



CASE STUDY ELEVEN

Local partners have become less adventurous in their project designs and their appetite for overseas funding has cooled

A key objective of this Ford Foundation-funded research project is to monitor and evaluate the state of implementation of China's Overseas NGO Law by documenting the intended and unintended consequences of the new law for European non-profit organisations and their Chinese partners. This case study is based on an in-depth interview conducted after the enactment of the law. It has been anonymised to protect the identity of both the organisation and interviewee(s).

Full version

Past

This European organisation has a long history of engaging with China. It supports bilateral cooperation and has been a leading proponent of engagement with China in the arts, public policy, law and governance. The organisation works closely with a range of counterparts in China including universities, government and party organisations. On the European side participants include lawyers, academics, parliamentarians and policy makers.

The organisation engages with China through both technical cooperation and policy dialogue. Most of the organisation's activities involve engaging with official Chinese counterparts including from within universities and think tanks. The organisation does not engage, to any significant extent, with those working 'outside the system' (tizhiwai). Providing access to European expertise and experience is welcomed by Chinese counterparts. The organisation also provides Chinese partners with valued access to high level and influential officials and experts on the European side. This European organisation is, above all, a facilitator of engagement. The organisation receives some core funding from government and is supported by a number of institutional donors on a project basis. The organisation also raises sponsorship for certain activities from the corporate sector. Funding for bilateral political dialogues comes from both the Chinese and European side. The organisation enjoys good relations with a number of influential Chinese organisations in the sphere of international cooperation. The organisation's staff travel frequently to China, but they have not established a formal office there. The organisation has not had or sought a legal status in China.

Although the organisation is a not-for-profit organisation and would appear to fall under the remit of the Overseas NGO Law (henceforth: the law), the organisation is not seen as a foreign NGO by partners in China. The organisation's status in China reflects some of the ambiguities inherent in the interpretation of all Chinese law. For the organisation's local partners, the organisation is not a target under this law and it is not in anyone's interest to identify the organisation as an NGO. That Chinese counterparts do not feel obliged to treat the organisation as an NGO may reflect the organisation's almost exclusive focus on working 'within the system'. Conversations with several European organisations, as part of this project, indicate that the Chinese authorities seem prepared to interpret the law flexibly when it is in their interest. This organisation acknowledges that these circumstances may change in the future, but for the time being they are able to take advantage of the situation.

Present

State of China-related activities. At the time of our interview, this European organisation reported that it had largely been able to continue with its planned programme of work following the introduction of the Law. Like many other organisations, they have experienced delays in securing approval for international events in China and they have noted increased scrutiny of invited participants. European experts have, nevertheless, continued to be able to travel to China to participate in technical discussions and the sharing of European practice on a range of technical, though not politically contentious subjects. In order to continue engaging with Chinese counterparts, the organisation selects interlocutors from the European side with care, briefs and accompanies participants in China.

Although the organisation has been able to take advantage of a certain amount of policy ambiguity regarding implementation of the law, the issue of registration has come up in relation to the recruitment and location of staff. While the organisation does not currently have an office in China any future plans to base a senior member of staff in China would likely require registration under the law.

Impact of the law on Chinese partners. The organisation's working relations with party and state institutions seem to provide other Chinese partners with sufficient confidence that they can continue their cooperation with this European organisation. None of their local partners or counterparts has expressed any nervousness or reticence about their relationship with the organisation.

Nevertheless, the organisation has noticed that the approval process for new projects has become more onerous for local partners. This includes funding as well as the content and identity of participants in activities. Project approval has become much more problematic for universities. In contrast, official partners in the bilateral political dialogue seem to face no such problems. Many Chinese partners demonstrate an increased awareness of risk and have become more cautious, particularly with respect to the transfer of funds to support activities.

A few Chinese partners have shown little concern for or understanding of the risks to activities from the external environment, such as the challenge of organising activities at politically sensitive periods. Nevertheless, Chinese organisations that are able to ask for project approval from the relevant authorities do not face the same level of risk as those independent grassroots organisations which know they have no standing to request approval for an activity. For these organisations, politically sensitive antennae are essential when planning events.

Although the organisation has been able to continue holding activities in China it has experienced some operating difficulties as a consequence of the new environment for overseas NGOs and its lack of registered status. Bank transfers, notably, have become harder with increased paperwork for local partners. The organisation has also encountered a greater degree of scepticism towards the benefits of engaging with foreign organisations in general, if not necessarily towards themselves. Overall, the organisation has observed that the law seems to have had a 'dampening effect'. Local partners have become less adventurous in their project designs and their appetite for overseas funding has cooled. The organisation also reflected on whether it had become more cautious in response to the less welcoming programming environment. They would like to be more ambitious, but sensed increased cautiousness both in Europe and China.

This European organisation also has the impression that the funding climate for engagement with China has deteriorated. Donors seem to be adopting a wait and see attitude towards the impact of the law and the closing spaces for international cooperation. Support for engagement with China is being reconsidered by many donors in light of the new, less open environment. In several fields the organisation has noted the closure of international funding programmes with no Chinese government funding coming on stream to plug the gap for local partners. This will, inevitably, result in reduced opportunities for policy innovation in China and leave many legal and policy issues unaddressed.

Reflecting on the likely impact of the law, the organisation observed that Chinese professional supervisory units could be expected to act increasingly as gatekeepers for projects and funding by overseas NGOs in much the way that organisations, such as CICETE, the China International Centre for Economic and Technical Exchanges under the Ministry of Commerce, have managed funding for China from United Nations agencies.

Future

Engagement with China is at the heart of the organisation's work and, if this work were no longer possible, the organisation would likely cease to exist. With good government contacts, the organisation is also able to engage in bilateral discussions at a very high level. The bilateral political dialogues address a need for engagement on China's part which, in turn, seems to enable continued cooperation on technical aspects of law and policy.

At present the organisation intends to continue engaging with China and to try to negotiate mutually acceptable ways of cooperating in a less hospitable environment. The organisation continues to try and frame cooperation in terms of cooperation on matters of shared interest. Time spent thinking about the relationship and the direction of their engagement with China has increased in recent years.

The organisation has been exploring new contexts in which to engage with China including under the Chinese policy of Belt and Road Initiative (BRI). The organisation does not see this as a retreat from some of the current challenges of working with China, but as a constructive way of broadening their work into new areas. The organisation has no plans to broaden its geographic remit. The organisation has not identified red lines with respect to its China engagement. Challenges are assessed on a case by case basis. For this European organisation, ensuring continued access to funding continues to be the main limitation on the level and nature of its engagement with China.

EU-China relations beyond aid

This European organisation has long played a role in helping to facilitate a range of bilateral civic and commercial engagement with China. Some of these programmes are under review. The organisation does not, however, have a mandate to engage at the Pan-European level. Neither is the organisation active in any transnational networks or forums which would bring together Chinese and European participants, although it does so informally as part of technical cooperation projects.

Project team (in alphabetical order)

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