

## Why Governance Fail: A Case Study of the Macau Sin Fong Garden Incident

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### Abstract

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Governance is considered to be a reform to deal with government failures and market fail, but the facts make it clear that governance may also fail. In this paper, we will analysis the failure of governance in modern society by using Macau Sin Fong Garden as an example and propose recommendations.

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Key Words: Governance, Failure, Sin Fong Garden, Macau

### 1. Introduction

The term “governance” was revived in late 20th century and developed rapidly into a popular and complex concept. In traditional sense, governance means a good arrangement to comprehensive organizations or activities (Hewitt de Alcántara, 1998). Our Global Partnership, a report issued by Commission on Global Governance in 1995, defines governance as “a complex of ways that private or public individual and organizations manage their public affairs. It is a continuous process to balance mutual conflict or difference benefits and act jointly. This includes regulations that force people to obey authority and informal arrangement that people agree or may benefit to them”. This is the main ideas about public governance, include (1) the diversify of governance, (2) the diversity management of governance, (3) emphasis on communication and interaction during governance process, and (4) joint responsibility of governance. (Lou et al., 2009) . From the development process of relevant theories, it is established on the foundation of people's reflection on government failure and proposes that, non-government actors should incorporate the governance process in order to cope with the increasing society challenges.

But governance does not seem to be a perfect substitute for government hierarchical mechanism or market mechanism. In fact, governance may also fail. Jessop issued *The Rise of Governance and the Risks of Failure: the Case of Economic Development* in 1998, he insisted that while there is a growing enthusiasm for governance mechanisms to deal with the failure of markets and/or national coordination, we should not ignore the possibility that the replacement of markets and/or hierarchical domination with governance will fail in (Jessop,1998) . Thus, putting the discussion of governance failure on the research agenda. However, judging from the literatures, governance failure has not received enough attention.

Taking economic development as an example, Jessop (1998) encountered three sets of constraints in the use of governance: the first, which, he argues, exist in the fundamental dynamism of capitalism and have its effects on all modes of economic and social co-ordination, including the market mechanism itself; the second set of constraints concerns how to integrate self-organization into the broader political system; and the third set of constraints lies in the essence—of governance as a process of self-organization. Howlett & Ramesh (2014) argued that there are two orders for governance failure, one is a fundamental mismatch between the governance model and the nature of the problems expected to be solved, and the other is that the need for action reorganization of existing governance relationships does not match the government capacity required to achieve the model. From their analytical framework, governance failure may lie in the ability of the governing subject in the governance system and the effectiveness of the governance framework (which also involves the allocation of institution and responsibilities).

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First, whether the governance system can provide an effective framework. In a legal society, the basis of an effective governance framework lies in a relatively well-established legal system, but the process of moving from government to governance may appear ‘institutional gaps’ due to the need for more legal support. Hajer (2003) argued that governance leads to the dispersion power and the formation of an ‘institutional gap’ in which there are no clear rules on how to decide policy, and there is endless negotiation. Howlett & Ramesh (2014) also stressed that legal systems of governance requires high level of skill to avoid governance participants reducing gains due to compliance or non-compliance with the law, because of which, Jessop (1998) argued that the state should assume the role of ‘meta-governance’. According to his interpretation, the so-called meta-governance, that is, the ‘governance of governance’, has two—dimensions of system and strategy and—institutionally, it provides various mechanisms to promote the collective learning of functional links and material interdependence between different locations and areas of action. Strategically, it promotes the establishment of common visions which encourages new institutional arrangements and/or complement existing governance models. The government should even act as a ‘appeallate’ tribunal when there is internal conflict or dispute over governance.

Second, the identification of responsibility in the governance framework. The immediate result of governance is ‘blurring the line between public—and private’ (Jessop, 1998), which further implied “ambiguity of boundaries and responsibilities in the search for solutions to social and economic issues (Yu, 2001)”. More directly, Stoker (1998) pointed out that this leads governments to evade social responsibilities or look for scapegoats. Therefore, Lou et al. (2009) particularly emphasized that the responsibilities of participating entities should be clarified in the governance system, and the responsibilities of the government should be clarified first.

Third, the ability of actors involved in governance. Capability is the Prerequisite for implementing the governance framework. Howlett & Ramesh (2014) noted —when there is lack of social leadership, poor community structure, weak state-oriented capacity, etc., the (governance) network will fail. Das (2014) studied women's participation in water governance, which was seen by the international community as a woman's right, and found that there was a gap between women's motivation to participate and their ability to do so in some areas, and they believes that it underscores that bridging this gap was critical to strengthening women's role in water governance.

## **2. The Sin Fong Garden incident: An introduction**

The Sin Fong Garden is a high-rise residential building in Macau, located at the seaside street in Patane, Macau, with 31 Floors. It was built in 1993 with nearly 150 housing units. On October 10, 2012, the Sin Fong Garden suffered a sudden major structural damage and the residents of the building were evacuated and left homeless. The Sin Fong Garden incident referred to in this article refers to the incident and the governance actions taken by various governance entities to solve this problem.

After the incident, the government quickly intervened and took the following actions: first to take temporary reinforcement measures for the building and to require the construction of adjacent projects to ensure public safety. Second to carry out rescue operations to urgently resettle households and issue the first emergency allowance to residents on October 12, and third to carry out an investigation into the responsibility of the incident. In order to comprehensively and properly handle the incident, the Chief Executive convened an inter-sectoral meeting of the Government on October 11 to establish a cross-departmental working mechanism.

On April 26, 2013, the government published an investigation report by civil engineering experts from the University of Hong Kong, which concluded that the cause of the accident in the building was the low concrete strength. However, this report did not satisfy all parties, and the minor owners and parties concerned believe that the University of Hong Kong investigation report was not comprehensive enough. In response to the demands of concerned parties, the Chief Executive Fernando Chui Sai-On issued instructions on April 30, 2013 to establish an inter-departmental follow-up team led by the Secretariat for Transport and Public Works — Lao Si Io. On the other hand, the government also entrusted the University of Macau to conduct a supplementary investigation, but the investigation took longer than the one conducted by the University of Hong Kong, which further triggered the dissatisfaction of the owners. Under the impetus of the two grievances the owners “occupied” the nearby road on March 23, 2014, and the incident was temporarily calmed by the government department, but this was enough to quickly escalate into a major mass incident in Macau, and even became an important issue for the Macau Legislative Assembly.

On April 10, 2014, the government announced the investigation results of the University of Macau's team, which still believed that "insufficient concrete strength was the main cause of the damage". The owners expressed dissatisfaction with the results and once again walked to the road outside Sin Fong Garden and even shouted slogans to ask the Chief Executive to step down. Finally, the police took a clearing operation in the early morning of the 11th and arrested 7 people. The situation was deadlocked.

On April 12, 2014, the incident took a turn for the better when on that afternoon, Hu Shun-qian, vice chairman of the Macau Tung Sin Tong Charitable Society Accountability Council, announced that he had raised MOP 50 million in his personal capacity, and an interest-free loan would be given to the small owners of Sin Fong Garden as a start-up fund for reconstruction under the Supervision of the Social Enterprises Limited. In the evening, the Macau Jiangmen Communal Society held a press conference to express its willingness to cover 60% of the reconstruction cost for the reconstruction of the building. As a result, all parties turned to the issue of building reconstruction.

The reconstruction of the building requires the agreement of the owners of the entire building. In addition, the prosecutor's office, on behalf of the Macau Special Administrative Region to the Judiciary of Macau against the relevant responsible parties (mainly the original developers of Sin Fong Garden, and the responsible entities of the adjacent "Soho Residence" project), filed a lawsuit and required these entities to compensate to the government related expenses (used for resettling Sin Fong Garden residents and for investigation). Evidence was required by the court. As a result, the relevant reconstruction work had to be delayed, and this process took 3-4 years.

On February 28, 2018, the donation agreement of MOP 100 million to Sin Fong Garden small owners for reconstruction, agreement was signed with the witness of media.

On October 4 of the same year, a reconstruction ceremony groundbreaking ceremony was held. Everything seemed to be going well. However, on July 5, 2020, the Sin Fong Garden Management Committee convened small owners to hold an emergency meeting, saying that it had received a notice from The Macau Jiangmen Communal Society the previous month that it would not pay MOP 100 million to assist in the reconstruction of Sin Fong. According to The Macau Jiangmen Communal Society, the reason was the economic downturn in recent years, coupled with the impact of the COVID-19 epidemic that year, with unprecedented difficulties in business operations, and situations other unexpected. The Macau Jiangmen Communal Society claimed to be not immune, which made it difficult to implement the original advance payment allocation.

So far, the new decision of The Macau Jiangmen Communal Society brought Sin Fong Garden incident into difficult situation again.

### **3. The Subject of governance participating in the Sin Fong Garden incident**

The Subject of governance participating in the Sin Fong Garden incident include government of the Macau Special Administrative Region (Macau SAR), Related civil society and Owner of Sin Fong Garden.

#### **3.1 Government of the Macau SAR**

Different from the Macau under Portuguese administration before the handover, the SAR government claims the principle of 'Macau people govern Macau', The Macau SAR government tried to play a more active role in the handling of the incident.

When the incident first happened, the Macau SAR government tried to play a leading role. It was manifested in three aspects: first, timely relief was implemented for the affected owners of Sin Fong Garden; second, temporary reinforcement measures were taken for Sin Fong Garden to ensure public safety; third, professional institutions were commissioned to investigate the cause of the accident.

In the process of investigation, the Macau SAR government had withdrawn into a neutral party—which was unwilling to be a referee, reluctant to define the main responsible party of the accident according to the report of the professional team (Judging from the progress of the incident, it obviously had a judgment). Instead, it encouraged the residents of Sin Fong Garden to sue the responsible party.

After the Macau Jiangmen Communal Society intervened, the Macau SAR government played the role of a victim. As the Macau SAR government immediately initiated emergency procedures to rehousing the residents of the Sin Fong Garden and carried out temporary reinforcement and monitored the Sin Fong Garden building, the cost was over MOP 10 million. The Macau SAR government (represented by the Public Prosecutions Office of the Macau SAR) and the Social Welfare Bureau (SWB) launched separate proceedings against the persons responsible for the Sin Fong Garden incident to recover public funds advanced by them.

### 3.2 Civil societies in Macau SAR

Macau SAR is a society community. Historically, the Macau government under Portuguese administration has not attached much importance to the affairs of the Chinese communities in Macau, thus left a broad space for the growth of the civil societies. As a result, civil societies in Macau SAR assumed many functions that should be undertaken by the government, resulting in the phenomenon of a quasi-government. In fact, Macau has formed a situation of co-governance between the government and the civil societies very early. Since the occurrence of the Sin Fong Garden Incident, a number of civil societies have more or less participated in it, 4 of which are major actors.

#### 3.2.1 Macau Jiangmen Communal Society

Established in July 2002, Macau Jiangmen Communal Society is one of the fastest growing civil societies since the handover. According to its website, this civil society currently has nearly 60,000 members, making it one of the largest civil society in Macau.

Moreover, in less than 20 years the development of this civil society has also quickly accumulated strong political energy. In 2009, this civil society organized a team to participate in the direct election of the legislative assembly in the name of the Macau-Guangdong Union for the first time, which won 1 seat; In 2013, the Macau-Guangdong Union ranked second among all directly elected groups and won 2 seats; In the direct election of the legislative assembly—in 2017, the Macau-Guangdong Union became the candidate with highest returns, with a total of 17,214 votes, 9.97% of all votes and 2 seats.

The Macau Jiangmen Communal Society was the ‘star’ in the Sin Fong Garden incident. It appeared in a high profile when the incident reached a deadlock in 2014. It announced that it was willing to provide 60% of the reconstruction costs to help the small owners of Sin Fong rebuild their homes, which quickly reversed the direction of the incident. In February 2018, when Sin Fong Garden was ready for reconstruction, the Macau Jiangmen Communal Society signed a MOP 100 million donation agreement with the owners of Sin Fong Garden. Not only that, when rebuilding of Sin Fong Garden was delayed due to government litigation and evidence collection, the Macau Jiangmen Communal Society attaches great importance to the evidence collection efficiency of the judicial department. Members of legislative assembly from the Society have repeatedly urged the government to assist the process. However, in July 2020, the Society announced that ‘the economic downturn in recent years, coupled with the emergence of the COVID-19 epidemic this year makes it difficult to implement the original advance payment allocation.’

#### 3.2.2 Macau Federation of Kai-fong Associations

The Macau Federation of Kai-fong neighborhood Association is a civil society with tradition of patriotism. It was established on December 30, 1983 and is one of the most socially influential communities in Macau. The organization of the civil society is huge, and it is now composed of 4 district offices, 28 local Kai-fong Associations, more than 30 service organizations, owners associations of more than 50 buildings. Since 1988, when Macau Federation of Kai-fong Association began to send representatives to participate in the elections of the legislative assembly of Macau, representatives are elected to each term.

The housing problem of Macau residents has always been one of the most concerned issues of the Macau Federation of Kai-fong Association. Therefore, on the day of the incident, the Macau Federation of Kai-fong Association intervened quickly to solve the immediate housing problem for the residents of Sin Fong Garden. After that, the dialogue between the owners and the government was almost always coordinated by the Macau Federation of Kai-fong Association. In 2013, the government held several special meetings to solve the problem all of which members of the Macau Federation of Kai-fong Association attended, and member of SAR Legislative Assembly, HO Ion Sang, who walked out of the Macau Federation of Kai-fong Association, also attended most of the meetings. Even in February 2018, a representative was sent to the signing ceremony between Macau Jiangmen Communal Society and the owner of Sin Fong Garden.

#### 3.2.3 Macau Tung Sin Tong Charitable Society

The Tung Sin Tong Charitable Society is a non-governmental charity organization with a long history in Macau, established in 1892. At present, the organization's main charitable services include: almsgiving, donating medicines, free education, free childcare, caring and nursing for the elderly, and emergency rescue.

The Tung Sin Tong Charitable Society is the owner of Sin Fong Garden, with 32 units and 3 parking spaces. After the incident, as a charitable organization, The Tung Sin Tong Charitable Society always provided convenience for the proper handling of the incident, did not put pressure on the government and small business owners, and announced that it would ‘support and follow the consensus plan selected by the general intention.’

In 2014, when the incident came to a deadlock, the first attempt to break the deadlock was Hu Shun-qian, the vice chairman of the organization's duty council. On April 12, he announced that he 'and his friends would personally lend MOP 50 million without interest to the small owners of Sin Fong Garden, so that the small owners could use the money to pay for the start-up costs of the demolition and reconstruction of Sin Fong Garden'. In July 2020, when the Macau Jiangmen Communal Society announced that it was difficult to implement the funds, the organization said (as the owner), if the builders have difficulties, they can also appropriately adjust the payment time of the funds so that the builders can tide over the difficulties.'

### **3.2.4 Sin Fong Garden Management Committee**

The Sin Fong Garden Management Committee is the representative of Sin Fong Garden. This organization is not registered with the Macau Identification Services Bureau, which means that the organization is not a legal entity. However, according to Macau law, it can still operate as a legal institution.

Throughout the Incident, Sin Fong Garden was represented by this organization (There was also a '10-member delegation of owners', which was dissolved before April 2014). Even by the Macau Jiangmen Communal Society. The MOP 100 million donation was signed with the Sin Fong Garden Management Committee.

## **4. Causes of the Governance failure in the Sin Fong Garden incident**

### **4.1 The complexity of the incident**

The Sin Fong Garden incident is a policy issue caused by severely incompetent structure. In the history of Macau, although there have been incidents of impairment to buildings, the liability was quickly determined and the cases dealt with in a timely manner. Moreover, incidents similar to Sin Fong Garden —construction deficiency without identified accountability leading to street protest by the owners—never happened. Failing to find the responsible party in time led to the victim owner's street protest. It was unprecedented in the established social governance system. After the incident, especially after the owners took to the streets twice to put pressure on the government, it posed a challenge to the traditional mode of negotiation between all parties.

### **4.2 The government's ambiguous responsibility**

How to define the nature of the Sin Fong Garden incident? Is it a public issue or a private dispute? Is it a public interest breach, or a private interest violation? This affects the determination of the government's responsibility in the incident. If it is a public incident and the public interest is infringed, the government should undoubtedly bear the main responsibility; if it is a private dispute and the breach is of private interest, the government can appear as neutral. In fact, the incident should be defined as a private dispute with a certain degree of public nature. Since the incident involves construction quality, the government is the regulator of construction quality. Therefore, the government has the responsibility to find out the cause and responsibility of the damage to the building. As for the victimized owners, the government is the relief and facilitator. Especially for the repair and reconstruction of the buildings, the responsibility lies with the owners. The government can only provide Assistance or preferential treatment on tax, property registration, etc. If it involves judicial litigation, the government can also provide judicial assistance to the owners. However, looking at the government's intervention in the incident, it seems that it has failed to clarify its own role.

When the incident first happened, the government apparently intended to cover everything, since the handover, the fiscal revenue of the Macau SAR government has continued to grow, which gives the government enough confidence to meet the challenges brought about by this incident. Therefore, at the noon of the next day, the Chief Executive chaired an inter-departmental meeting to hear reports from relevant departments. In the afternoon, the Chief Executive led heads of various departments to the Sin Fong Garden for an inspection. In the afternoon of the same day, the government held an inter-departmental press conference to introduce the situation and announced that it would provide assistance to Sin Fong Garden residents by issuing emergency allowances. Things might have developed differently if the owners of Sin Fong Garden were satisfied with the government's solution, instead they grew the expectation to some extent that the government could undertake the reconstruction. In 2014, residents of Sin Fong Garden took to the streets twice to pressure the government by blocking the road, and the government realized the complexity of the issue. After the intervention of the Macau Jiangmen Communal Society, the government intended to withdraw from the involvement. Checking the media reports, we can find that with the intervention of the Macau Jiangmen Communal Society as a watershed, the number of reports on the Sin Fong Garden incident dropped significantly since. Other than responding to social concerns, the government rarely took the initiative to speak out on the Sin Fong Garden incident.

When the MOP 100 million donation by Macau Jiangmen Communal Society could not be implemented, the government kept silence—which is a sharp contrast with the positive attitude of the government when the Sin Fong Garden incident happened.

In fact, in a complex society, the government, as a social governor, sometimes faces a dilemma of value. In the Sin Fong Garden case, the government had to weigh the following questions: first is the balance between social assistance and social equity. The theory of social assistance believes that when any member of society encounters individual irresistible survival risks and cannot obtain the necessary material survival conditions, based on his citizenship, he has the right to obtain material survival guarantee and social assistance from the state and society. When the Sin Fong Garden incident first occurred, the Macau SAR government took active relief measures to the owners of Sin Fong Garden. However, when it was discovered that they were not directly involved in the incident, they were required to be directly responsible and even the owners hoped that the government should assume the responsibility for reconstruction. At that time, the government felt that it had to face the tremendous pressure of social justice. second is the balance of justice and efficiency. In handling the Sin Fong Garden incident, the administrative efficiency of the government was questioned by the society, especially in the investigation of the cause of the accident. After the Sin Fong incident, the government commissioned a team of experts twice to investigate the cause. For the first time, an independent research team composed of experts from the University of Hong Kong was commissioned. One week after the Sin Fong Garden incident, the team released a preliminary test report and showed that the strength of the cement column was only one-third of normal. The official report was completed on January 28, 2013, but it was not released by the government until April 26 of that year. Since this report was not recognized by the small owners and the parties involved, they believed that the report was not comprehensive enough. The government therefore commissioned the University of Macau to conduct supplementary investigations with institutions of higher learning in neighboring areas that have relevant investigation experience in order to respond to the demands of all parties. However, this report was not completed until April 4, 2014 (the publication time was April 10), which was nearly a year after the previous report. As it took a long time, the owners of Sin Fong Garden, who were homeless and had high hopes for the government, felt intolerable and eventually took to the streets. At the same time, the Sin Fong Garden incident involved judicial procedures—In October 2015, the Macau SAR Government, represented by the Procuratorate of Macau, used civil means in the lower court to deal with the developer of Sin Fong Garden, the developer of the Soho Residence site next to the building, and the demolition of the original building on the site. Responsible persons such as foundation engineering companies initiated civil litigation procedures to determine the persons responsible for the Sin Fong Garden incident in order to recover relevant public funds expenditures. For judicial reasons, the relevant demolition work of the building was not allowed and unsuitable before the end of the identification process for Sin Fong Garden. The relevant legal procedures did not end until 2018. Therefore, some members of the public believed that the SAR government's lawsuit ~~has~~ slowed down the Pre-reconstruction procedures of the Sin Fong Garden. In fact, it took nearly four and a half years (2014.4.12—2018.10.4) from the intervention of the Macau Jiangmen Communal Society to the completion of the judicial investigation and the start of the reconstruction of Sin Fong Garden. It was during this period that the arrival of the epidemic reversed the economic situation, which caused the Macau Jiangmen Communal Society to be unable to fulfill its donation pledge.

#### 4.3 Non-institutionalization of the internal governance structure of civil society

One of the important reasons for the ineffectiveness of the governance of Sin Fong Garden incident is that the Macau Jiangmen Communal Society made the decision of donation and reconstruction when participating in the governance of Sin Fong Garden incident but failed to implement it.

When people examine their donation behavior, they inevitably have to question their ability and willingness to donate. As a society that was established after Macau's handover and has a short history, did the Macau Jiangmen Communal Society have enough financial resources to make donations?

Pursuing the process of donation decision-making, we can find that it is directly related to the big brothers and the parent culture that are currently formed in certain civil society in Macau. In Macau's history, many large societies were controlled by a small number of leaders (big brothers) who provided operating resources for a long time. Therefore, the decision-making of the association is not made by the members of the board of directors in a democratic way, and most of them are made by the personal will of the big boss—For example, the Sin Fong Garden incident, although many members from the Macau Jiangmen Communal Society would oppose it, it did not affect the outcome of the decision—But sometimes the consequences of certain decisions are not borne by the civil society.

The above-mentioned problems may be caused by the unique fund-raising method of the Macau civil societies. The civil societies in Macau normally do not charge membership dues or only a small amount of membership dues. Funding mainly comes from two sources, one is the sponsorship of the community leaders, and the other is government funding—however the use of government funding is generally limited. Therefore, those activities that are completely organized by the associations themselves, the expenses generally can only come from the leaders of the associations, and according to the unspoken rules of ‘who pays who speaks’, it is often difficult for others to have a say. In the Sin Fong Garden incident, a striking phenomenon is that the first person who announced the donation to Sin Fong Garden on behalf of the Macau Jiangmen Communal Society was the founding president of it. In fact, he has never served as the chairman of the civil society.

#### **4.4 The legal system is not sound enough**

The Sin Fong Garden incident also highlighted the problem of lagging laws in Macau.

First, the legal system of building construction and management is not perfect. Sin Fong Garden is an ‘unprecedented’ building structural safety incident in Macau. As a civil law region, Macau does not have a written law to solve related problems. According to assemblyman HO Ion Sang, ‘Macau’s laws on building management are seriously lagging behind and fail to adapt to the development of society...’ The government is lacking in building management companies. An effective and direct supervision system has led to constant disputes in building management.’ First, the statute of limitations for civil damage claims is relatively short. According to Article 491 of the Macau Civil Code, ‘the right to claim damages shall be completed within three years from the date when the victim learns or should have learned that he has the right and the person responsible’, from the Sin Fong Garden incident, it can be seen that in complex construction safety incidents, this limitation period is obviously not enough. Secondly, there are no laws and regulations on mandatory building inspections, otherwise the owners can find potential safety problems in the buildings as early as possible and repair them immediately to avoid serious accidents.

Second, the absence of the charity law. The Sin Fong Garden incident also showed a gap in the legal aspects of charitable donations in Macau. Regarding the problem that Sin Fong Garden encountered the inability to honor the donation, there is currently no relevant law to regulate it. On the one hand, the lack of legal regulations makes it difficult to use more efficient administrative order relief. On the other hand, the lack of legal regulations also increases the uncertainty of the outcomes of litigation.

### **5. Recommendations to promote effective governance**

#### **5.1 Improve the legal supply**

As a code of conduct, law is a ruler for judging and measuring whether the actions of others are legal and effective, and an important tool for value judgment. In social governance, the law will provide the parties with the last way to judge right from wrong. Therefore, the position of a sound law in governance is very important. As far as the Sin Fong Garden incident is concerned, the SAR government should at least improve the legal supply in two areas.

First, the law on building quality and safety. Housing is closely related to people’s quality of life, which is a shelter for people’s lives. In the case of high housing prices in modern society, it is also an important pillar of many family properties. It is necessary to establish a mechanism for building quality assurance.(1) It is necessary to establish a qualification access system for designers, constructors, and supervisors, clarify the responsibilities of contractors and developers, strengthen construction supervision, and strict building acceptance systems. (2) To establish a system of accountability for building quality, and (3)A regular building inspection system should be established.

Second, Laws on the performance of donations. Fulfilling donation obligations is a complicated social issue. There are many controversies in its legislation, and it is even a legal blank in many countries and regions. In the United States, it is generally considered that for conditional donations, the donor must fulfill the donation commitment, but if it is an unconditional donation, it may not be fulfilled. In Mainland China, due to the continuous growth of enthusiasm for non-governmental charities and the phenomenon of ‘fraudulent donations’ from time to time, the state has officially stipulated the relevant situation in the Charity Law of the People’s Republic of China. Article 41 of the law states: (Donors Publicly pledge donations through radio, television, newspapers, internet and other media), Charitable organizations or other recipients of donations may request delivery; if the donor refuses to deliver, charitable organizations and other recipients of donations may apply to the people’s court for payment orders or file a lawsuit in accordance with the law. ...

If the donor publicly promises to donate or signs a written donation agreement, the economic situation has deteriorated significantly, which seriously affects his production, business or family life, after reporting to the civil affairs department where the public pledged donation or the written donation agreement was signed, and publicly explaining the situation to the public, can no longer perform donation obligations. Article 188 of the Contract Law of the People's Republic of China stipulates: 'If the donator does not deliver the donated property in a donation contract or a donation contract with a nature of social welfare and moral obligation such as disaster relief and poverty alleviation, or a donation contract that has been notarized, the donee may request delivery.'

## **5.2 Clarify the government's governance responsibilities and improve government efficiency**

Facing the structural damage incidents in Sin Fong Garden, the government should be clear about its own responsibilities in governance. Although the government bears the meta-governance responsibility of social governance, it is aimed at public events and the need to safeguard public interests, and cannot undertake the function of omnipotent government to intervene in all social affairs, especially private affairs.

In the Sin Fong Garden incident, since the government is responsible for the supervision of the special quality of the building, it should bear the responsibility for seeking the reasons for the damage to the building's structure. For the owners of the damaged interests, the government cannot undertake the responsibility of building reconstruction, but should fulfill the responsibilities of rescuers and facilitators.

In addition, in the process of performing duties, the government should emphasize efficiency, try to find the responsible party in a short period of time, respond to the demands of the owners, and provide necessary assistance to the owners. At the same time, it is necessary to improve judicial efficiency, establish a pre-litigation mediation and arbitration mechanism, as well as emergency judicial procedures, develop low-cost, high-efficiency judicial mechanisms, and respond to the society's litigation needs for emergencies.

## **5.3 Improve the internal governance structure of associations and promote the democratization of civil societies management and decision-making**

Civil societies is an important participant in social governance. For a long time, Macau associations have accumulated rich experience in the practice of participating in social governance. However, with the development of the times, as a participant in social governance, associations should improve their internal governance structure and promote the democratization of internal management and decision-making.

First, improve the internal governance structure of the community. In accordance with the Macau Civil Code and the articles of association of various associations, Macau societies has an internal governance structure of membership assembly, council and board of supervisors, and members of the association structure need to be elected through internal elections. However, in fact, the leadership structure of many associations is not elected in accordance with the charter, but is negotiated. Therefore, the legitimacy of their management associations is insufficient. In addition, some associations in Macau have a large number of members in the leadership structure, and the organization is huge. There are dozens, dozens or even hundreds of presidents and vice presidents. Therefore, it is popular in decision-making that the minority has the final say, the big-name culture and other issues. As a result, it is not conducive to the democratic decision-making of the community. It is suggested that the organization should improve its internal governance structure and realize the democratization and institutionalization of organization management. In addition, if there is an error in the decision-making of the association, the decision-maker shall bear the corresponding responsibility.

second, it is necessary to promote the operation transparency of civil societies. Civil societies are at least quasi-public organizations, and transparent operation is the meaning of the question. Although Macau societies have received a large amount of public funding for a long period of time, they are lacking in transparent operation and accountability to the public. Therefore, the government should use the reform of association funding as an opportunity to accelerate the openness of the use and management of association funds. At the same time, associations should establish self-discipline mechanisms to promote the transparency of their own operations.

## **6. Summary**

The success of governance requires certain conditions. Although governance is based on the reflection on government failures and market failures, it does not mean perfection in itself. Therefore, it is necessary to clarify the responsibilities of governance participants, establish the legal basis for governance, and optimize the internal governance structure of the community as governance participants.



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