Welfare Provision for Vulnerable Children: The Missing Role of the State*

Xiaoyuan Shang, Xiaoming Wu and Yue Wu

ABSTRACT This article examines the situation of non-governmental children's welfare institutions based on field investigation in China. The research finds that China's market-oriented reforms have created both the demand for and the resources required to meet the welfare needs of vulnerable children. The new private non-profit sector responds to the social demand of providing services to vulnerable children by mobilizing non-government resources whilst actively looking for new ways of co-operating with the state and fighting for legal status. However the Chinese state hesitates to establish formal relations with the new non-government sector owing to political or economic considerations, or the lack of necessary capacity and experience in the field. A major policy break-through is urgently needed to address the welfare needs of vulnerable children in China. The aim of this policy change must be to establish formal relations between the state and civil society and to define the regulatory role of the state in social welfare.

Social welfare reform in China is an important issue. However, most current research in this field concentrates on the issue of social security reforms. The amount of research on welfare services to vulnerable groups is small, particularly in the case of orphaned and abandoned children. Most existing research has focused on the state sector, and has raised important issues, including the insufficient supply of financial and human resources from the state and the improper approach towards childcare.[1] However, in the provision of welfare services to children in China, neither the role of non-government organizations (NGOs) nor the relationship between the state and society has been systematically examined.

Current research suggests that during China's transition to the market economy, vulnerable groups in Chinese society were marginalized.[2] Facing the pressure of meeting increased social demand on welfare

* The authors are grateful to the Australia China Council for awarding the Alice Tay Human Rights Award to Dr Xiaoyuan Shang in 2003 which made the investigation financially possible. They are also grateful to Professor Peter Saunders for his support to this research, Professor Morris Saldov for his valuable comments and suggestions to the first draft of the article. They want to thank all the staff members, parents and children they interviewed.

1. Kay Johnson, "Chinese orphanages: saving China's abandoned girls," *The Australia Journal of Chinese Affairs,* No. 30 (July 1993), pp. 61–87; Linda Wong, *Marginalization and Social Welfare in China* (London: Routledge, 1998); Xiaoyuan Shang, "Moving toward a multi-level and multi-pillar system: institutional care in two Chinese cities," *Journal of Social Policy,* Vol. 30, No. 2 (2001a), pp. 259–281.

2. Wong, *Marginalization and Social Welfare*.

© The China Quarterly, 2005

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

services, the Chinese state began to take an more residual approach to welfare provision[3] whilst attempting to pluralize the financial bases of existing welfare institutions and introduce a multi-supplier system in order to keep government expenditure on welfare at a minimum level.[4] Because of this, the system of protecting vulnerable children in China is now in a stage of transition. The role of the state in welfare provision for children must be re-defined and a new relationship between the state and the newly emerging civil society established. What is the role played by China's new civil society in child protection? How has the government reacted? What is the driving force behind this process? What type of welfare system is emerging from the transition? How will labour and financial responsibilities be divided between the state and civil society in the emerging welfare system? To answer these questions, this research will examine the case of a non-governmental child welfare institution (NGCWI) in China.

The main findings of this research are as follows. China's market-oriented reforms have created both the demand for and the resources required to meet the welfare needs of vulnerable children. The new private non-profit sector responds to the social demand of providing services to vulnerable children by mobilizing non-government resources whilst actively looking for new ways of co-operating with the state and fighting for legal status. However the Chinese state hesitates to establish formal relations with the new non-government sector or play a more active role, owing to political or economic considerations, or the lack of necessary capacity and experience in the social welfare field. A major policy breakthrough is urgently needed to address the welfare needs of children in China. The aim of this policy change must be to establish formal relations between the state and civil society and to define the regulatory role of the state in social welfare.

This research is based on field studies undertaken from November 2002 to October 2003 in Xinjiang, Yunnan, Sichuan, Hebei and Anhui provinces and the Beijing municipality, and interviews with people who work with vulnerable children (including street children, orphaned, abandoned and/or disabled children and the children of long term prisoners) from Hebei, Shandong, Shanxi, Inner Mongolia, Shenyang, Ningxia and Tianjin. The research also relies on in-depth interviews with children, caregivers and officials at the central and local level, directors and staff in foreign and domestic NGCWIs, teachers, foster parents and Chinese scholars. The authors also examined care and accommodation arrangements at two NGCWIs. The authors have also investigated relevant documents concerning the historical development of welfare provision to children in China. These include national and local policies supporting

3. Xiaoyuan Shang and Xiaoming Wu, "Changing approaches of social protection: social assistance reform in urban China," *Journal of Social Policy and Society*, Vol. 3, No. 3 (2004), pp. 259–271.

4. Xiaoyuan Shang, "Moving toward a multi-level and multi-pillar system."

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

children in need, statistics, working reports, other relevant materials produced by NGCWIs working with children and existing research articles by Chinese scholars.

Background

Vulnerable children in China. There are three groups of vulnerable children in China who require welfare provision. The first group consists of orphaned and abandoned children, who are often also disabled. Most of these children live in rural areas.[5] Nation-wide, there are about 50,000 children in government care, more than 95 per cent of them abandoned. There are also 300,000 to 400,000 orphans in rural areas.[6] The number of orphans may increase rapidly in the next five to ten years due to the spread of HIV/Aids. It is estimated that the number of HIV/Aids orphans will be around 160,000 to 200,000 by 2010.[7] More than 80 per cent of HIV/Aids orphans will be living in rural areas. All orphaned and abandoned children in urban areas are eligible to be taken in by state children's welfare institutions (SCWI). Those in rural areas will either be looked after by relatives or by the customary practice of *wubao*, a rural community based social assistance programme. [8] If these protections fail to support them, they are left with no one responsible for their care.

The second group of vulnerable children consists of the children of prisoners who have received a long term or the death sentence. These children are not entitled to welfare provision from the state or communities. According to the current welfare policy, only children who lose both parents are regarded as orphans and therefore entitled to the benefits and services provided by the state or communities to orphans. In China, there are over one million long-term prisoners of whom 70 per cent are married and most of whom are of child-rearing age.[9] Many of them have young

5. Xiaoyuan Shang and Yang Dehua, *Child Abandonment and the Strategy of Information, Education and Communication Activities in China*, a report for UNICEF and MCA (2001); Johnson, "Chinese orphanages." Kay Johnson, Banghan Huang and, Liyao Wang, "Infant abandonment and adoption in China," *Population and Development Review*, Vol. 24, No. 3 (1998), pp. 469–510.

6. There are no official statistics available. The number is estimated by one of the authors according to interviews conducted in a few provinces and is not accurate. It is based on the following information: there are more than 20,000 rural orphans in one province and one city (Yunnan and Beijing), and more than 40,000 rural children in another province who have one or both deceased parent(s). If we assume that there are about 20,000 rural orphans in each province, the total number should be more than 600,000 in China. Given that there should be fewer orphans in richer areas and smaller provinces, we put the number at 400,000. This is a very conservative estimate and it can be used as an indicative figure only. We hope we can have a more accurate figure through a comprehensive investigation into the situation of Chinese rural orphans in 2004. We have no way of making even a rough estimate of the number of abandoned children in rural areas.

7. Chinese News, 30 November 2002, www.sina.com.cn.

8. *Wubao* ("five guarantees") is a rural community based social protection system, which provides free food, fuel, clothes and health care to orphans, older and disabled people who are not able to support themselves, with no one legally responsible for their well-being. Free education for children and funeral services for older people are also provided (Shang and Wu "Changing approaches of social protection").

9. According to an interviewee, Zhang. She is the director of Beijing Sun Village, a non-government welfare home for children whose parents are long-term prisoners.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

children. The number of children in this situation is estimated to have reached several hundred thousand nation-wide. These children face several different risks. If the main income earner (usually the father) is imprisoned, the family may fall into poverty. The mother may then remarry and leave, abandoning the children. In the case of the mother being imprisoned, a very large proportion (60 per cent of mothers of the children in care in one NOCWI studied) are wives who have killed their husbands after being the victims of domestic violence. In this case, the children lose both their parents.[10]

The third group in need of protection consists of street children. Many also belong to one of the aforementioned groups, or are victims of criminal activities such as kidnapping. The scale of illegal child trafficking can be seen from official figures: from March to July 2000, the Public Security Department released 30,000 kidnapped children nation-wide.[11] According to our analysis, among 100 street children taken in by the Shijiazhuang City Child Protection and Education Centre (SCCPEC), more than 70 per cent came from households without one or both parents for various reasons.[12] The number of street children in China has increased in the past few years.[13]

The system of child protection in China. Theoretically, the state is the sole welfare provider to vulnerable children in China. This system is characterized by the absence of NGOs and a rural-urban duality. Only state-run welfare institutes are legally permitted to be the guardians of orphans and abandoned children found in urban areas prior to adoption.[14] The services provided by the government are only available to registered urban residents. Children who are registered urban residents are entitled to minimum living security benefits, that is, income support to the urban poor, which is provided in cash. They are also entitled to the care services provided by SCWIs.

In rural areas, the state policy is not to take direct responsibility for supporting these children. The situation of China's rural orphans has never been systematically examined, and theoretically, they are protected by traditional family and kinship networks, and *wubao.* The government does not provide extra financial help or other services to these children.[15] However, in some areas, orphaned and abandoned children are institutionalized in state or collectively owned welfare homes or rural rest

10. Interview, Zhang, Beijing Sun Village, October 2003.
11. http://news.sina.com.cn/c/2003-11-18/08262156832.shtml.
12. Shijiazhuang City Child Protection and Education Centre (SCCPEC) (ed.), *Wei liulang ertong cheng qi yipian lantian* (*To Maintain a Piece of Blue Sky for Street Children: A Report from Shijiazhuang City Child Protection and Education Centre*) (Shijiazhuang: Hebei jiaoyu chubanshe, 2003).
13. Guo Wenye and Wang Maolin "Woguo liulang ertong xianzhuang yanjiu" ("The current situation of street children in China"), paper presented to the International Conference on Saving Vagrant Children, Shijiazhuang 23–26 October 2003).
14. Interview with civil affairs official, 25 October 2003.
15. Now the situation depends on policies made by local governments (interview with rural civil affairs officials, July 2004).

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

homes for the elderly. At the end of 2002, about 50,000 children were in the care of state run children's welfare institutions and collectively owned rural welfare institutions.[16]

Before the economic reforms, the number of children in the direct care of the state was very small. Apart from family and kinship networks, other social organizations such as employment organizations (*danwei*) in urban society and people's communes (*renmin gongshe*) in rural society also played an important role in welfare provision to vulnerable children. However, all these organizations were a part of a combined social, economic and political system, which had both socio-economic functions and the function of a local government. A civil society independent from the state did not exist at that time.

The situation has changed dramatically during the economic reforms towards less responsibility by government and more initiative being taken by domestic and international NGOs and faith-based services. The new situation requires a change in the role of the state from service provider to regulator. A delay in the change will cause major problems that will be discussed below.

Challenges and opportunities facing China's system of child protection during the economic reforms. Previous social institutions have changed during China's economic reforms. In urban areas, the employment unit, *danwei*, has gradually lost its function of welfare provision.[17] In rural areas, the system of people's communes was dismantled in the first half of the 1980s. Part of its role in welfare provision to vulnerable groups was taken over by the government at the township level, the rest being lost. Vulnerable groups in rural areas, including children and older people, have had to rely more heavily on traditional family and kinship networks.

However, the social change that occurred during this period also weakened the role of family and kinship networks. Two important factors must be considered. The first is a large-scale population migration from rural to urban areas. More than 113 million rural migrant workers have left their homes to find jobs elsewhere.[18] Older people and children tend to remain in rural areas. The second factor is the gradual reduction in the size of an average rural family, partly due to the birth planning policy which has been strictly implemented by the government since the early 1980s. The protection provided by family and kinship networks are no longer as effective whilst risks (illegal trafficking of children, loss of parents, break-up of family and so on) facing children have greatly

16. Department of Finance and Administration, MCA (eds.), *China Civil Affairs Statistical Yearbook* (Beijing: China Statistics Press, 2002), p. 149.

17. Xin Gu,"Dismantling the Chinese mini-welfare state? Marketization and the politics of institutional transformation, 1979–1999," *Communist and Post-Communist Studies*, No. 34 (2001), pp. 91–111.

18. Fang Cai, *Zhonguo chengxiang jiuye: wenti yu xuanze* (*Employment in Rural and Urban China: Issues and Options*) (Beijing: Zhongguo sheke wenxian chubanshe, 2002), p. 58.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

increased. However, the role of the state in child protection has not changed dramatically, or adjusted accordingly. Because of this, the existing system is no longer able to provide adequate protection to all vulnerable children in Chinese society. Further exploration suggests that there are two main reasons behind this failure of the system.

The first is the lack of a comprehensive safety net in social welfare provision to children. Orphaned and abandoned children in rural areas and the children of long-term prisoners are not entitled to any state welfare provision. Most rural orphaned children are only protected by the community-based *wubao* system, but that has serious drawbacks. First, *wubao* is a community based system. Once children are moved away from their birthplace, they will not be entitled to the benefits. This occurs often, due to the large "floating population" in China. Abandoned children are clearly not entitled to *wubao*: if the parents are known, they are not entitled to *wubao* because their parents continue to be responsible for them; but if the parents are not known, they are not local orphans and hence not entitled to *wubao* as it is a community based system which provides protection to orphans in the relevant community only. In both cases, the safety net for abandoned children in rural areas is missing.

Secondly, in theory, children who have grandparents are not entitled to the benefits of *wubao*. Even if they are entitled to it, these children still need the care services provided by some adults. Many rural orphans have to be cared for by their grandparents, especially grandmothers. Theoretically, this is regarded as one of the best ways of caring for orphans. However, elderly women in rural areas are also one of the most vulnerable social groups in China. Less than 2 per cent of rural older people enjoy old age pensions. Poverty rates in this group are very high, especially among older women.[19] Because of poverty among caregivers, a very large proportion of children in this group, especially female children, suffer multiple disadvantages and deprivations, including poverty, lack of education and limited access to health care.

Thirdly, most children of long-term prisoners are not entitled to any child protection services provided by the state or communities. The only resource to which they can appeal is their family or kinship network. However, the fact that their parents have committed serious crimes makes their family network more unwilling to protect them.[20] The situation has recently started to change. In some large cities, these children can be placed in state children's welfare institutions.[21] However, because they have living parents, most of them are not entitled to any welfare provision from the state or communities. Many of these children end up on the street. Child protection centres run by the government that

19. China Research Centre on Ageing, *Proceedings of the Conference on the Support System for China's Elderly* (Beijing: China Research Centre on Ageing, December 1994).
20. Interview, Zhang, Beijing Sun Village, 27 October 2003.
21. Interview, Zhang, Director of Shanghai Children's Welfare Institution, October 2003.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

provide shelter and protection to street children are very scarce.[22] The Chinese government is currently exploring policies protecting street children.[23]

Even where the formal system is applicable, it may not work in poorer areas. Previous research suggests that the current system of child protection provided by the government has been placed under huge financial pressure during the economic reforms.[24] The financial base of *wubao* has been weakened during the process of de-collectivization and rural taxation reforms. The *wubao* system itself is becoming increasingly unreliable. Given the situation, even if children are entitled to social welfare benefits, they still may not be able to receive them owing to the financial difficulties facing local governments and communities.

When the children who need immediate care and support fail to receive these services, anything can happen to them. The number of street children, the orphaned and abandoned, those whose parents are long-term prisoners, and those who are the victims of kidnapping have increased steadily during the past two decades.[25] The situation has attracted attention from both the government and society, internationally and domestically.

The immediate result of this attention to child protection was an increase in investment from the government and donations from society to SCWIs.[26] However, since SCWIs only protect a small proportion of vulnerable children this has failed to reach most of them. The government has also tried to provide minimum living security, education and health assistance to children in urban households in poverty in some large cities since 1993, and in all cities since 2001.[27] However, since this support is provided financially and therefore is not targeted to the children directly, it does not necessarily give them the care and protection services they need. In rural areas, where the government has started to strengthen the *wubao* system, rural orphans may benefit from these efforts in the future. However, as yet there are no systematic efforts being planned to meet their other needs.

22. Qu Qing, "Woguo muqian jiuzhu liulang ertong de xianzhuang, wenti ji duice jianyi" ("The current situation, problems and policy suggestions on assistance to vagrant children in China"), paper presented to the International Conference on Saving Vagrant Children, Shijiazhuang 23–26 October 2003).

23. Interview with civil affairs official, 22 October 2003

24. Xiaoyuan Shang, "Moving toward a multi-level and multi-pillar system"; Xiaoyuan Shang and Xiaoming Wu, "Protecting children under financial constraints: the case of Datong," *Journal of Social Policy*, Vol. 32, No. 4 (2003), pp. 549–570.

25. Xiaoyuan Shang, "Looking for a better way to care for children: cooperation between the state and civil society," *Social Service Review,* Vol. 76, No. 2 (2002) pp. 203–228; Guo and Wang, "The current situation of street children."

26. Xiaoyuan Shang, "Moving toward a multi-level and multi-pillar system"; Xiaoyuan Shang, "Looking for a better way to care for children"; Shang and Wu, "Protecting children under financial constraints."

27. Cairang Douji, Yanyin Yang *et al*., *Zhongguo de chengshi pinkun he zuidi shenghuo baozhang, Zhongguo chengshi fan pinkun luntan zhuti baogao* (*Urban Poverty and Minimum Living Security: Main Report of China Urban Anti-poverty Forum*) (Beijing: Ministry of Civil Affairs, 2002); Shang and Wu, "Changing approaches of social protection."

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

During China's market reforms and opening to the world, new resources became available not only to the SCWIs but also to the NGCWIs. While the government is trying to provide support to vulnerable children within the current social welfare and social security system, the new non-government sector spontaneously responds to the social demand for services to vulnerable children. This can be done because of the resources newly available in Chinese society. NGCWIs have mushroomed in different parts of China.[28] By mobilizing non-government resources, caring services are being provided to vulnerable children on a large scale by churches, individuals, various NGOs and private enterprises.[29] Some NGCWIs provide services to more than 120 children.[30]

The Case of the Bright Children's Home

We have interviewed directors and staff from seven NGCWIs. Care arrangements were examined in two of them. The following parts of this article analyse the case of the Bright Children's Home (BCH) to explore possible answers to the questions mentioned at the beginning, concerning the role played by China's new civil society in child protection and the relationship between the state and civil society organizations in the emerging welfare system.

The Bright Children's Home is run by a group of nuns, of whom two provided the following information in interviews. One of the two nuns is a director of the home and the other is a caregiver. The names of both the home and the nuns have been changed to protect anonymity and preserve confidentiality.

The history of the Bright Children's Home. The BCH was established 15 years ago when China's economic reforms had just started. It belongs to the Catholic Church in H province, where one quarter of all Catholics in China live. The Catholic Church has a very long history and many followers in this area, but its activities almost stopped after 1949. Activities began again in the mid-1980s, and a church property with 19 rooms, seized by the state in the 1950s, was returned to the church.

The BCH was established because disabled children were being abandoned to the church. Parents would abandon a child in a village known

28. The authors have no way of estimating the number of children cared for by these NGCWIs since they have no legal status. However, the size of these institutions varies between about five to 200 beds. Some have already become very famous.

29. Rifang Qin, Cui Lian and Xu Aiqing, "Woguo liulang ertong jiuzhu baohu jigou dingwei fenxi," ("An analysis on the structure of the system of protecting vagrant children in China"), paper presented to the International Conference on Saving Vagrant Children, Shijiazhuang 23–26 October 2003). Joint Research Team from Civil Affairs Bureau in Hebei province and Institute of Sociology, Hebei Academy of Social Science, "Cong shehuiban ertong fuli jigou xianzhuang kan wanshan qi zhengce fagui de jinpoxing" ("The urgency of perfecting policies and regulations on children's welfare homes run by society"), article presented to The First National Conference of Social Welfare Theory and Policy, Beijing, November 2000.

30. Interview with a staff member of a NGCWI, 29 October 2003.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

to contain Christians in the hope that the child would be more likely to be taken in and have a higher likelihood of survival. Eventually it reached the point where the Christian community in each village was looking after at least three or four children, and the church decided to establish the BCH to create a home for them. Since establishment, the BCH has taken in more than 120 children, most of them disabled. Local Christians or those from other Chinese provinces have adopted about 34 children. Currently 87 children are looked after by the home, looked after by about 30 nuns.

Children taken in by the BCH. In the area where the BCH is located, healthy children are rarely abandoned but the abandonment of disabled children is a serious social problem. Most children taken in by the BCH are disabled. It receives children from three main channels. Some are abandoned in the villages where Catholics have regular meetings. Some are sent to the BCH by local policemen. These children are usually found by street cleaners and residents and sent to the local police station. Occasionally, local policemen may send street children (who are not entitled to any state welfare benefits) to the home. The third channel is the Church. The BCH accepts children sent by the Catholic Church from other cities and provinces. Some of the children cared for come from Shijiazhuang and Shandong. Nun Qin believes that Catholic Churches all over the China belong to the same family. She accepts their children as well as their assistance.

The capacity of the BCH was rapidly overwhelmed and Nun Qin hung posters in nearby villages requesting local villagers to stop abandoning children to the BCH. The number subsequently decreased, but little is known of the fates of the children who might otherwise have been abandoned to the BCH and may still be in need of care. However, people from other counties and provinces continue coming and leaving children to BCH, which continues to take in about ten children each year.

The missing role of the state as a regulator: the legal status of the BCH. In the middle of the 1980s, the government in H province had a positive and supportive attitude towards the foundation of the BCH. The Civil Affairs Department at provincial level provided 10,000 RMB, a lot of money at that time, to cover the initial costs. Many senior officials in the provincial government visited the church and the children's home. Their activities and the BCH were reported by local official newspapers and television programmes, which meant official recognition. Both the government and the church believed that the establishment of the BCH was a good thing for children and society, and no one thought that it would have to go through registration procedures in order to obtain legal status. So the BCH was simply established without any legal registration procedures.

From 1994, the current director Nun Qin became the head of the BCH and she realized that it could not exist as it is since none of the children in the home is formally registered with the government. The BCH needs

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

legal status, as do the children being cared for there. Because of this, she applied for formal registration. She visited local government departments, wrote applications and talked to officials at different levels.

However, the situation in China in the 1990s had changed greatly since the 1980s. First, the government had tightened its policy on NGO registration after the Tiananmen incident in 1989. It had become more difficult for a NGO to obtain formal registration. Secondly, the number of orphaned and abandoned children increased during the 1990s so that the cost of caring for these children was much higher than before. It was increasingly difficult for the church and the local government to take in all the children in need of caring services. Thirdly, after many years of financial system reforms, it was now the local government that was responsible for providing services to vulnerable children and that had to consider who was responsible for the costs of raising them. If an abandoned child is found and taken in by the civil affairs department (CAD) in a county, the county government is responsible for providing financial support and other services to the child. If the local government sends the child to a SCWI run by the CAD at a higher level, it has to pay for it (about 5,000 RMB per year). Because of this, the local government hesitates to take in abandoned children found locally. Since 1994, Nun Qin has written more than 70 letters to several government departments: civil affairs (*minzheng*), religion (*zongjiao*), united front (*tong zhan*), public security (*gongan*), political consultative conference (*zhengxie*) and people's congresses (*renda*), at different levels. Most departments were friendly and sympathetic to her efforts. However, for various reasons, none of them had the power to give the home a formal registration within the current legal framework, which stipulates that only government organizations have the right to run children's homes and that it is illegal for private individuals and organizations to run such facilities. Children cared for by the BCH have to grow up without formal registration. The oldest "child" in the home is now 20, but he still cannot obtain a formal registration (*hukou*). Nun Qin has also tried to argue with the local CAD that if it cannot give her home legal status, the government should take over the home and look after the children. This suggestion was ignored. Because of this, she must continue to run the home.

Although both the local government and the church know that the BCH has no legal status, the local government has no intention of closing it or taking over its administration. To assume responsibility the local government would have to provide caring services to 87 disabled children. Contrary to their official position, the government still gives some support to the home. The children are allowed to go to the local school without paying the higher tuition fee which is usually charged for children without local registration. If the BCH can find adoptive parents (who must have all the documents required by Chinese adoptive law) for its children, the home usually has no difficulty in processing the legal aspects of the adoption through the local CAD. So adopted children do receive legal registration.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

The situation of the BCH is not exceptional. The authors have discussed the contradictory situation with directors of a few other NGCWIs. In the church district where the BCH is located, the Catholic Church owns three other children's homes. Only one of them has managed to obtain formal registration from the provincial Red Cross, which has earned the right to work as an umbrella organization for other NGOs. There are several other NGCWIs in the province run by private enterprises, individuals or state-owned not-for-profit organizations. One such organization has obtained very strong encouragement from a senior official in the local government. Because of this, it has obtained much support, both politically and financially. However, it has the same registration problem as the BCH. The director of that home has told the author that the only help the local government can give to a NGCWI is to turn a blind eye towards it.[31]

It is beyond the power of the local authority to give a formal registration to any of the NGCWIs in its province. According to the law, it is illegal for NGOs to run children's welfare homes. However, it is also beyond the capability of the local government to take over the responsibility of supporting all the children who need protection. Facing this dilemma, the only thing the local government can do is ignore legal issues facing the NGCWIs and let them play a role in child protection. However, if cases of serious child abuse are reported, the local government can take many forms of action, from investigating the reported cases to closing a home without legal status.

The registration problem facing NGCWIs shows how the situation created by the new socio-economic environment is challenging the Chinese government. The previous legal system is out of date and local governments cannot enforce it. In the case discussed here, the enforcement of the current law means that it would be necessary to close all the NGCWIs without legal status. If that happened, the local government would have to invest tens of millions of RMB in caring for hundreds of children, or leave them faced with starvation or a life on the street. Because no responsible government can take such actions,[32] the role of the state as a regulator in child protection has been partly compromised. New policies are urgently needed so that the government may deal with the new situation effectively. In H province, a municipal government is considering the implementation of a local regulation governing the care of abandoned children in order to solve the problems facing them.[33]

The missing role of the state as a fund provider: the financial base of the BCH. The case of the BCH provides an example in response to the

31. Interview with a vice-director of a NGCWI, 24 October 2003.

32. Almost all directors of NGCWIs interviewed know the situation. So they do not worry about the possibility that the government will close their homes. However, the situation may make it difficult for the government to supervise the actions of NGCWIs. For example, the government may hesitate to close a home which is not qualified to care for children owing to financial or other considerations.

33. Interview with a vice-director of a NGCWI, 24 October 2003.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

question posed at the beginning of this article: what is the division of financial responsibilities between the state and the civil society in child protection in rural China?

In the case of the BCH, the state has no role as a provider of financial resources to child protection. The BCH relies almost entirely on non-government resources to survive. Moreover, the BCH has to deal with additional difficulties because it does not have any legal status. Because the children cared for are not registered residents in China, they are not entitled to any government benefits (like the minimum living security benefits) or community based benefits (like *wubao*). The BCH cannot apply for government funding (like special medical assistance for disabled or sick children). The home may also be required to pay extra fees for its children when they have to use medical or educational services provided by the local government. Secondly, it is also illegal for the home to organize any formal fund-raising activities. So it has to rely mainly on the resources from local Catholic society and the church.

BCH adopted a self-sufficient approach in order to survive financially. This has been successful for the past 15 years. Its success relies heavily on the combined efforts of the local Catholic society. First, the home uses the properties of the Catholic Church free of charge, without paying any rent. If the BCH needs to renovate its buildings or build a new house, local Catholics will come and work on it voluntarily. Secondly, the BCH does not pay for most of the food it consumes. Local Catholics donate grain to the home every year. Because most local Catholics are peasants, it is not difficult for most of them to do so after harvest season. For other food, the BCH bought a piece of land and converted it to a vegetable farm. Nuns do all the work in the farm so the BCH does not need to pay for vegetables. Thirdly, the Catholic community in the other parts of the province and China provide the home with second-hand clothes donated by Catholics nation-wide. In the past 15 years, the BCH has not purchased any clothes for its children. Fourthly, children in the BCH are cared for by nuns, who work voluntarily, so that there are no labour costs. The nuns and abandoned children live together and develop interdependent relations (*xiangyi-weiming*); this is necessary for the children's survival and for the nuns to lead a meaningful life. Therefore, not only do the nuns care for the children, but they also play a role as teachers and nurses. They teach the children if they are refused by the normal schools (due to their disabilities). Many of the nuns have also learned some skills in rehabilitating disabled children so they can provide some specialized services as well. The BCH runs a medical clinic with nuns as doctors.

The BCH has to rely on donations for any cash payments. Its main expenditures are school fees (for children from the BCH, the higher tuition fees for children without local registration cards are waived, but it still has to pay normal fees) and medical costs for disabled children. An effort is made to pay school fees on time because Nun Qin does not want to give the school any cause to reject the children from the BCH. According to government policy, school fees can be waived for disabled

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

children, but as the children have no resident registration cards the BCH does not mention this policy to the school. If any children need medical operations, the home must find extra donations. A few children in the BCH suffer serious heart defects. In the past the home could not afford for them to have operations but now a limited amount of money has become available through international and domestic foundations. However, because it is without legal status, the BCH has to face extra difficulties in getting information about potential donors for the operations. It has missed some opportunities for children's operations because of a lack of relevant information and failure to apply on time.

Although life in the BCH has not been easy for the children and the nuns, the BCH has survived financially for the past 15 years without much support from the government or society outside the Catholic Church (occasionally charitable individuals would donate some money to the home). When she applied for legal status to the local government, Nun Qin could argue with local officials that the BCH could survive without financial support from the government. What it really needs from the government is legal status.

The missing role of the state as an organizer and a supervisor of services: the approach to child care in the BCH. In the past decade, the system of alternative care for orphaned and abandoned children in China has experienced major reforms.[34] The Chinese government has tried to regulate and standardize the services provided to these children.[35] A policy which aims at transferring children from institutional to foster care has been made and more than half of the children in the care of the state have been placed with ordinary families.[36] However, because the BCH does not have legal status, the government cannot supervise its care practices or provide it with technical or financial support. This means that Nun Qin cannot receive information about the new policies and trends of care practices directly. She learnt of the new policy indirectly from a staff member of Save the Children UK in Beijing.

The majority of children in the BCH receive institutional care. The Catholic Church provides a useful network to protect children, but most children are cared for in the home run by nuns. The Catholic Church had a tradition of running orphanages in the province before the communist government came into power. At that time, institutional care was regarded as the best way of caring for orphans.

The church provides a limited number of rooms for children and nuns. In the 1980s, the home only had one very large room where about 30 children and ten nuns had to live together. In the middle of the room there

34. Xiaoyuan Shang and Li Hao, *Institutional and Other Forms of Alternative Care in China: An Overview of Policy Background*, a report for UNICEF and MCA, December 2001.

35. MCA, "Ertong fuliyuan guanli zanxing banfa" ("Temporary methods of management of social welfare institutions"), in Office of Law and Regulations (ed.) (Beijing, MCA 1999).

36. Xiaoyuan Shang, *Institutional and Other Forms of Alternative Care: Local Cases and Practice in China*, a report for UNICEF and MCA, December 2001. Xiaoyuan Shang, "Looking for a better way to care for children."

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

was a very large stove that was used for cooking, for the hot water supply and for heating, and also used to dry infants' nappies. In the latter half of the 1990s, the government adopted the idea that it is better for children to be cared for in a family-like environment and its policy was changed accordingly. Although the BCH is not directly supervised by the government, Nun Qin attended some training courses run by international organizations and tried to change the practice in the BCH accordingly. She arranged for pairs of nuns to be responsible for caring for a fixed group (about eight) of children all the time. In this way, the children have a chance to establish relatively stable relationships with their caregivers. Her efforts show how the BCH attempts to be in accord with state regulations even without state supervision.

The BCH does foster a few very young children with Catholic families and does try to find adoptive parents for the children in its care. Since it is without legal status, the home has to find potential adoptive parents through the Catholic Church. Almost all adoptive parents are Christians, and if they have all the legal documents required to adopt a child, the BCH usually has no difficulty in obtaining legal adoption documents for the child from the local CAD. So the children have legal registration after they leave the home. However, the BCH will occasionally let adoptive parents take children away without providing the required documentation. In this case, the child does not have legal registration. The BCH trusts that most Christians are reliable adoptive parents, and believes that they will treat the children kindly even if they do not have the necessary legal documents. Since the founding of the BCH, more than 30 children have been adopted. But because the BCH has no legal status, its children have no chance of being adopted by potential international adoptive parents, who are more likely to accept disabled children than domestic parents.[37]

It can be seen that the role of the state as a service organizer is absent in the case of the BCH. New policies and trends in caring practices fail to reach the home directly. No regular supervision and technical support is provided and no one checks if the conditions in the BCH reach national standards. Nun Qin has to do things according to her own experience and goodwill. The risk here is that from experience in the West, the goodwill of Christians will not guarantee the safety of the children entrusted to the church. A lack of government supervision and regulations leaves the vulnerable children disadvantaged under Chinese law and services.

When all the roles of the state in welfare provision to vulnerable children are missing, the legal relationship between the state and non-government children's welfare institutions does not exist. This situation leaves the real charity organizations and the children cared for by them, like the case of the BCH, outside the protection of the Chinese law and also makes illegal or criminal activities possible outside the supervision of the state.

37. Interview with some directors of SCWIs, in Nanchang, Shanghai and Beijing in October 2001.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press

Conclusion

The first question to be asked is whether it is worthwhile to analyse the case of a NGCWI in this way. Although the questions of reliability and validity are usually reserved for quantitative research, we hope a qualitative study like this can also offer some findings which are relevant to other cases with similar backgrounds and characteristics, and their related government policies. This is the main reason for examining the case of the BCH in so much detail. During our fieldwork we interviewed people from many other NGOs who work in the field of child protection. Almost all of them are facing similar problems to those discussed in this article, such as the lack of legal status, financial difficulties and the shortage of technical support and proper supervision from the government.

One reason it is worth analysing the case of the BCH is that unlike many NGOs in this field, the BCH has relied on domestic resources for as long as 15 years. It has protected about 120 children, almost all of them disabled. This has not been easy for the BCH to achieve, but it can be seen that it is possible for such a home to survive without direct financial support from the government or international organizations. Many other NGCWIs may find themselves in a similar situation. The findings are encouraging because they indicate that the newly emerging civil society in China has the capacity and willingness to provide the resources to protect its own children. The Catholic Church is only a part of the civil society in China. There are orphanages run by enterprises, charitable individuals and organizations in other parts of China.[38]

The case study also suggests that the role of the state as a regulator is very important. At the current stage of development in child welfare services, it is even more important than other roles of the state, such as funding or service provider. In the case of the BCH, the support most urgently needed from the state is not financial but legislative. There is no doubt that the state should assume the financial responsibility of providing welfare services to all the children. However, its missing role in law, regulation and policy-making is more damaging since many children will fail to receive the services they might otherwise get if the state had developed a more comprehensive system of child welfare protection.

It is to be hoped that the missing role of the state in child protection in rural China is a temporary phenomenon resulting from the disjuncture between economic transition and the state obligation of social welfare provision. If the problem of inadequate social welfare provision and protection for normal and disabled children in rural areas is not solved, this temporary problem will lead to the serious permanent social consequences of continuing poverty, starvation, abuse, homelessness, social unrest and criminal activities.

38. Interview with directors and staff of some NGCWI, 9 October 2003.

https://doi.org/10.1017/S030574100500007X Published online by Cambridge University Press