them were the lawyers Zhou Shifeng and Wang Yu of the well-known law firm Fengrui, for ex-

ample. They represented journalists who were detained without charge, victims of the milk/melamine scandal, and activists.

Women's rights entered the canon of sensitive topics, *mǐn'gǎn huàtí* 敏感话题, in 2015. "The Feminist Five" demonstrated in red-stained wedding dresses on the streets of Beijing, protesting domestic violence and the lack of protection for victims. A corresponding law took more than 20 years to come into force.⁹ The arrest of the activists drew international attention to the Chinese government's dealings with the civil society sphere. It became clear how many NGOs were devoted to this topic, but also how many had to contend with repressive administrative measures and registration delays.¹⁰ To this day, the issue of women's rights, which has been strengthened by the #metoo movement, is perceived by the Party-state as particularly thorny.

The dual character civil society

On the one hand, civil society organizations in China attempt to "embed" themselves in state structures.¹¹ In this way, they hope to exert influence from outside of the Party in a society without opportunities for political participation and to acquire resources for their work. GONGOS in particular benefit from the interconnectedness of civil society and the state, which is the basis of their existence. This can absolutely have

1989 (1998, 2016)

社会团体登记管理条例
Regulations on the Administration
of the Registration of Association

1998

民办非企业单位登记管理暂行条例
Interim Provisions on the
Registration and Administration
of Private Non-Enterprise Units

Seit 2018, drafting of

社会组织登记管理条例
Regulation on the Administration
of the Registration of Associations

2016

慈善法
Charity Law

1990 2000 2010 2020

2004

基金会管理条例
Regulations on Foundation
Administration

2017

境外非政府组织境内活动管理法
Law on the Management of Foreign
Non-Governmental Organizations'
Activities Within Mainland China

positive effects. On the other hand, civil society is supposed to solve social problems on behalf of the state itself. Compliance with state regulations, as well as the quality of NGOs' work, is checked by various rating systems, e.g. the *shèhuì zǔzhī pínggū* 社会组织评估 of the Ministry of Civil Affairs. Only with the appropriate rating is government funding available for civil society.

If Chinese NGOs grow, they have to set up Party groups, *dǎngzǔ* 党组. These proactively ensure that the activities of civil society organizations strengthen the position of the Party in society. Party groups are to be understood in the context of a "civilizing and disciplining process." It is the Party that sets social and political norms. The interaction and interpenetration of Party, state, and society in China leads to the complex dual character of its civil society. This is reflected in international discourse on China's civil society, particularly in the assumption that Chinese organizations are ineffective and not independent. There is certainly still non-state-initiated civil society activism. Unlike NGOs in Germany and Europe, however, these grassroots organizations are careful not to publicize their role and impact. Too much attention can lead to arrests, as recent strikes by delivery workers have shown.

The reality of civil society in China lies somewhere between Party, state, and societal action. On the one hand, the Party-state desires a

non-confrontational civil society and a notion of civil citizenship that is responsible according to its understanding of the word. On the other hand, the Chinese, like civil society actors in Germany, want to influence their environment and society through active participation. State funding and access to services, coupled with the control of civil society engagement, e.g. in the context of the social credit system, *shèhuì xìnyòng tǐxì* 社会信用体系,¹² aim to direct civil society action into civic duty. This also applies to the partner organizations of international NGOs, which are evaluated with regard to laws, implementation guidelines, and reporting obligations.

Civil society in China has not developed in isolation from global civil society, despite being thoroughly embedded in the state. International NGOs were involved in the emergence of Chinese civil society structures, from Christian associations to environmental protection organizations. International civil society was represented in all areas and was only loosely regulated by the Chinese state until 2017.

The door to cooperation with grassroots NGOs in China was open to international NGOs. This directly affected the work of Chinese NGOs. With foreign support, topics and methods could be embraced even if the state had not designated them for civil society or if local governments opposed them, for example HIV/AIDS prevention and rights-based advocacy work for disabled

Women's rights activism is a controversial topic in China
(Photo: Cao Mengwen @ Adobe Stock)



people or migrant workers and their children in cities. Stricter regulation of international cooperation seriously impacts work in these areas.

Civil-society dialog with other countries

“The public security department under the State Council and the public security organs of provincial level people’s governments are the registration management organs for foreign NGOs carrying out activities within mainland China,” according to the 2017 law regulating the activities of foreign NGOs.¹³ For international civil society organizations working in China, the law represents both a rupture and a continuation of the new government approach based on the “rule by law,” *yì fǎ zhì guó* 依法治国, under Xi Jinping. According to this precept, all government measures, including restrictive ones, should have a legal basis that can be publicly invoked.

Prior to the law’s enactment, projects with activities in China such as the Stiftung Asienhaus EU-China NGO Twinning Program (2012–2019) were able to operate freely or through self-chosen Chinese partner organizations in a legal gray zone of Chinese civil society. However, since 2017 these cooperations have been chan-

neled and placed under direct government supervision. Unlike Chinese organizations, which are administered by the Ministry of Civil Affairs, international NGOs in China are under the control of the Ministry of Public Security. That means that the government does not classify them as a civilian concern, but rather as a matter of security policy. This understanding can be traced back (among other things) to an internal party document from 2013 classifying independent civil society participation as a threat to the social basis of the Chinese Communist Party.¹⁴

Decoding China Dictionary

The Chinese Communist Party’s conception of the rule of law – *fazhi* (法治) or *yifa zhiguo* (依法治国), which literally means “**law-based governance**” or ruling the country in accordance with the law—has very little in common with the liberal democratic concept. In China’s “socialist rule of law system with Chinese characteristics” the legal system is under the Party’s leadership and supervision. The CCP ultimately sees the law as a tool to ensure stability and order, as well as being a means to justify and maintain Party rule.

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Chinese NGOs are especially important in poorer rural regions (Photo: Wuhan Public Interest and Development Law Institute)

International NGOs as service providers

Since 2017, international NGOs can operate in China in two ways. With a “representative of-fice,” *dàibiǎo jīgòu* 代表机构, they can implement long-term projects with employees in the country. A “temporary activity,” *línshí huódòng* 临时活动, allows for project activities of up to one year in the country, with each administrative unit selected individually at the provincial level. Both methods require a “professional supervisory unit” (PSU), *yèwù zhǔguān dānwèi* 业务主管单位. To open a representative office, the organization must select this professional supervisory unit from a list maintained by the Ministry of Public Security. For temporary activities, the Chinese partner organization needs the support of a supervisory unit for registration. Afterward, however, the Chinese partner itself acts like a supervisory unit for the international NGO, since it must check in advance that all activities conform to the system.

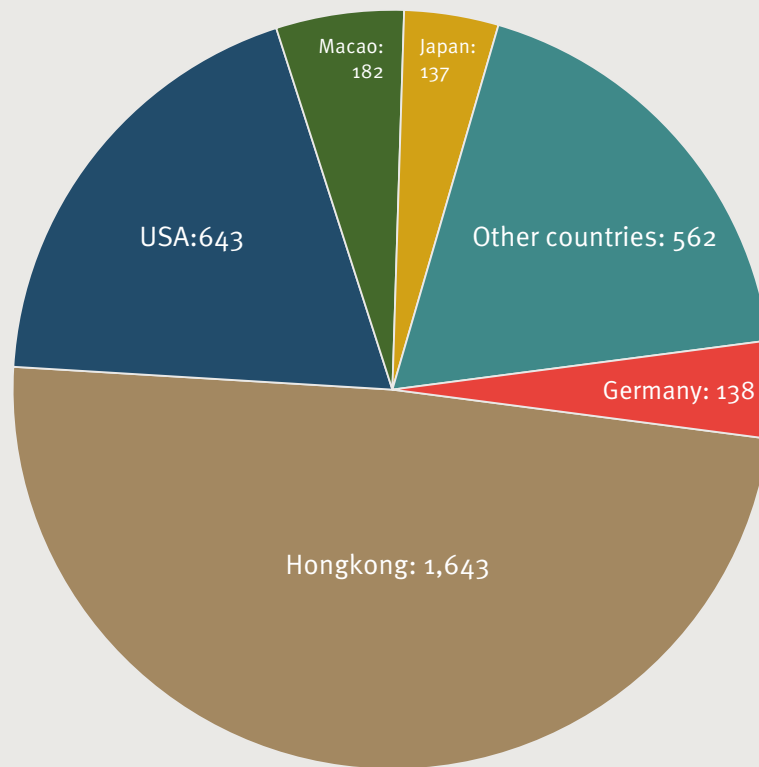
The professional supervisory unit of an international NGO’s registered branch takes over some administrative tasks and oversees project activities in the country. Supervisory units can only be chosen from state-specified ministries, associations, or organizations. They connect the NGO to the Ministry of Public Security and vouch for the foreign partner organization. They also

ensure that international NGOs are only active in their designated areas. This has resulted in a two-track control system, which places foreign NGOs with regard to their field of activity, the Chinese partner organizations, supervisory units, and the security authorities under the surveillance of the Party and the state.

The 2017 law is part of a package of national security legislation. It is to be understood in the context of the Counter-Terrorism Law, the National Security Law, and the Cybersecurity Law.¹⁵ In addition, the law is an expression of a political initiative against “Western values,” which supposedly undermine national security. As such, it seeks to “separate sheep from wolves” among civil society actors.¹⁶ The conditions and control structures for NGOs working in China are symptomatic of a “securitization of civil society policy” in the country. They enable micro-control management, which helps the Chinese state to completely reorganize the international NGO landscape in the country, bringing it into a hierarchical service relationship.

For international NGOs, since 2017 work in China has been characterized by two challenges: 1) constant reflection on whether goal-oriented civil society dialog is still possible in the existing structures, as evaluated by their own values and aims, and 2) dealing with the gatekeeper

Origins of the international NGOs that have applied for 3,305 temporary activities since 2017 and their breakdown by topic for Germany



Source: The China NGO Project, based on publications by Chinese security authorities; graphic compiled by the authors

figure of their supervisory unit, if they can find one, and constant surveillance by the Chinese security bureaucracy. International NGOs are exposed to these challenges to varying degrees. Two studies show how differently they impact European NGOs for example. The authors conclude that the 2017 law has added costly bureaucracy and fundamentally changed cooperative relationships with civil society in China: from partnership-horizontal to service-oriented-vertical.¹⁷

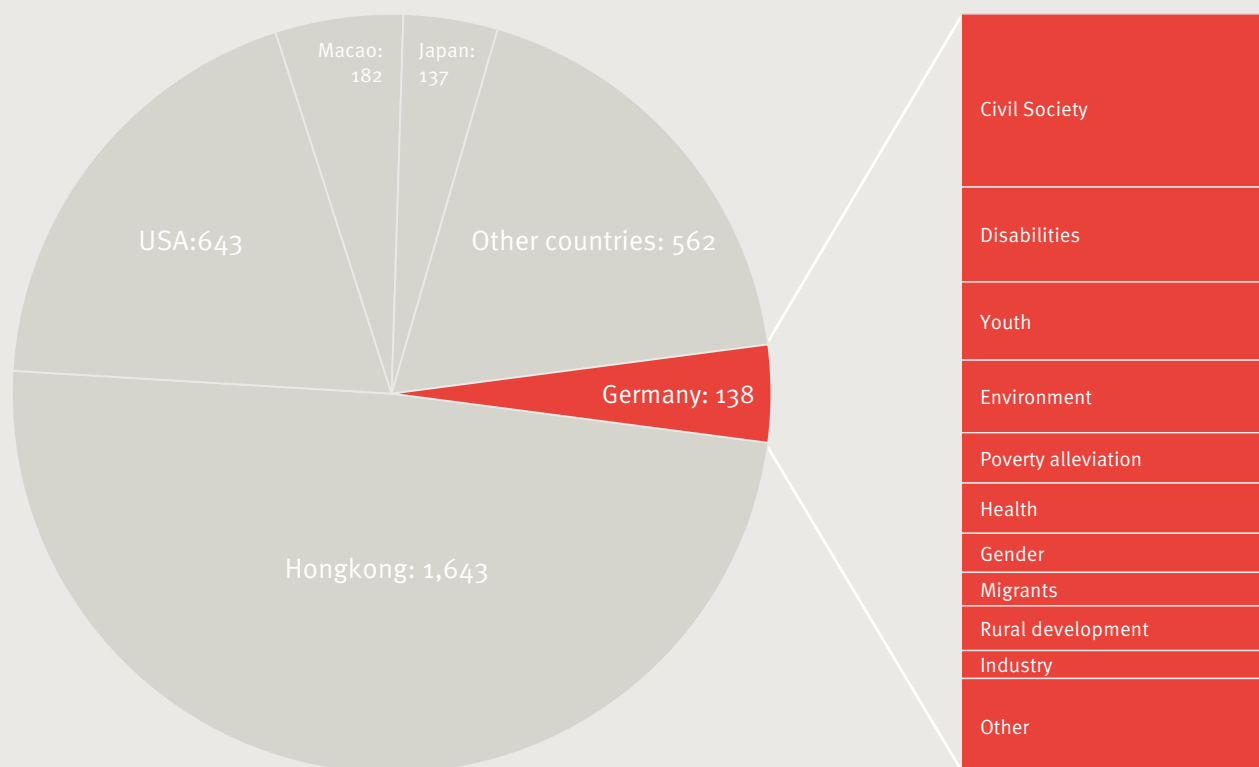
More prep work and less content

The practical work of international NGOs in China is currently taking place in a space of negotiation that is shaped by the registration and reporting requirements of their partner organizations and the security authorities. Once international NGOs have successfully registered their branch and received a social credit number, a separate approval process for their annual activities begins. Some cooperation partners, in their role as supervisory units, wave the action plans of their international NGOs through, while others open correction loops together with the security authorities, which can go down to the smallest detail: when, where, and with whom an

event will take place, including all of the participants' personal details. The flow of information to the security authorities may vary depending on the international NGO, but it characterizes the preparation for all cooperative work.

Identifying areas of collaboration can still constitute the core of personal connections, but hierarchical relationships of dependency often form the new foundation of an institutional cooperation between international NGOs, Chinese supervisory units, and/or civil society organizations in China. The cooperative relationship is strained by negotiations about the thematic focus and the budget for the Chinese partner organization's bureaucratic effort in order to be active in China at all. On the other hand, the Chinese partner organizations run a real risk, since they are politically liable for all activities of the international organization. In many cases, targeted replacement of staff at Chinese organizations acting as supervisory units has broken established relationships of trust.

Just as the new regulations on registration and administration of social organizations are intended to align their work with the goals of the Party,¹⁸ the 2017 law affects civil society organizations in China through its impact on



the work of international NGOs active in China. Foreign funding is no longer available for issues deemed sensitive by the Party-state, such as rights-based advocacy work. Mission drift is one consequence of the legal strictures that the Party-state places on civil society activities by Chinese and international actors.¹⁹

Perspectives for dialog

Across the world, civil society is confronted with shrinking spaces. In the case of China, national security legislation cements the status of dwindling civil society spaces inside the country and those connected to it. Civil society in China defines itself differently from that which took form in Germany, for example. But beyond this basic divergence, the Party-state also increasingly seeks to control its commitments and subordinate it to its priorities. Due to United Front Work, *tǒngyī zhànxiàn gōngzuò* 统一战线工作, (that is, the penetration of all economic and social areas by the Party) in Chinese organizations and bureaucratic and security hurdles for international NGOs, civil society cooperation will become even more difficult in the future. How is enabling spaces, an opening up of new spaces for dialog, possible?

First, the starting point for cross-system civil society dialog with China should be shared issues, that is, areas of work; and concerns, that is, desired changes to a particular situation. As the EU-China NGO Twinning Program has shown, for example, there is ongoing potential for cooperation on the subjects of sustainable development, from decarbonization to environmental and resource protection to social issues. Successful cooperation requires a common basis of trust and conviction along with the will to think over social aspects of sustainable development. The political risks and consequences for the Chinese and international organizations must always be considered.

Second, cooperation partners in civil society dialog with China must agree on their own technical language. It is productive to link issues to multilateral concerns such as the Sustainable Development Goals (SDGs) of the United Nations. In this way, it is possible to counter the discourse and conceptual power of the Chinese Party-state and to critically question shifts at the global governance level. Terms such as “win-win,” *shuāng yíng* 双赢, or “community of common destiny for all mankind,” *rénlèi mìngyùn gòngtóngtǐ* 人类命运共同体, must be decoded for their political content and their impli-



Shared issues: SDGs in the EU-China NGO Twinning Program 2017/2018 in Chengdu (Photo: Joanna Klambisch)

cations must be deconstructed.

Third, dialog with civil society organizations in China should take place in the long term, within their working environment and political structures. This is the only way to develop a deeper understanding of their organizational and working methods. The experiences of Chinese organizations with China's economic and social development in the 20th century make them important dialog partners for China's engagement with the world in the 21st century.²⁰ Accordingly, direct dialog with Chinese organizations in China should also increasingly take place in third countries. Independent of the global strategies of other countries, Chinese initiatives such as the Belt and Road Initiative (BRI) could be better devised in the interest of the local people in the project countries.²¹

Civil society spaces must be protected worldwide. Civil society voices must be strengthened. Good governance, during international treaty negotiations for example,²² cannot succeed without a pluralistic civil society that is both organized from the bottom up and internationally networked. Particularly when working across system boundaries, social and environmental justice and the protection of global goods can provide a basis for cooperation with conflict-reducing effects, as issues which civil society organizations around the world have already committed themselves. Existing structures of economic, political, and academic cooperation

with China must be expanded to include civil society actors in direct dialog. To do so requires the transnational cooperation of civil society with the participation of Chinese organizations.

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Further reading



EU-China NGO Twinning Program Seven years of civil society dialog between Europe and China

Within the framework of the EU-China NGO Twinning Program, partnerships between Chinese and European NGOs working on similar topics were built and strengthened. From 2012–2019, employees of numerous NGOs from Europe and China had the opportunity to shadow colleagues at a Chinese or European organization, respectively, for a period of four to eight weeks. The aim of the program was to strengthen collaboration between civil society organizations in Europe and China.

The program is documented at eu-china-twinning.org.

For an official storybook, just send an email to:
china-programm@asienhaus.de.

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Joanna Klabisch and Christian Straube lead the China Program at Stiftung Asienhaus. They studied East Asian studies with a focus on China and modern Sinology at the University of Heidelberg and at universities in China. Since her studies and subsequent stays in China, Joanna Klabisch has been working on Chinese civil society, environmental protection, and social justice. As part of his doctoral research, Christian Straube examined Chinese investments in East and Central Africa, as well as the China-Africa discourse.

About Stiftung Asienhaus

Stiftung Asienhaus follows the mission statement “Connecting people, promoting insights, shaping the future” and contributes to building bridges between civil societies in Asia and Europe. The organization is committed to the implementation of human rights, the strengthening of social and political participation, as well as the protection of social justice and the environment.

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