

Regulation of International Human Service NGOs in China: New Actors, Old Obstacles*

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Abstract: Previous studies on INGOs in China mainly focus on the organizational strategies for negotiating legitimacy with local governments. However, INGOs not only negotiate for legitimacy but also give an impetus to a clearly articulated mechanism for local governments to implement regulation and institutional improvement. Based on two field studies conducted from 2015 to 2019, this study reveals INGOs are willing to comply with regulation and urge their Chinese partners to do so. China's fragmented governance institution increases the difficulties in complying with the regulation. It's worth noting that, public security organs, which have long been perceived as a political gatekeeper, increasingly play a larger role of coordinator and facilitator for a smooth implementation of the INGO regulation. Yet pragmatism remains the underlying political logic of regulation and implies an unequal power relationship between the state and INGOs. These findings enrich the understanding of complex interactions between the state and INGOs under the new regulatory framework in China.

Keywords: International NGO Law, fragmented governance, regulation, China

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Introduction

Over the past two decades, China's decentralized and fragmented governance and a loose set of regulations have provided room for the rise of an indigenous civil society in service provision and philanthropic activity.¹ The central government adopted the purchase of service as a national approach to support the development of social services and NGOs in 2013, which marked a process of institution-building regarding NGO regulation in China.² Legislative and regulatory changes happened one by one: the Charity Law has been in effect since September 1, 2016, and the Law on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China (INGO Law of 2017, hereafter) has been in effect since January 1, 2017. These new legal regulations have aroused a wave of discussion about the political implications for civil society. For example, by studying the implementation of China's Charity Law, Spires³ argued that, legal regulation in China's context does not serve to develop civil society but to further marginalize critical voices.

Similar debates can be found in the implementation of the INGO Law of 2017. Overseas-affiliated NGOs outside the Chinese mainland include foreign NGOs and Hong Kong, Macau, and Taiwan-based NGOs (INGOs, hereafter). INGOs have been working in China since the 1980s. They have launched programs in the areas of environmental protection, poverty reduction, and disaster relief. They have also provided support to grassroots NGOs in terms of funding and expertise.⁴ These INGOs obtained legitimacy for action with their rich resources

¹ Sidel, M. (2016). Civil Society Regulation and Space in Asia and the Turn against Politics. *Charity Law & Practice Review* (London) 18: 133–157; Spires, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

² Wen, Z. (2017). Government purchase of services in China: Similar intentions, different policy designs. *Public Administration and Development*, 37(1), 65-78; Shieh, S. (2018). The Chinese State and overseas NGOs: From regulatory ambiguity to the overseas NGO law. *Nonprofit Policy Forum* 9(1). DOI: 10.1515/npf-2017-0034.

³ Spires, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

⁴ Ma, Q. (2006). *Non-governmental organizations in contemporary China: Paving the way to civil society?*. Routledge;

and numerous benefits for local residents and governments.⁵ INGO Law of 2017 defines the legality of INGOs' actions not only to reduce regulatory ambiguity⁶ but also to confine their activities, which can be a form of political control.⁷

Legal registration and fundraising are two critical issues for survival and development of all kinds of NGOs.⁸ Existing studies mainly focused on the mixed effects and diverse patterns of adaptation among INGOs since the implementation of the INGO Law in January 2017.⁹ And they found the implementation of INGO regulation in China continue to be ambiguous, even after a sweeping INGO Law intended to set clear regulatory framework. Little empirical evidence has been presented to show the complex interactions between the state and INGOs under this new ambiguous regulation.¹⁰ In one of the few studies, Li¹¹ revealed that competition among governmental departments in China's fragmented governance shapes two INGOs' registration strategies. Because of their rich resources and good performance, several national and local governmental departments are eager to supervise their activities. These two INGOs chose different registration strategies of representative offices for the same purpose: to

Laliberté, A. (2013). The growth of a Taiwanese Buddhist association in China: Soft power and institutional learning. *China Information*, 27(1), 81-105; Hsu, J. Y., & Hasmath, R. (2014). The local corporatist state and NGO relations in China. *Journal of contemporary China*, 23(87), 516-534.

⁵ Hsu, C., & Teets, J. (2016). Is China's new overseas NGO management law sounding the death knell for civil society? Maybe not. *The Asia-Pacific Journal*, 14(4), 3; Noakes, S., & Teets, J. C. (2018). Learning under authoritarianism: Strategic adaptations within international foundations and NGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 1-21, DOI: 10.1007/s11266-017-9939-9.

⁶ Shieh, S. (2018). The Chinese State and overseas NGOs: From regulatory ambiguity to the overseas NGO law. *Nonprofit Policy Forum* 9(1). DOI: 10.1515/npf-2017-0034.

⁷ Feng, C. (2017). The NGO Law in China and its impact on overseas funded NGOs. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*, 9(3), 95.

⁸ Hildebrandt, T. (2011). The political economy of social organization registration in China. *The China Quarterly*, 208, 970-989; Spiers, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

⁹ Bullock, M. B. (2021). Strategic adaptation: American foundations, religious organizations, and NGOs in China. In *Engaging China: Fifty Years of Sino-American Relations* (pp. 199-228). Columbia University Press; Holbig, H., & Lang, B. (2021). China's Overseas NGO Law and the Future of International Civil Society. *Journal of Contemporary Asia*, 10.1080/00472336.2021.1955292.

¹⁰ Hsu, C., & Teets, J. (2016). Is China's new overseas NGO management law sounding the death knell for civil society? Maybe not. *The Asia-Pacific Journal*, 14(4), 3.

¹¹ Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

demonstrate commitment and loyalty toward their critical Chinese partners.

However, competition for the role of supervisory units and INGOs' different registration strategies is one aspect of the complex interactions under the new regulatory law. Given that most INGOs lack such insider networks and international reputations, more empirical studies on INGOs' legal registration and fundraising across regions are needed. In addition, in accordance with the INGO Law of 2017, public security organs are the registration authorities playing critical roles in INGO regulation. Empirical studies on the roles of public security organs remain scarce despite a heated debate over their political control roles.¹²

This study addresses these knowledge gaps by focusing on the interactions between INGOs and local government before and after the implementation of the INGOs Law of 2017. By interviewing practitioners in INGOs and governmental departments in two developed cities in China, this study reveals that the regulatory requirements of the INGO Law of 2017 may sometimes exceed the capacity of governmental implementation agencies. This study also finds that, while INGOs continue to be adaptive as always, public security organs as registration authorities increasingly play a coordinating role in China's fragmented governance of INGO regulation.

This study enriches the understanding of interactions between the state and INGOs under the INGO Law of 2017, especially in the process of legitimization and fundraising.¹³ More

¹² Hsu, C., & Teets, J. (2016). Is China's new overseas NGO management law sounding the death knell for civil society? Maybe not. *The Asia-Pacific Journal*, 14(4), 3; Feng, C. (2017). The NGO Law in China and its impact on overseas funded NGOs. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*, 9(3), 95; Shieh, S. (2018). The Chinese State and overseas NGOs: From regulatory ambiguity to the overseas NGO law. *Nonprofit Policy Forum* 9(1). DOI: 10.1515/npf-2017-0034; Spires, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

¹³ Spires, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588; Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

importantly, this study sheds new light on the coordinating role of public security organs in INGO regulation. Local state's pragmatic consideration about departmental and local interests is still the underlying political logic of INGO regulation, which implies an unequal power relationship between state and society.

Fragmented Governance and INGO Regulation in China: Institutions and Actors

INGOs need to constantly seek legality and legitimacy in their host countries in order to survive and grow.¹⁴ Legality refers to INGOs' legal status and compliance with regulatory laws, while legitimacy refers to their subjective recognition by governmental officials. Legality is the first step for activities in the host countries, but it is not easily translated into legitimacy. For INGOs operating in authoritarian regimes, institutional barriers to entry and sustainable operation could be even higher.¹⁵

China's governance model has long been characterized by fragmented and pragmatic approach to policy implementation.¹⁶ Administrative and fiscal decentralization provide implementation agencies (e.g., governmental departments and public institutions) with the power and responsibility to carry out central-government decisions. These implementation agencies are at the nexus of the vertically functional administration (e.g., civil affairs organs from central government to local level) and horizontally territorial governance system (e.g.,

¹⁴ Walton, O. E., Davies, T., Thrandardottir, E., & Keating, V. C. (2016). Understanding contemporary challenges to INGO legitimacy: Integrating top-down and bottom-up perspectives. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 27(6), 2764-2786.

¹⁵ Noakes, S., & Teets, J. C. (2018). Learning under authoritarianism: Strategic adaptations within international foundations and NGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 1-21, DOI: 10.1007/s11266-017-9939-9.

¹⁶ Lieberthal, K. G., & Lampton, D. M. (Eds.). (1992). *Bureaucracy, politics, and decision making in post-Mao China* (Vol. 14). University of California Press; Mertha, A. (2009). "Fragmented authoritarianism 2.0": Political pluralization in the Chinese policy process. *The China Quarterly*, 200, 995-1012; Zhao, S. (2010). The China Model: can it replace the Western model of modernization?. *Journal of Contemporary China*, 19(65), 419-436; Jing, Y. (2017). The transformation of Chinese governance: Pragmatism and incremental adaption. *Governance*, 30(1), 37-43.

constituent units of municipal government) in China.¹⁷ Decision making powers and responsibilities are overlapping without clear boundaries. One single policy issue may involve multiple governmental departments. Decision making has to go through a prolonged negotiation and bargaining. Meanwhile, implementation agencies may pragmatically incorporate departmental interests and agendas into the implementation process and arrive at unintended policy outcomes. Because of widespread variance in departmental interests and decision-making, it seems there is no single unified government in China.¹⁸

Studies on civil society in China have determined that this fragmented and pragmatic governance provides room for the rise of INGOs.¹⁹ Different implementation agencies of INGO regulation may have different attitudes toward the same issues. INGOs can seek legality and legitimacy from one of a number of different agencies, as long as the agency is willing to take a political risk and wants to maximize its interests to collaborate with INGOs.²⁰ Thus, despite shrinking space for civil society, INGOs still adopt various strategies to explore the political opportunity for actions under this fragmented and pragmatic governance.²¹ On the other hand, competition and conflict amongst implementation agencies may result in an unexpected policy change. NGOs may suddenly encounter extra regulatory requirements imposed by other agencies and lose previous collaboration and even legal registration.²² Thus,

¹⁷ Lieberthal, K. G., & Lampton, D. M. (Eds.). (1992). *Bureaucracy, politics, and decision making in post-Mao China* (Vol. 14). University of California Press.

¹⁸ Spires, A. J. (2011). Contingent symbiosis and civil society in an authoritarian state: Understanding the survival of China's grassroots NGOs. *American Journal of sociology*, 117(1), 1-45.

¹⁹ Hsu, J. Y., & Hasmath, R. (2014). The local corporatist state and NGO relations in China. *Journal of contemporary China*, 23(87), 516-534; Hsu, C., & Teets, J. (2016). Is China's new overseas NGO management law sounding the death knell for civil society? Maybe not. *The Asia-Pacific Journal*, 14(4), 3; Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

²⁰ Laliberté, A. (2013). The growth of a Taiwanese Buddhist association in China: Soft power and institutional learning. *China Information*, 27(1), 81-105.

²¹ Bloodgood, E. A., Tremblay-Boire, J., & Prakash, A. (2014). National styles of NGO regulation. *Nonprofit and Voluntary Sector Quarterly*, 43(4), 716-736; Noakes, S., & Teets, J. C. (2018). Learning under authoritarianism: Strategic adaptations within international foundations and NGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 1-21, DOI: 10.1007/s11266-017-9939-9.

²² Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China.

fragmentation and disjunctions in China's policy process, as suggested by fragmented authoritarianism, would help to understand the changed and unchanged issues about legal registration and fund raising before and after the implementation of the INGO Law of 2017.

Institutions and Actors of (I)NGO Regulation in China

Before the 2010s, China had adopted a rigid dual-management registration by professional supervisory units and civil affairs departments regarding NGO regulation. Given the difficulties of obtaining legal registration, numerous international and grassroots NGOs work in China without formal registration.²³ Some NGOs registered as companies to hold public activities legally but bear tax liability.

Since the late 2000s, Chinese governments gradually relaxed the dual-management institution for domestic NGOs. But for INGOs, the rigid dual-management requirement has been retained. Public security organs, rather than civil affairs organs, become the registration authorities for INGOs in 2017. According to the INGO Law of 2017, INGOs have two legal ways to operate in China: (1) register a representative office in China for an approved scope of activities and (2) "file a record" to carry out temporary activities without a representative office. For the establishment of a representative office, INGOs shall seek the endorsement of one professional supervisory unit for their scope of activities in order to register a representative office. Registration authorities and professional supervisory units constitute the dual-management registration system for INGOs.²⁴ The practice of dual-management registration

VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations, 31, 751-761.

²³ Hildebrandt, T. (2013). Social organizations and the authoritarian state in China. Cambridge University Press.

²⁴ Hsu, C., & Teets, J. (2016). Is China's new overseas NGO management law sounding the death knell for civil society? Maybe not. *The Asia-Pacific Journal*, 14(4), 3; Feng, C. (2017). The NGO Law in China and its impact on overseas funded NGOs. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*, 9(3), 95.

for INGO regulation is stricter than regulation of domestic NGOs.

To undertake temporary activities without a representative office, INGOs shall do so in cooperation with Chinese partner agencies. As required by the INGO Law of 2017, Chinese partner agencies must submit documents of temporary activities as records for registration authorities at least 15 days prior to the event dates, and the duration of temporary activities shall not exceed one year.

It should be noted that the activities of Hong Kong-based welfare NGOs in Mainland China are subject to the regulation of the INGO Law of 2017, but locally registered social service agencies with a Hong Kong connection are not counted as INGOs. Thus, they may act as Chinese partner agencies of Hong Kong-based welfare NGOs for conducting temporary activities.

The INGO Law of 2017 imposes legal requirements for regulatory compliance not only on INGOs but also on governmental departments and public institutions. Public security organs, professional supervisory units, and Chinese partner agencies, as well as their personnel, are required to bear liabilities in the course of oversight and supervision with INGOs, in accordance with the INGO Law of 2017.

Overall, INGOs, professional supervisory units (e.g., governmental departments and public institutions), and public security organs as registration authorities are the three main actors in INGO regulation in China. To establish a representative office, the process of legitimatization is as follows: as an initial step, INGOs shall seek the support and endorsement of professional supervisory units for registration. This support and endorsement by professional supervisory units signal the legitimacy of INGOs in the field. Later, upon earning legitimacy,

INGOs shall submit a registration application to public security organs for legality.

Research Method

This article draws on empirical evidence collected in Y City and H City to illuminate the complex challenges of INGO in China. Y City, located in the Pearl River Delta, and H City, located in the Yangtze River Delta, are two of China's developed metropolises with the GDP per capita above USD 20,000 in 2019.²⁵ With their economic prosperity, both cities have attracted various NGOs and INGOs to conduct activities and programs within their jurisdictions. To summarize, these two cities are pioneers in China's economic and social reforms. As of December 31, 2019, there were 511 representative offices of INGOs and 2442 temporary activities in China. The United States and Hong Kong were the top two origins of these representative offices and temporary activities. Over 50% of representative offices were registered in Beijing, Shanghai (in the Yangzi River Delta), and Guangdong (in the Pearl River Delta).²⁶

In-depth interviews in Y City were conducted in February 2015 and January 2018. Respondents in Y City included the directors of three nonprofit social service agencies with Hong Kong background. These three nonprofits were initiated by different Hong Kong welfare NGOs and have been registered as local agencies with the civil affairs bureaus before the implementation of the INGO Law of 2017. In addition, the study interviewed an experienced Hong Kong social worker providing cross-border supervision in several cities of the Pearl River Delta. This respondent has experienced the advance and retreat of various Hong Kong welfare

²⁵ CEIC Data (2020). China Gross Domestic Product: per Capita: Prefecture Level City. Retrieved August 23, 2020, from <https://www.ceicdata.com/en/china/gross-domestic-product-per-capita-prefecture-level-city>.

²⁶ Ministry of Public Security (2020). Annual Report of Overseas NGOs Management 2019. Retrieved September 1, 2020, from https://ngo.mps.gov.cn/ngo/portal/view.do?p_articleId=272557&p_topmenu=1.

NGOs in the mainland China.

In-depth interviews in H City were conducted from September to November 2019. Respondents in H City were the director of INGO Office of the Municipal Public Security Bureau and three heads of representative offices of INGOs in the city. The country origins of the three INGOs are the United States and Italy. The scope of their activities includes philanthropy promotion and innovative healthcare and rehabilitation services (see Table 1).

Table 1: Background information for the respondents

Code	Position	Organizational origin	Scope of activities	Registration type	Registration bureau	Interview date
H1	Head of INGO Office, Public Security Bureau, H City		Registration authority			14 Oct. 2019
H2	Head of representative office, Agency Q	United States	Crowdfunding services	INGO representative office	Public Security	19 Sep. 2019
H3	Head of representative office, Agency R	United States	Innovative healthcare	INGO representative office	Public Security	13 Nov. 2019
H4	Head of representative office, Agency S	Italy	International cooperation in rehabilitation services	INGO representative office	Public Security	27 Nov. 2019
Y1	Hong Kong social worker providing supervision in China	Hong Kong	Social work supervision			3 Jan. 2018
Y2	Deputy director of agency, Agency X	Hong Kong	Family services	Domestic NGO with Hong Kong background	Civil Affairs	12 Jan. 2018
Y3	Head of service centre, Agency Y	Hong Kong	Family services	Domestic NGO with Hong Kong background	Civil Affairs	3 Feb. 2015
Y4	Head of service centre, Agency Z	Hong Kong	Family services	Domestic NGO with Hong Kong background	Civil Affairs	12 Feb. 2015

Although two field studies in Y and H cities were not explicitly designed for the comparative analysis, the qualitative data from two cities allow us to observe similarities and differences in state regulation and agencies' adaption, as well as the policy process of the INGO Law of 2017, a highly sensitive issue because of unequal power between INGOs and the governing authorities.

Study One: From Favorable Treatment to Equal Treatment of Hong Kong Welfare NGOs in Y City

INGOs activities are shaped by resources and needs in the host city. Hong Kong welfare NGOs have been very active in China's development of social service and social work since the late 1980s. Their activities have deepened from mere agency visit, training and financial support for China's welfare agencies, to direct service provision by collaborating with local civic affairs departments and mass organizations.²⁷ For example, two Hong Kong welfare NGOs owned and managed two nursing homes in two cities of the Guangdong Province respectively with substantive charity donation in the mid-1990s. These Hong Kong-based NGOs as well as international NGOs were invited by the Mainland's governments to collaborate in service delivery. The official invitation and social connection granted legitimacy to these NGOs and their service programs, and, in the eyes of Chinese government officials, registration was not fully necessary for activities.²⁸

Since the late 2000s, central and local governments in China have adopted a purchase-of-service model in order to facilitate the development of social forces, including NGOs (or social organizations, in the official term) and social services.²⁹ Thus, the dual-management registration has been relaxed gradually. Domestic NGOs working in the areas of philanthropy and community service have been allowed to register directly with civil affairs departments since the early 2010s.

At this stage, Hong Kong experience was attractive for local governments. Local officials and practitioner were eager to learn from Hong Kong welfare NGOs as well as their

²⁷ Lui, T. (2010). *Uniting strengths: the development of Hong Kong NGOs*. Joint Publishing (Hong Kong).

²⁸ Laliberté, A. (2013). The growth of a Taiwanese Buddhist association in China: Soft power and institutional learning. *China Information*, 27(1), 81-105.

²⁹ Wen, Z. (2017). Government purchase of services in China: Similar intentions, different policy designs. *Public Administration and Development*, 37(1), 65-78.

experienced social workers (Y1, Y3, Y4). And Hong Kong welfare NGOs would also like to enlarge service scope and policy influence in China, and to become registered entities with a clear organizational image and legal presence. Thus, several Hong Kong-based welfare NGOs have registered as local social service agencies under civil affairs departments in Mainland China and, in particular, Guangdong Province.³⁰ These local entities have close collaborative partnerships with Hong Kong-based welfare NGOs, but are independent and legal entities in Mainland China. It should be noted that, respondents (Y1, Y4) observed that, before the implementation of the INGO Law of 2017, only those well-established and large-sized Hong Kong welfare NGOs could seize the “China Opportunities” and engage in the contracting out social services in Mainland China. Small NGOs in Hong Kong didn’t have the government ties to “unlock the door”. In fact, respondents recalled that, fewer than five Hong Kong-based welfare NGOs have successfully launched branches and engaged in local governments’ contracting out social services in Y City (Y2, Y3).

In addition, according to the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), since 2007, Hong Kong NGOs for the elderly and the disabled have been allowed to provide service in Guangdong Province. However, as of 10 October 2022, the cumulative number of certificates of Hong Kong social service supplier issued is still zero.³¹

Nowadays, social service and social work have become an institutionalized policy in developed regions of the Pearl River Delta and the Yangtze River Delta, after a decade of social development. As a result, policy priority shifts to localization of social work practices rather than learning overseas experiences. According to respondents’ observations, Hong Kong-based welfare NGOs and cross-border social work supervisors, which were popular from 2007 to 2014, are receiving less supportive treatment from local governments (Y1, Y2).

What’s worse, local bureaucrats even criticized the performance and behaviours of local branches of Hong Kong based welfare NGOs. An incident was repeatedly highlighted by several respondents in Y City that, the local government issued a notice of criticism and moved an NGO with Hong Kong background into a separate list subjected to stricter inspections (Y1;

³⁰ China Philanthropy Research Institute (2016). *Building a Philanthropic Bridge connecting Beijing and Hong Kong: Research Report of Funding and Activities of Hong Kong Charities in the Mainland China*.

³¹ Trade and Industry Department, (2022). *Cumulative Number of Certificates of Hong Kong Service Supplier Issued (as of 10 October 2022)*. http://www.tid.gov.hk/english/cepa/statistics/hkss_statistics.html.

Y2; Y4). It is a kind of public shaming strategically conducted by the Chinese government.³² It was believed that the incident was due to the recurrent conflicting understandings about moral and ethical issues in service delivery and agency management between local bureaucrats and the NGO. A respondent pointed out that, Hong Kong social workers, sometimes, don't have the common touch in the mainland and fail to build good relationships with local bureaucrats (Y2). Since then, many Hong Kong-based NGOs and social workers have retreated from services in Mainland China (Y1; Y2). It implied, under the overall policy framework of political control, civil affairs organs can exercise tough initiatives on local and international NGOs.

For those agencies choose to stay, relationship with local government is more important than that with central government. The case of Agency X is a typical example. Agency X is a newly developing welfare NGO established by a pro-Beijing business elite in Hong Kong. Because of this background, Agency X in Hong Kong has been labeled as a Beijing-backed "red social work" agency. But Agency X encountered similar difficulties when it intended to provide social services in Mainland China. In the interview, the director of Agency X was asked why the agency has registered so many local branches in various municipalities in Guangdong and Fujian Provinces. The director explained that:

We registered at the Ministry of Civil Affairs (as a nationwide NGO) at first. [Local registration is] for the local projects. Local governments don't offer many outsourcing projects for agencies at the ministry level since they were required to set up a certain number of new local agencies. Another reason is that local governments can't supervise us as they are not our supervisory authority. They can monitor their commissioned projects (as funders) but can't review our agency. It's politically sensitive. Therefore, in order to obtain local project commissions, as well as to engage in local social service, we registered locally. (Y2)

This statement suggests the INGOs' registration strategy serves the local authorities' departmental interests, including the growth in the number of locally registered NGOs and the

³² Zhang, A. H. (2019). Strategic Public Shaming: Evidence from Chinese Antitrust Investigations. *The China Quarterly*, 237, 174-195.

formal regulatory power over these agencies, even before the implementation of the INGO Law of 2017.³³ It fully embodies the fragmented and pragmatic nature of China's (I)NGO regulation.

Study Two: INGOs' Difficulties Persist, but Authorities may Help in H City

Blame avoidance in endorsing INGOs

The INGO Law of 2017 adopts the same dual-management institution as previous regulation. The dual-management institution requires INGOs to seek a competent professional supervisory unit's endorsement for legal registration. However, not all potential professional supervisory units are willing to endorse the INGOs. As a result, seeking a suitable professional supervisory unit took considerable time and great effort (H2; H3). The INGO Law of 2017 hasn't significantly improved this situation.

To be specific, professional supervisory units tend to turn down INGOs' requests as they would like to avoid political risks and blame (H3). First of all, potential units don't know the INGOs very well and have no trust in these INGOs. Thus, they prefer not to bear the responsibility of endorsement and supervision. Some potential units are open-minded but have to take a lot of time to review an INGO's background, activities, and contributions before offering the official endorsement (H1). Many INGOs, newcomers in particular, have to exert inordinate efforts to search for a supportive agency.

In addition to the absence of understanding and trust, a huge variety of activities offered by INGOs encounter difficulties in aligning with China's bureaucratic structure. First, INGOs' innovative and brand-new activities may go beyond the traditional scope of governmental regulation. It can be difficult to identify a competent authority that can supervise such activities.

³³ Sidel, M. (2019). Managing the foreign: The Drive to securitize foreign nonprofit and foundation management in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 30(4), 664-677; Gao, X., & Teets, J. (2020). Civil society organizations in China: Navigating the local government for more inclusive environmental governance. *China Information*, DOI: 10.1177/0920203X20908118; Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761; Li, H., & Farid, M. (2022). Stay or exit: How do international nongovernmental organizations respond to institutional pressures under authoritarianism?. *Regulation & Governance*. 10.1111/rego.12473.

Second, an INGO may provide diverse activities across several policy areas and across the country, and these kinds of cross-department and cross-jurisdiction activities fall outside the purview of a single professional supervisory unit (H1). The supervisory units are concerned about the political risk of an INGO's misconduct in other policy and regional areas beyond their supervision.³⁴

The INGO Law of 2017 allows INGOs without a registered representative office to carry out temporary activities by collaborating with Chinese partners who should file a record to the registration authority. This submission for provisional registration is the legal liability of Chinese partner agencies, different from the optional endorsement as a professional supervisory unit.

INGOs with good corporate governance often urge their Chinese partners to complete provisional registration. By contrast, these Chinese partner agencies sometimes fail to comply with the regulation because of grey areas of integrity. A respondent used collaboration in the higher education sector as an example:

Nowadays, the use of public research fund is under strict control by university comptroller. Thus, many INGOs directly transfer research funding to scholars' personal accounts, and only require a research report as deliverables. Scholars don't need to submit audit reports. If these scholars file the collaboration as an INGO's temporary activity with the registration authority, they will have a concern about a financial audit ... since the Ministry of Education introduced the first INGO to China in 1984, the management has been fragmented by different institutions and government departments without a rigorous standard. The improper collaboration with INGOs in higher education has become a common practice for more than 30 years. (H1)

The qualitative data suggest that, INGOs in China are eager to obtain legal registration when the INGO Law of 2017 came into effect. However, both potential professional

³⁴ Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

supervisory units and Chinese partner agencies have pragmatic concerns about political liability and financial audit. Meanwhile, potential professional supervisory units also face institutional constraints on their supervisory capacity and role. All these factors create difficulties for the registration of INGOs on the basis of the INGO Law of 2017.

Registration authorities as coordinating intermediaries

The example of registration strategy of Agency X from Hong Kong shows that INGOs with solid and high-level political connections may still encounter difficulties in dealing with local governments. Local governments have their own considerations, such as meeting growth target of local NGOs, and local favoritism. Respondents in this study agreed generally that, as part of regulatory development, the INGO Law of 2017 shows state's recognition of INGOs and will enhance their legitimacy and credibility (H2; H4; Y1; Y3; Y4). But the policy implementation remains fragmented, and negotiations are unavoidable.³⁵ In this process, INGO Office of public security organs, as registration authorities, can be the critical coordinating intermediaries.

First, INGO Office can bridge the gap between INGOs and potential professional supervisory units. For example, one financial technology INGO provides a crowdfunding platform for charities, international donors, and multinational corporations. The INGO had to seek policy advice from the INGO Office to find a competent supervisory unit to endorse its fintech philanthropy. With tremendous coordination made by the INGO Office, this INGO finally received consent to be a supervisory unit from a public institution responsible for China's United Front Work. In fact, the fintech philanthropy went beyond China's traditional bureaucratic administration, and the INGO Office had the same difficulty in finding a competent public institution as well. Thus, the INGO Office finally defined the supervision as an issue of developing friendship with foreign countries, which falls into the scope of United Front Work. This INGO succeeded to register the representative office in H City in mid-2018 (H2). This example suggests, the INGO Law of 2017 leaves much room for interpretation by local registration authorities.

³⁵ Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations, 31, 751-761.

Second, on top of the choice of sphere of activities and professional supervisory units, INGO Office can also provide policy advice and guidance to complete the registration. For example, some professional supervisory units are happy to support INGOs, but are not familiar with the administrative procedure and the activities of INGOs. In this case, the INGO Office in H City would advise the INGOs and potential supervisory units to begin with temporary activities designed to deepen the understanding and mutual trust between both parties. Based on the initial collaboration, INGOs can apply to register a representative office with the registration authorities later (H3, H4).

In addition, the INGO Office in H City also appoints designated police officers to maintain daily communication with INGOs through instant messaging software (i.e., WeChat groups). The designated police officers provide daily support on various issues, including document submission, changing scheduled activities, bank account issues, residence permit applications, and so on. This kind of support is particularly important for INGOs to be able to conduct cross-jurisdiction activities in fragmented governance. For example, representative office of “Agency Q” is registered in H City, but its activities are often conducted in other provinces. Every time it encountered difficulties conducting activities in other provinces, the INGO Office proactively helped solve these problems (H2).

It should be noted that this proactive problem-solving is very likely favorable for INGOs with significant impacts. As a police officer illustrated:

Only those with significant benefits for the city or the country may get favorable treatment because the local government may value them a lot. Up until now, problems mentioned by INGOs have not adversely affected the progress of municipal key projects. Meanwhile, several less-well-known INGOs with a relatively long history and some positive benefits to the society are indeed affected. The Foreign Affairs Office in H City is responsible for promotion activities to attract international organizations including INGOs. If any large and influential INGO wants to come, the municipal government can directly appoint a related government department to serve as its supervisory unit. Up until now, this measure has benefited over 20 INGOs as their businesses are in line with the city’s campaign of building itself as a global center of economy, finance, trade, shipping, and science and technology innovation. This is an extraordinary measure that facilitates

INGOs of significance and benefits the launch of their activities as soon as possible. Such a measure ensures the flexibility as well as effectiveness and feasibility of the INGO Law. (H1)

Back to company registration for financial sustainability

Even though INGOs have obtained some type of legality in terms of registration, they may still encounter other unexpected obstacles in daily operations, particularly in regard to financing issues.

According to Article 21 of the INGO Law of 2017, funding for INGO activities in Mainland China shall come from three sources: (1) legal sources of overseas funding, (2) deposit interests generated in Mainland China, and (3) other lawfully acquired funds in Mainland China. INGOs are forbidden to use funds that come from sources other than those described above for their activities, nor are they allowed to conduct any fundraising activities in China.

Such rigid regulatory requirements have posed challenges for financing INGOs' daily operations. A head of the INGO representative office pointed out:

Applying for overseas funding is the only practical way we have to operate in China. But such opportunities are decreasing since donors do not have China on their agendas as a priority country anymore. Therefore, the opportunities for overseas funding in our scope of activities are fewer than before or even close to zero. On the other hand, China itself states that money is not an issue and what it needs are professional inputs (i.e., experiences and expertise). Meanwhile, the government imposes strict restrictions on the types of funds that we can use. Such requirements will affect the sustainable development of INGOs in China. (H4)

The difficulties in fundraising are driving some INGOs to change NGO registration to company registration.

The source of income is restricted by the INGO Law, and the headquarters struggles to

fund the office constantly. To survive in China, the office may transform itself from a nonprofit INGO into a company. (H3)

A police officer in the INGO Office also confirmed that, some INGOs turned to company registration in order to maintain financial sustainability:

In recent years, economic benefits and societal resources have been restricted by regulatory laws. Many organizations [have] changed their legal status to companies. (H1)

In fact, company registration had long been an alternative solution for international and domestic NGOs to legally work in China before the late 2000s. Due to the regulatory law, it has become a way out again.

Overall, evidence from H City suggests, only experienced and well-established INGOs with significant local and global impacts can negotiate legitimacy and receive extraordinary treatment under the INGO Law of 2017. Many ordinary and grassroots INGOs still have to struggle for registration, survival, and development under the current regulatory institutions.

Discussion and Conclusion

This study is one of the few empirical studies to analyze the state–INGO interactions before and after the implementation of the INGO Law of 2017. The study found that blame avoidance of bureaucracy and INGOs' difficulties in seeking professional supervisory units' registration support still prevail. These are long-standing problems in (I)NGO regulation due to distrust and strict dual-management registration.³⁶ While governments at various levels may compete for the supervision of a few well-known INGOs,³⁷ most INGOs are still subjected to rigid political control. In this sense, the argument of “regulation as political control” in China based on the implementation of Charity Law³⁸ is also applicable to INGO regulation.

³⁶ Hildebrandt, T. (2013). *Social organizations and the authoritarian state in China*. Cambridge University Press.

³⁷ Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

³⁸ Spires, A. J. (2020). Regulation as political control: China's first charity law and its implications for civil society. *Nonprofit*

This study also revealed that, under the “regulation as political control”, INGOs without an insider network and rich resources have to be adaptive in order to be registered and sustain their activities. The adaption is similar to well-known INGOs in other studies.³⁹ In other words, INGOs, no matter their status in the field, must be responsive to the state’s requests in order to obtain legal registration as well as financial sustainability in China. The unequal power distribution in INGO regulation is made evident by the adaptive strategies applied across INGOs.

Apart from blame avoidance and unequal power, this study discovered the institutional constraints on potential professional supervisory units for supporting INGOs’ registrations. Not many professional supervisory units are able to provide comprehensive professional supervision to the diverse activities of INGOs, which is required by the INGO Law and the dual-management registration system. In addition, while fragmented governance provides opportunities and room for INGOs’ actions,⁴⁰ divergent departmental interests and priorities increase the difficulties in reaching a supervisory agreement between potential professional supervisory units and INGOs. This finding suggests the previous regulatory ambiguity prevail after the implementation of the INGO Law of 2017. It reveals a new dimension of fragmented INGO regulations and governance in China.

Finally, this study highlighted the intermediaries of public security organs, which is a crucial role of registration authorities that has not been thoroughly studied before. Empirical evidence suggests that registration authorities not only practice “regulation as political control”⁴¹ but also bridge INGOs and potential professional supervisory units and help to find a way out of institutional constraints. In other words, public security organs, as registration

and Voluntary Sector Quarterly, 49(3), 571-588.

³⁹ Noakes, S., & Teets, J. C. (2018). Learning under authoritarianism: Strategic adaptations within international foundations and NGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 1-21, DOI: 10.1007/s11266-017-9939-9; Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

⁴⁰ Lieberthal, K. G., & Lampton, D. M. (Eds.). (1992). *Bureaucracy, politics, and decision making in post-Mao China* (Vol. 14). University of California Press; Mertha, A. (2009). “Fragmented authoritarianism 2.0”: Political pluralization in the Chinese policy process. *The China Quarterly*, 200, 995-1012; Bloodgood, E. A., Tremblay-Boire, J., & Prakash, A. (2014). National styles of NGO regulation. *Nonprofit and Voluntary Sector Quarterly*, 43(4), 716-736; Li, S. (2020). Global civil society under the new INGO regulatory law: A comparative case study on two INGOs in China. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 31, 751-761.

⁴¹ Hsu, C., & Teets, J. (2016). Is China’s new overseas NGO management law sounding the death knell for civil society? *Maybe not. The Asia-Pacific Journal*, 14(4), 3; Feng, C. (2017). The NGO Law in China and its impact on overseas funded NGOs. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*, 9(3), 95; Spires, A. J. (2020). Regulation as political control: China’s first charity law and its implications for civil society. *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

authorities, can be a coordinating remedy for China's fragmented governance. Of course, the proactive and supportive problem-solving targets mainly those INGOs that will bring about significant social impacts. Again, the proactive and supportive initiatives embody the pragmatic logic of INGO regulation.

This study deepens the understanding of the implementation of the INGO Law of 2017 by illustrating the complex interactions between INGOs, professional supervisory units, and registration authorities in fulfilling dual-management registration. In addition, this study points out the supportive role of the public security organs, which extends the traditional understanding of INGO regulation. Overall, as respondents described, the INGO Law opens the main gate for INGOs, but various small doors remain closed (Y1; Y3). Thus, INGOs must continually knock on the doors of various governmental departments and negotiate legitimacy with the state in the implementation of the INGO Law of 2017.

Despite the mentioned contributions of this study, the findings should be interpreted in light of some limitations. The study has provided some information on the roles of registration authorities. But the number of respondents was small, and the findings may be affected by potential sampling bias. Future research may consider examining how public security organs as registration authorities view their roles in INGOs regulation. Also, the study analysed two cross-sectional data from two cities, and did not elicit every respondent to compare outcomes before and after the INGO Law of 2017, thus limiting analysis and subsequent understanding on how new regulatory effort may have contributed to the change of INGOs in China over time. Future research could use a larger and representative sample and a longitudinal design to enhance our understanding of the implementation of the INGO Law of 2017 on survival and development of INGOs in China.

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