



CASE STUDY NINE

Under the new law informal meetings continue to be possible, but only with well-established Chinese contacts

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 is an international campaigning organisation based in Europe.

Eight years ago, the organisation recognised that there was a growing China dimension to their work, but the organisation was not active in the country. Building on a project with a China component, one of the organisation's staff visited China for research purposes and to scope out the potential for cooperation. Staff continued to visit China approximately every three months and they began to establish contacts with relevant research and policy organisations. This European organisation identified the area of corporate social responsibility (CSR) as a potential entry point for greater cooperation. CSR was of growing interest to a number of companies and organisations in China and the organisation was keen to share its global campaigning materials with local audiences, particularly in the context of China's global ambitions and impact.

The organisation engaged a Chinese consultant to conduct research, consult and engage with local organisations, but they did not encourage them to engage with the media. External communications, including media, were the responsibility of international staff. The organisation tried to develop a local social media strategy, but this did not prove very effective in the context of limited capacity and the changing nature of the Chinese media landscape. A more successful feature of their work was the development of an extensive email list and the online distribution of materials sharing the organisation's international work.

As the organisation became aware of the new Overseas NGO Law (henceforth: the law) they researched and consulted lawyers and colleagues in peer organisations regarding the law and its implications for their work in China. Prior to the enactment of the new law, they were approached by a Chinese government agency that said they would be the Professional Supervisory Unit (PSU) for one of the topic areas the organisation was working on. The agency invited the submission of the European organisation's relevant materials to start a potential registration process. The law requires overseas NGOs that wish to register an office in China to be sponsored by a relevant PSU.

The European organisation spent about six months preparing various materials for registration. They had pre-existing contacts with the Chinese partner organisation. Suddenly, however, the Chinese organisation stopped all forms of communication with its European partner and would not respond to emails or requests for meetings. The European organisation then took their papers to the Beijing Public Security Bureau responsible for INGO registration for assistance. The police requested clarification of their NGO status since they were not familiar with their particular type of legal entity. The European organisation is a registered not-for-profit company, but does not have tax exempt status in their principle country of registration. The police questioned whether the organisation was an NGO and suggested that they did not have to register under the new law. The organisation was obliged to obtain clarification of their NGO status from their own authorities.

At the time of interviewing, the organisation had not yet been able to identify a suitable PSU in order to register an office in Beijing. In pursuit of eventual registration, the organisation was planning to try and obtain permission to hold temporary activities. Finding partners willing to cooperate in registering and organising temporary activities would, they hoped, help them identify a potential PSU.

Like other organisations interviewed as part of this research project, this European organisation was surprised by the lack of clarity in applying the law to different types of not-for-profit organisations. While the law refers to overseas NGOs, the definition of NGO encompasses all not-for-profit organisations (an exception was later made for certain education institutions). Yet, Chinese police, it seems, had certain types of organisations in mind as the target for the new law and were unfamiliar with the varied types of not-for-profit legal entities found overseas.

Present

State of China-related activities. Prior to enactment of the law, as part of a varied work programme, this organisation occasionally used to co-host meetings in China. With the new law in operation this type of activity can no longer take place without registering temporary activities. Organising conferences in China was not a key element of their strategy and there has been little impact from no longer holding such activities. They are, moreover, still able to attend conferences in China.

This European organisation understands the law in a broader context of declining openness to international contact and cooperation. They recognise the increasing difficulties officials face meeting with international NGO staff in the new climate and they have been more hesitant to reach out to their contacts in various Chinese ministries. A firmer legal basis, provided by registration under the law, will they believe, make it easier to meet with people in China and help them to contribute to the development of domestic policy.

Overall, the European organisation feels a sense of frustration. The lack of clarity, on the part of Chinese counterparts, regarding the registration and temporary activity permit processes as well as the associated bureaucratic burden has delayed and hindered their work in China. While many officials were polite and offered to help, Chinese agencies were ill-prepared for the task of registering such an array of organisations.

Impact of the law on Chinese partners. The European organisation has always worked independently and did not have long-term formal partnerships with Chinese counterparts prior to the law. The organisation enjoyed a range of working relationships with academics, industry groups, local NGOs, journalists and government agencies. Many of these relationships have been able to continue on an informal basis and they have been an invaluable source of information and support as Chinese and international organisations seek to navigate the new terrain.

Unlike many of the overseas NGOs that operated in China before the ONGO law, this organisation does not provide grants to Chinese NGOs or other partners. In the current, more restrictive environment, some China-based organisations have been wary of their contact with the European organisation and have wanted to avoid any formal collaboration. Although they are not able to commission new projects, many individual experts have been willing to share their knowledge and insights on an informal basis.

An impact of the law has been on the organisation's ability to establish new contacts. While the organisation has been able to hold a limited number of informal meetings with existing contacts, the organisation's lack of official status in China has made it difficult to initiate meetings with new contacts. The organisation also observed that their lack of registration had made it more difficult to obtain formal invitations to meetings in China. The organisation was grateful to a major European diplomatic mission for helping to facilitate their participation in a bilateral meeting with China, although their China consultant was not allowed to take part. Informal meetings continue to be possible, but only with well-established Chinese contacts. Occasionally, in the event of this organisation being invited to present in formal meetings, overseas-based staff travelled to China to attend, in part because of perceived risks for the China consultant associated with the law. The lack of legal status in China was also having an impact on the organisation's ability to formally participate in programmes involving government related bodies and diplomatic missions.

Uncertain prospects for registration and the closing space for international cooperation had also become a source of stress to the organisation as they consider the wellbeing of their Chinese consultant and other contacts.

Future

The senior leadership team of this European organisation keeps their China engagement under regular review. They pay particular attention to risk assessments of how China intends to enforce the law and identify precautions that may help mitigate the impact of the new law. The organisation is used to operating in complex political environments: they continue to try and monitor political changes in China and the impact of new ministerial appointments on their areas of particular interest.

Setting up a registered office in China would be a significant cost to this European organisation. One-off and recurrent expenditure on a registered office are an important consideration for a medium-sized NGO. Costs include not only office rental, but also legal services, increased administrative overheads and the time spent in negotiations and preparing reports. For this organisation, these costs need to be set against the potential for programmatic benefits. Whatever the outcome of their efforts to register, China will, however, continue to be a component of the organisation's global campaigning.

The organisation has not yet defined the red lines in its approach to registration in China. The organisation is still feeling its way and is still unclear whether it can identify a potential PSU. It recognises that any PSU will have their own expectations about the relationship, but they find it difficult to anticipate what these may be in the absence of any meaningful discussions with a potential PSU.

This European organisation is currently taking the approach that if they cannot register an office they will pursue temporary activity registration, assuming the police recognise their not-for-profit status and they can identify organisations that will sponsor them. The organisation acknowledges that China is too big and important a country in its area of interest to ignore.

EU-China relations beyond aid

This organisation enjoys a constructive relationship with the European Union and several member state governments. The organisation operates independently and does not seek to participate in dialogues or general civil society forums unless they are directly relevant to their campaigning objectives.

Project team (in alphabetical order)

Dr Horst Fabian, Dr Andreas Fulda (PI), Ms Nicola Macbean, Dr Patrick Schroeder, Mr Martin Thorley

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