CHAPTER TWO

EXPANSION OF THE CIVIL RIGHT OF ASSOCIATION

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In conjunction with the Reform and Opening begun in the late 1970s, the resurgence of civil organizations in China has garnered the greatest attention. The rise of civil organizations is an inevitable result of the spontaneous institutional and social shifts stemming from the overall process of social transition from a collective society to a post-collective society, as well as a response to the “global social revolution.” In accordance with the growing number of civil organizations, as well as improvements in their organizational development and capacity, the role of these groups in Chinese society has become more prominent.

Civil organizations have come to play an increasingly important role in public service, social mediation, policy advocacy and civic participation. Service organizations break the government monopoly on public services, in order to provide a wide variety of community-based, personalized public goods to meet the diverse needs of the community. Intermediary organizations undertake institutional transformation that is associated with the meting out of public functions, serving as the bridge between the public and the government. Advocacy organizations provide a platform of ideological emancipation and lubricant for social harmony by providing a forum for the discussion of public affairs, breaking the barriers of ideology, promoting open society and transparency, as well as enhancing community resilience and tolerance.

Through these organizations, civil society is empowered to participate in the creation of new channels that exist outside of government institutions and units to enhance the degree of public policy recognition. Civil organizations serve to greatly ease the social crises of legitimacy arising from the process of transformation, while also creating conditions for filling gaps within public services to facilitate smooth transitions within Chinese society.

It could be argued that the rise of civil organizations is just as exciting of a phenomenon in the second half of the 20th century as has been the rise of private economy. The rise of the private economy
has driven the transition from a planned economy to a market economy, while the rise of civil organizations have driven the transition from a collective society to a civil society, such that marketization and democratization have become primary themes within China’s social development.

From the perspective of citizen rights, the past 30 years of civil organization development have been marked by the process of expanding the right to the freedom of association. The expansion of civic association has two dimensions, the first of which is the expansion of the rights of individuals to establish organizations and to engage in capacity building, and the second of which is an expansion of the rights of civil organizations originating from the activities of associations.

The right of individuals to establish organizations and the right to organize are mutually reinforcing. First of all, an individual’s freedom of association is the basis for the formation of organizations. The capacity and morphology of an individual’s right of association has a direct impact on that of the organization. Secondly, the right of the individual to association has as its fundamental purpose the provision of organized action to overcome personal, property-related and other limitations facing lone actors. If the individual’s right to freedom of association cannot be converted into the right to organize, then the significance and timeliness associated with freedom of association may be greatly reduced.

Therefore, the process of understanding the achievement of an expansion of the rights of association for individuals and groups must be undertaken from the perspective of the right to organize, especially in terms of group participation, public services, public decision-making, and public advocacy. It should be noted that individuals and organizations possess different types of primary rights. The objectives of individuals and organizations may be the same, but once established an organization meets with demands that extend beyond those of the individual. There may even occur some organizational alienation and variations within collective action. Thus, it is imperative to have a comprehensive understanding of the right to association from the perspective of the differences between both the organization and the individual.

At the same time, the core of the right of association permits individuals to establish an organization, but this permission comes from the administration. The expansion of the right of association increases the primacy of the individual and at the same time represents a pro-