



CASE STUDY TWELVE

As a result of the law this organisation's China programme was closed and European staff in China had to leave the country

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 NGO is engaged in international cooperation. It undertakes projects in the fields of human and worker rights and socio-economic development, including promotion of the Sustainable Development Goals (SDG). The organisation also promotes solidarity between workers in Europe and developing countries to advance its mission of peace, democracy and respect for human rights. The organisation is rooted within local communities in the European country where it was founded and it works closely with the trade union movement to promote development cooperation that respects the rights of workers. Its international cooperation projects partner with local trade unions or labour groups.

This European organisation was working in China for about a decade prior to the introduction of the Overseas NGO Law (henceforth: the law). The earliest work in China provided financial support to grassroots organisations and other civil society organisations (CSOs) that were offering paralegal services and working in policy advocacy, empowerment and capacity building for civil society.

The organisation worked closely with experienced Hong Kong-based groups that could facilitate establishing contacts. Early initiatives helped Chinese activists to network in the fields of environment and disability. In more recent years the organisation chose to focus on labour issues and expand their level of support.

The organisation's work on labour issues led to the organisation working with academic partners, including Beijing-based think tanks, as well as grassroots labour groups. The majority of the labour groups were based in southern China where foreign investment had stimulated the expansion of labour-intensive manufacturing attracting large numbers of migrant workers from inland China. To implement its labour rights programme in China the organisation employed European consultants with strong language and China backgrounds. In the relatively more liberal period preceding adoption of the law this was an effective cooperation model providing a close degree of support to grassroots groups and flexibility in responding to new opportunities. Like many other international organisations with a presence in China, European staff were in China on study visas. The costs associated with corporate registration had led the organisation to decide against registering prior to the new law. Like other international organisations in China at that time this had not been a problem.

As information on the law became available the organisation considered the implications for their work in China. A number of factors led them to conclude that it would be very hard to register as an overseas NGO. First, research into the law and consultations with colleagues suggested that it would be difficult for an organisation with an explicit social justice and human rights focus to register. It was widely believed among NGO activists in China and overseas that one of the objectives of the new law was to cut off funding to the most independent and active CSOs in China and curtail the activities of the international organisations that supported them. Second, the organisation had already been experiencing a number of difficulties with its operations in China. Meetings in China had been disrupted by the police, local partners were harassed and the police had removed documents.

The year 2015 was a turning point for human rights and labour activism in China. In March, five feminist activists were detained for 37 days. Three months later two staff from independent campaigning NGOs were held for a similar period of time and on July 9th the authorities began to detain and interrogate large numbers of 'rights defence' lawyers in a crackdown which became known as '709'. In December, the authorities in Guangdong detained five prominent labour activists.

The events of 2015, and the continuing repression in 2016, led this European organisation to decide against attempting to register as an overseas NGO, at least for the time being. Chinese staff working in partner organisations were detained and local partners were experiencing difficulty withdrawing funds sent from overseas. The crackdown on many Guangdong based activists started to undermine the province's reputation for a degree of tolerance towards civil society. The organisation concluded that without registration the organisation would have to cease working in China. European staff would be unable to work safely in the more restrictive environment and could not obtain new visas without a registered office.

Present

State of China-related activities. This European organisation was sad to no longer have a China programme as a result of the law. European staff in China had had to leave the country and the programme manager at the head office in Europe, also with a personal background in China, was sorry to lose the valued personal connections.

Reflecting on the impact of their decade of engagement with China, the organisation believed the most significant result was in terms of increased capacity on labour rights and the participation of activists and grassroots groups in wider networks.

For the organisation, itself, the main benefit was building a bridge between European and Chinese workers and contributing to a more globalised approach to labour rights.

Impact of the law on Chinese partners. Without being able to register as an overseas NGO in China, the organisation's Chinese partners lost a valued source of financial and technical support. Their local partners were mainly small independent CSOs. If they had any legal status it was as registered companies. The new charity law in China, introduced the year before the Overseas NGO Law, made it very difficult for commercial companies to undertake not-for-profit work. Without registration as a not-for-profit organisation under the Ministry of Civil Affairs local partners could not apply to work with the organisation through registering temporary activities. In the more repressive environment following introduction of the new law collaborating with international organisations in holding activities was a high risk endeavour.

The organisation enjoys strong relations with European trade unions and, on this basis, the organisation had sought, early on, to establish a relationship with the All-China Federation of Trades Unions (ACFTU). However, it soon became clear that a relationship based on very different values would be difficult. For this European organisation freedom of association was a fundamental principle. Under the leadership of the Chinese Communist Party the ACFTU is obliged to advance the Party's interests. The Chinese government made clear its opposition to freedom of association with its declaration with respect to Article 8, the right to form and join trade unions, when it ratified the International Covenant on Economic, Social and Cultural Rights. The organisation's trade union sponsors have sought to engage in a dialogue with the ACFTU through the ILO's annual meetings in Geneva.

Future

This European organisation recognises at the board level that there is a need for continued engagement with China in the area of labour relations. As part of a more globalised approach to labour rights and an expression of international solidarity, they accept the need to monitor the activities of European companies in China as well as the actions of Chinese companies in Europe. Chinese companies are very active in buying European enterprises and are now significant employers of European workers. One of the organisation's Hong Kong-based partners is now coming to Europe to engage on labour issues and the two organisations are exploring new forms of engagement in Europe.

China is, however, not the only country where the organisation experiences difficulties. They have also observed the shrinking space for civil society and labour rights in other Asian countries where they are active, including Nepal and Pakistan.

The organisation retains a low level of engagement with China. They recognise that the ACFTU is not a monolithic organisation and there may be scope, at some point in the future, to establish relationships at the local level. Establishing such relations, however, requires time and resources and the organisation has no budget to invest in development. Without some new project funding it is very difficult to find a way forward. The organisation feels it is caught up in a vicious circle of related challenges brought about by the law, the lack of new funding and the consequent lack of capacity. Taken together, these factors make it very difficult to explore new forms of engagement with Chinese labour.

EU-China relations beyond aid

The organisation observed that grassroots groups in China have had little opportunity to participate in broader EU-China civil society meetings. Although most of the organisation's work in China has been funded by the European Union the organisation has never been invited to participate in any bilateral dialogue or forum. The organisation is active in a number of international networks involving labour unions and they are currently exploring how to bring Chinese colleagues into these networks.

Project team (in alphabetical order)

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