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# Listening and Learning: “Authoritarian Deliberation” under Xi Jinping

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## Abstract

During the reform era, scholars and analysts argued that China’s “resilient authoritarianism” derived from “authoritarian deliberation” mechanisms for collecting feedback from citizens. However, in addition to collecting citizen feedback, these authoritarian deliberation mechanisms create mobilization points for advocacy. Authoritarian regimes like China normally isolate policymakers from citizens who advocate for policies. However, during periods of “public comment and notice” where laws are being written and revised, advocates may legitimately share feedback with policymakers. During this “policy window,” civil society organizations (CSOs) typically employ four strategies to influence policy: submitting public comments via the online platform, consulting with government policymakers, disseminating conference reports with recommendations, and publicizing key points through online media. All four of these channels are frequently and simultaneously used. However, they differ in two main ways: effectiveness in influencing policy and level of inclusiveness. Expert testimony in the form of consultations and conference reports seem to be the most effective, while public comments and media publicity are less effective. Conference reports and media publicity are the most inclusive channels, with public comments and consultations as the most exclusive. Xi Jinping’s administration has focused on “responsive government” as a key form of legitimation, but privileges more exclusive channels of feedback, such as consultations and public comments. However, this type of authoritarian deliberation provides less effective citizen feedback on draft policies and creates a fragile form of legitimacy that necessitates a new social contract such as evidenced in the Common Prosperity agenda.

## Policy Implications and Key Takeaways

- Authoritarian deliberation continues but exclusive channels only provide elite perspectives and not comprehensive feedback to policymakers limiting its effectiveness.
- This form of responsiveness privileges elites and thus is a fragile source of legitimacy, so the CCP will need to find ways to rebuild the social

contract with regular citizens, such as through new Common Prosperity (CP) policies.

- Sources of legitimacy for the Party will shift from mostly economic performance to a combination of procedural legitimacy (rule by law) and overall governance performance focused on solving everyday problems.
- Revisions to the 2024 Charity Law highlight the increasing importance of “tertiary distribution”—or voluntary donations from the wealthy to the poor—as the preferred strategy to address income inequality rather than tax policy, and thus signals the continuing pressure on wealthy elites and private businesses to play active roles in transfers of income.
- This type of authoritarian deliberation mostly provides space for “loyal experts” to consult with the government. However, international experts, such as INGOs, should partner with local Chinese CSOs to draft collective reports sent to the government.

## Introduction

During the reform era, scholars and analysts argued that China's "resilient authoritarianism" derived from mechanisms for collecting feedback from citizens, ranging from town halls/online comments<sup>2</sup> to civil society advocacy,<sup>3</sup> and even including protests.<sup>4</sup> Using these "authoritarian deliberation" mechanisms,<sup>5</sup> the government was able to collect information to adjust public policies and avoid the rigid governance trap many authoritarian regimes face.<sup>6</sup>

In addition to collecting citizen feedback, these authoritarian deliberation mechanisms create mobilization points for advocacy. Authoritarian regimes like China normally isolate policymakers from citizens who advocate for policies.<sup>7</sup> However, during periods of "public comment and notice" where laws are being written and revised, advocates may legitimately share feedback with policymakers. During this "policy window" time period,<sup>8</sup> civil society organizations (CSOs) typically employ four strategies to influence policy: submitting public comments via the online platform, consulting with government policymakers, disseminating conference reports with recommendations, and publicizing key points through online media.

All four of these channels are frequently used, but they differ in two main ways: effectiveness in influencing policy and level of inclusiveness, whereby "inclusiveness" references the degree to which the opportunity exists for policy deliberation to occur among non-policymakers. Public comments are short, typed reactions submitted via the National People's Congress or sponsoring ministries' online platforms. These are written by one individual and submitted in a closed format such that only receiving government officials see the comment. This type of participation is exclusive, and empirical research about its effectiveness suggests that the frequency of comments might catch the attention of policymakers, but that this is not the most effective way to advocate for policies.<sup>9</sup> Consultations occur when policymakers invite selected organizations and individuals to meet and discuss the policy. This is the most effective channel, but it is also the most exclusionary and atomized in that policymakers decide who is invited to participate and these groups might not represent the interests of the broader community. During a period of policy-making, universities, CSOs, and government offices might hold public conferences to discuss potential changes, and they often publish a report afterward that aggregates the opinions of participants. This channel is effective in that it

is also expert information like the consultations, but it is much more inclusive. Finally, CSOs use media, especially social media, to publicize their desired policy changes. There is no indication that policymakers are influenced by media publicity. However, it might influence both public comments by others and the aggregated positions in the conference reports. In this way, using a media channel is the most inclusive strategy. In short, expert testimony in the form of consultations and conference reports seem to be the most effective, while public comments and media publicity are less effective. Conference reports and media publicity are the most inclusive channels, with public comments and consultations as the most exclusive.

**FIGURE 1.** Citizen Participation in Policymaking

	Inclusive	Exclusive
More Effective	conference reports	consultations
Less Effective	media publicity	public comments

In his political report at the 19th Party Congress in 2017, Xi Jinping explained that his goal of deepening institutional and administrative reform was “building a service-oriented government that satisfies the people” focusing on creating a “responsive government (*huiyingxing zhengfu* 回应性政府).” Xi argues that a responsive government is the key to Party legitimacy and China’s future success.<sup>10</sup> To achieve this goal, Xi Jinping retained and expanded the public comment process.<sup>11</sup> However, his administration increasingly focuses on gathering policy-relevant information from more exclusive channels of atomized citizens such as public comments and consultations, instead of conference reports and media publicity.<sup>12</sup> This also mirrors his broader interactions with CSOs where policy experts are invited to consult with the government individually, but citizen mobilization is discouraged (and often repressed). In these more inclusive channels, I argue that through deliberation citizens learn from the process such that ideas and perspectives interact to create emergent interests that might not be predicted from the initial individual interests.<sup>13</sup> Policy discussions are not merely talking. Instead, the act of discussing policies within communities creates shared understandings, builds social trust, and shapes potential solutions. In this way, policy deliberation is more than just the sum of its parts.

In this report, to explore the process of authoritarian deliberation. I compare two cases of public comments on draft regulations for civil society (the Charity Law) in 2016 and again when revised in 2022, to examine how citizen feedback influences the development of the policy eventually adopted. Previous research on healthcare policy finds that the likelihood of the government changing legislation across the proposed and final versions increased with the number of public comments calling for such revisions.<sup>14</sup> To strengthen this textual analysis, I interviewed individuals involved in both the 2016 and 2022 rounds of the draft laws to examine how gathering citizen feedback has changed under Xi: how is this information collected? How important is it in policymaking? At which level or place in the process is it most important?

Initial analysis finds that during the comment period for the 2016–7 Charity Law, civil society organizations utilized all four advocacy channels, including discussing concerns with each other in a number of workshops and meetings. This deliberation shaped not only the nature of their concerns, but also their specific recommendations to change the draft regulations. Many of these recommendations were adopted by the government or addressed during the process of finalizing these regulations. During the revision of the Charity Law in 2022–3, CSOs also reported using all four channels. However, interviewees believed that direct “consultations” were the most effective channel. But, many groups are too small or do not have the government contacts to be invited for consultations, leaving them with only the other three options for advocacy. Although authoritarian deliberation is continuing in the New Era, an atomized process of information collection eliminates the emergent character of deliberation, and therefore might only offer fragmented and underdeveloped feedback from society.

This is an important area of research because Xi has linked Party legitimacy to creating a responsive government, using atomized information captured via Party collection mechanisms or digital platforms as a substitute for information collected through previous channels such as civil society advocacy, media investigations, or citizen protest. However, many of the previous channels did not collect individual information, but rather community information. In these more deliberative channels, I argue that citizens learn from the process, such that ideas and perspectives interact to create emergent

interests that might not be predicted from individual interests.<sup>15</sup> Policy discussions are not merely talking; instead, the act of discussing policies within communities creates shared understandings, builds social trust, and shapes potential solutions. Understanding these institutional reforms to increase 'responsiveness' is important for scholars of domestic Chinese politics and for US policymakers. If resilient authoritarianism derived from channels of citizen feedback that are now no longer functioning in the same way (either the information is not complete or local officials do not have discretion to adjust policies), how responsive can this system really be? And if the policymaking process no longer promotes "resilience", does this mean that other challenging areas like economic stagnation and youth unemployment trigger erratic policy or eventually repression?

Responsive government reforms challenge common expectations of policymaking in an authoritarian regime in that the Chinese leadership is not exclusively focused on policy goals over public opinion. However, the new methods of information collection discourage policy deliberation and view any efforts to shape collective policy discussions as a political threat.<sup>16</sup> Thus, these reforms affect the quality of policy information as well as creating a more erratic policymaking process prone to rapid shifts between strict implementation and paralysis, what Denise van der Kamp calls "governance by uncertainty" and argues that it is more harmful to companies than simply bad policies.<sup>17</sup>

## **Effectiveness of Citizen Participation in Drafting the Charity Law: Role of Expert Advocacy**

To explore the process of authoritarian deliberation, I compare two cases of public comments on draft regulations for civil society (the Charity Law) in 2016–7 and again when revised in 2022–3, to examine how citizen feedback influences the development of the policy eventually adopted. This law regulates how charities, or CSOs, register, raise funding, and receive permission for projects.<sup>18</sup> The first draft of this legislation was available on October 30, 2015, and went through 3 revisions until the final version was passed into law on March 16, 2016. This legislation was then revised beginning on December 30, 2022, and went through 3 revisions until the final version was passed into law on December 29, 2023. We first analyzed textual changes for each draft of

the 2016/7 and the 2022/3 Charity Law and outlined the main changes for each below.

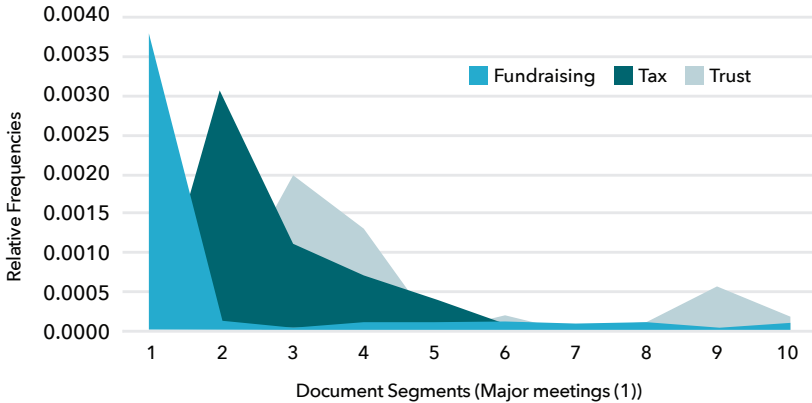
The first PRC Charity Law went through three drafts before going into effect in 2017. Examining the changes among each draft, we observed that the government seemed to be reacting to some general fears about “civil society,” such as Article 5, which took “practice the core socialist values, carry forward the traditional virtues of the Chinese nation” and revised it to say that “The state encourages and supports natural persons, legal persons and other organizations to practice the core socialist values, carry forward the traditional virtues of the Chinese nation, and carry out charitable activities in accordance with the law.” This addition reflects fears of “Western spiritual pollution” that might enter the country through linkages with international NGOs and foundations.

Additionally, the government also seemed to be engaged in a process of learning about the nonprofit sector, as evidenced by revising the definition of a “charitable organization” in Article 8 in each draft. For example, in the first version: the term “charitable organization” as used in this Law refers to a non-profit organization registered in accordance with the law and whose purpose is to carry out charitable activities. However, in the second draft, the term “refers to non-profit organizations such as foundations, social groups, social service agencies, etc. established in accordance with the law and for the purpose of carrying out charitable activities.” The government is clearly learning from consultation about this largely unknown sector.<sup>19</sup>

The new PRC Charity Law was passed on December 29, 2023, and came into effect on September 5, 2024, or “China Charity Day.” The drafts were revised to reflect three main changes. First, the regulators seemed to be responding to past events when they tried to supervise “emergency activities” like disaster relief and COVID-19 and constrained the ability of fraudulent crowdfunders who steal matching donation money (*peijuan*) to post online campaigns.<sup>20</sup> Second, the majority of changes addressed expanding the ease of public fundraising qualification (PFQ). The requirement for applying for PFQ has been lowered so that a charitable organization registered for only one year (not two years as previously required) is qualified to apply. Moreover, the former Charity Law prescribes that only foundations and social organizations are entitled to certificates of public fundraising, whereas the new PRC Charity Law expands the scope of public fundraising organizations to cover “non-profit organizations” in general.



**FIGURE 2.** Content Analysis of Expert Conferences and Workshops Prior to the 2nd Draft of the Charity Law



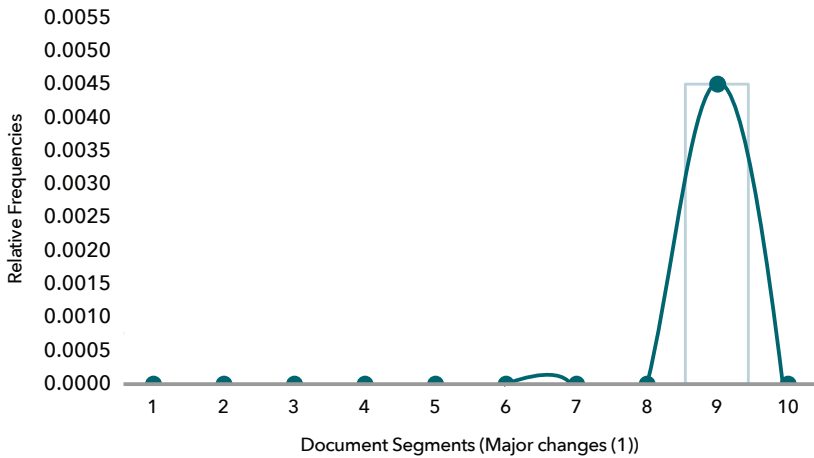
Finally, the tax code will be updated to encourage charitable giving and thus increase private donations. Third, the revised law focuses on restricting the use of online platforms for charitable giving to those operated by the government and also encourages local governments to expand the use of online volunteer platforms like *zhiyuanhui* in Zhejiang.<sup>21</sup>

Using the content analysis software Voyant, I analyzed the frequency of topics discussed by experts from Institute for Philanthropy at Tsinghua University, Institute for Philanthropy Development at Shanghai Jiao Tong University, ForNGOs, and various NGOs and foundations meeting in a series of approximately 10 workshops and conferences after the initial draft of the new Charity Law. In the published conference reports shared with the government and the public, the experts focused mostly on broadening and easing the restrictions on public fundraising, preferential tax status charitable donations, and how to form and manage charitable trusts as a new organization type.

Note: Document segments on the x axis refer to the different paragraphs in the conference reports

Examining the next published version of the Charity Law, we can see that the government did respond to taxation concerns, but not in much detail as advocated by experts (as seen in Figure 3).

**FIGURE 3.** Content Analysis of Second Draft of Charity Legislation



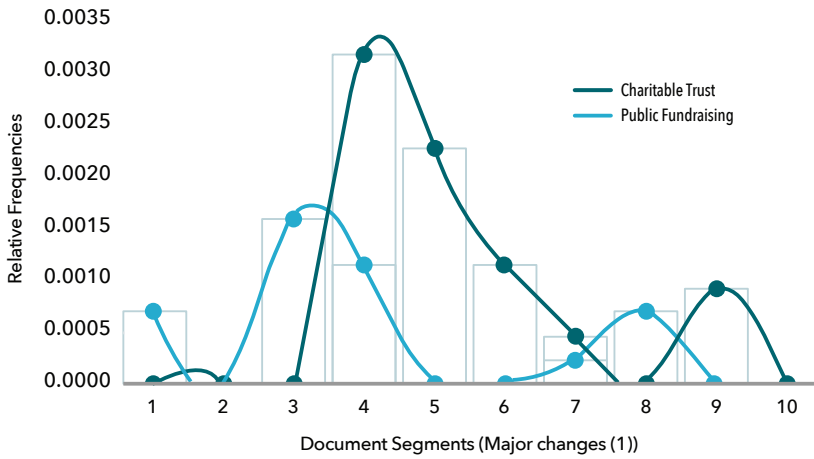
As seen in Figure 4, the government responded much more to the concept of a charitable trust, and also updated the legislation to make public fundraising open to more organizations. Interestingly, however, the government seemed much more concerned with the role and authority of the “trustees” of these charitable trusts than the experts, and this concern was catalyzed by the discussion of charitable trusts as an organization type (see Figure 5).

After these revisions were made, another draft was publicly released, and experts at Institute for Philanthropy Tsinghua University, Institute for Philanthropy Development at Shanghai Jiao Tong University, ForNGOs, and various CSOs and foundations (similar people to those in the last round of discussions) held approximately 5 workshops and conferences to review these changes and suggest others.

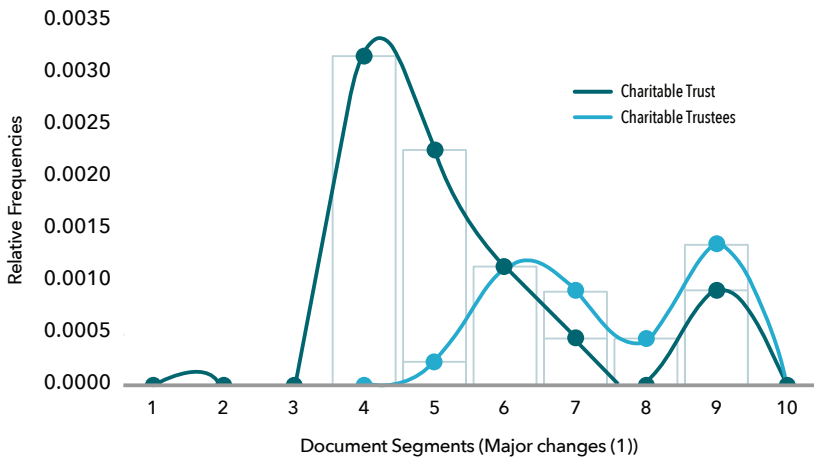
This round of expert meetings showed a continued emphasis on public fundraising and expansion of entry barriers through “laws”, but also focused more on charitable trusts in reaction to the new articles in the last draft.

Next the government revised the legislation and correspondingly responded to advocacy around public fundraising, but it did not focus on supporting legal codes for charitable organizations beyond the current legislation being drafted, leaving many issues ambiguous. Additionally, the government

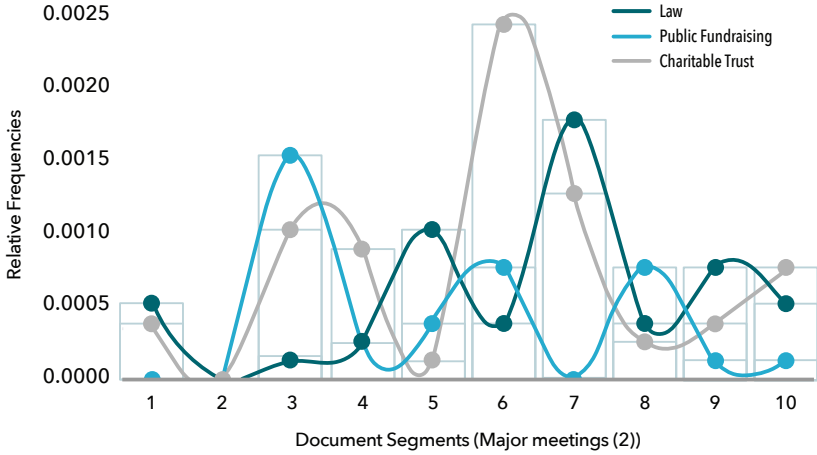
**FIGURE 4.** Content Analysis of Second Draft of Charity Legislation



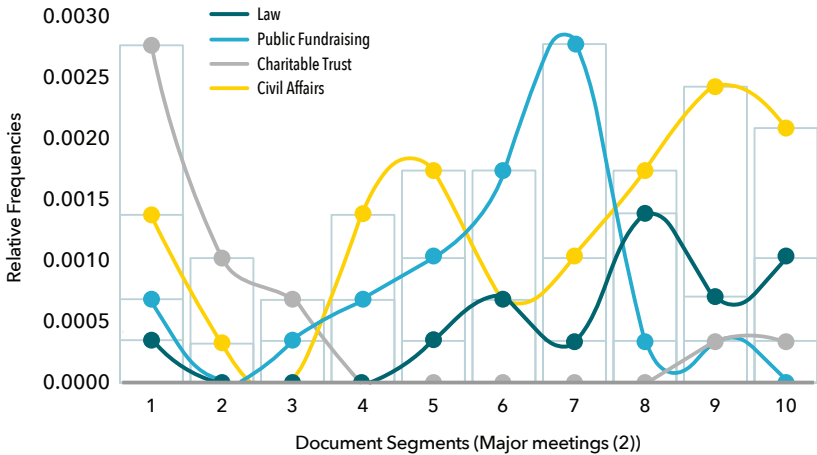
**FIGURE 5.** Content Analysis of Second Draft of Charity Legislation



**FIGURE 6.** Content Analysis of Expert Conferences and Workshops Prior to the 3rd Draft of the Charity Law



**FIGURE 7.** Content Analysis of 3rd Draft of the Charity Law

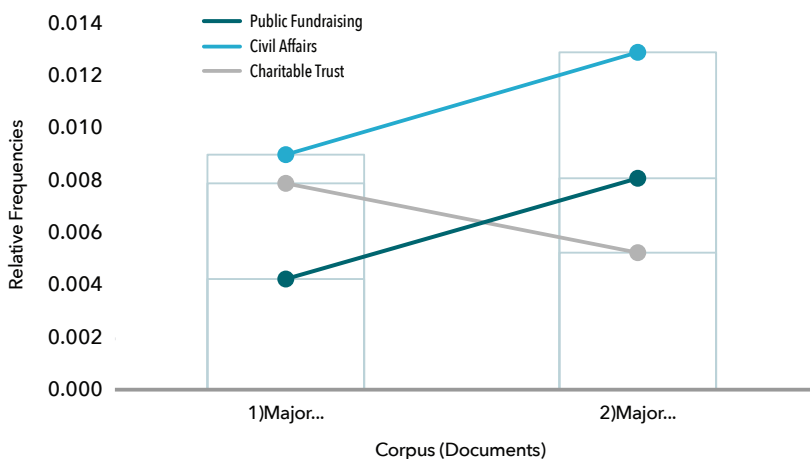


focused much attention on the level of government supervising charitable organizations, specifically the Civil Affairs Bureau above the county level to centralize supervision.

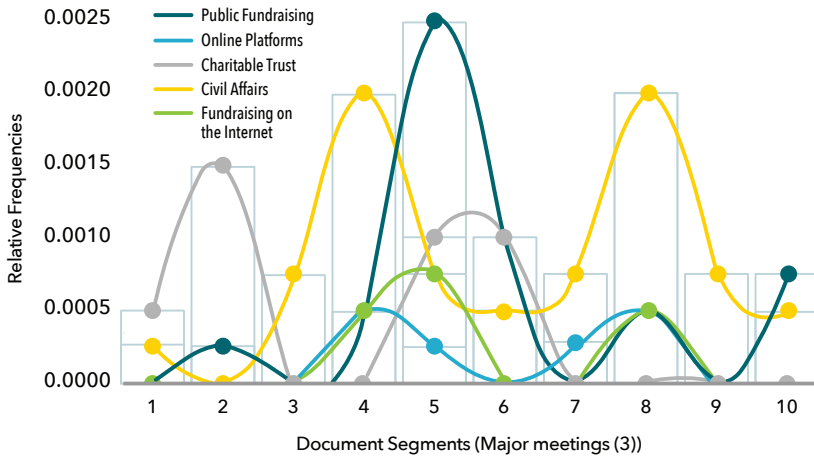
Examining the frequency of the top three issues in both drafts in Figure 8, the revisions corresponded to expert advocacy in that discussion of public fundraising increased between drafts and charitable trusts decreased between drafts. However, the government concern of which level of Civil Affairs supervises charitable organizations increased between drafts despite experts not discussing this with any frequency.

Significantly, as illustrated in Figure 9 below, experts began discussing topics of government concern, namely which level of civil affairs should supervise using which regulations and fundraising specifically over online platforms. Additionally, the experts continued discussing their issue of interest—easing requirements for public fundraising. However, experts dropped the topic of charitable trusts and tax policy that dominated earlier rounds of meetings.

**FIGURE 8.** Comparison between 2nd and 3rd Drafts of the Charity Law



**FIGURE 9.** Content Analysis of Expert Conferences and Workshops Prior to the Passage of the Charity Law

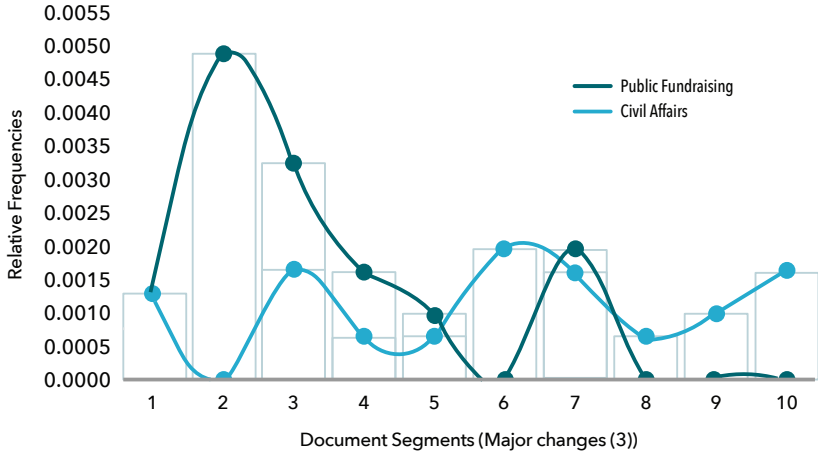


By December 2023, the NPC voted the new Charity Law into legislation. Content analysis of the final version shows the persistence of the government concern about the administrative rank of the supervisory agency and the responsiveness to expert concerns about broadening and specifying public fundraising.

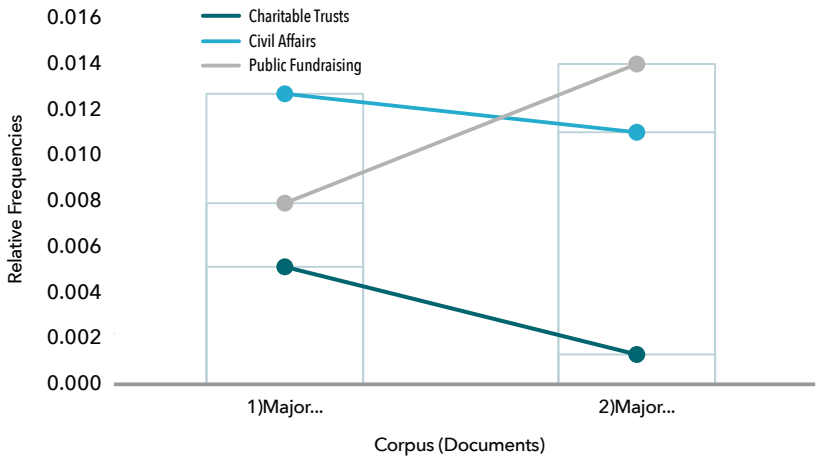
These findings are more clearly illustrated by comparing the last draft with the final legislation, with the persistence of the government concern about the administrative rank of the supervisory agency and the responsiveness to expert concerns about broadening and specifying public fundraising. The government’s original focus on charitable trusts remains but is no longer the priority.

Finally, analysis of all drafts and the final legislation in Figure 12 show that the government maintained its emphasis on administrative regulation of charitable organizations, increased its focus on the expansion of public fundraising as requested by experts (see Figure 13 below), and dropped its earlier focus on charitable trusts and their trustees. This is still an important new area of the Charity Law, but, without expert engagement, the government reduced the priority of this aspect of the revised legislation.

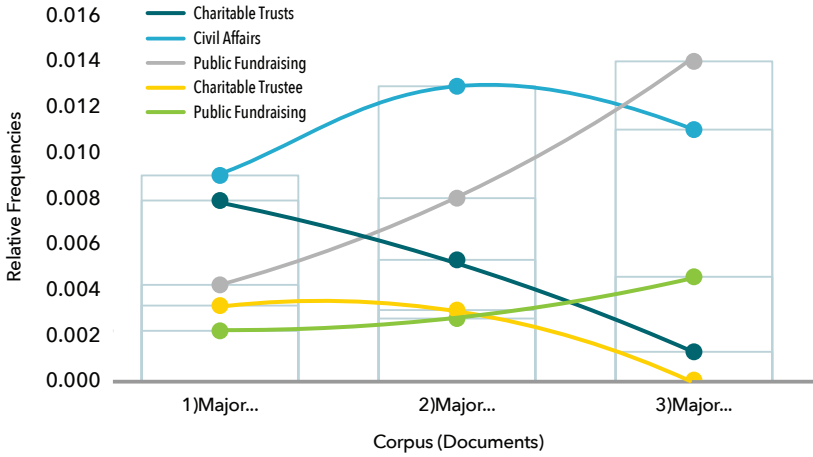
**FIGURE 10.** Content Analysis of the Charity Law



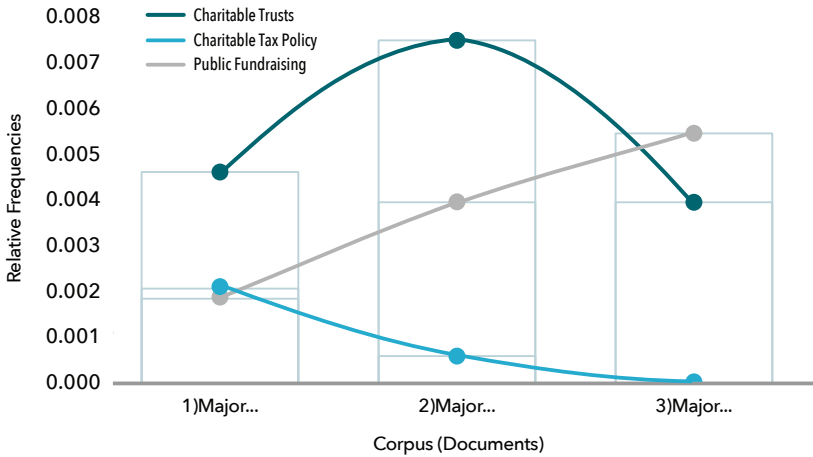
**FIGURE 11.** Comparison between 3rd Draft and the Final Charity Law



**FIGURE 12.** Comparison between Drafts and the Final Charity Law



**FIGURE 13.** Comparison among Expert Workshops for each Draft and the Final Charity Law





Although this analysis does show correspondence between expert advocacy through the channel of publishing reports, it is important to note that I cannot measure the impact of the other channels of advocacy, such as the private ones like “consultation.” However, media reports and many public comments through the online system seemed to focus mostly on the regulation of crowdfunding given many recent high-profile scandals. Government officials noted that a dominant concern in the public comments was addressing how people used crowdfunding to pay for things like large medical bills. For example, Shi Hong, a senior legislator, stated that websites such as *Shuidichou* and *Qingsongchou* have played “positive roles” in helping low-income families pay their medical bills, but that crowdfunding is prone to false claims and has damaged credibility of the charity sector: “With the rise of internet technology, the number of crowdfunding projects has soared, and the scope of such projects is no longer restricted to a certain community or at a person’s workplace...It is widely acknowledged that legal changes are needed to administer such activities”.<sup>22</sup> Crowdfunding activities related to health must now first seek permission from the Ministry of Civil Affairs, and the law will oblige people to authenticate their claims in crowdfunding posts, such as the stated financial status and health conditions.

To strengthen this textual analysis, I interviewed individuals involved in both the 2016 and 2022 rounds of the draft laws to examine how gathering citizen feedback has changed under Xi: how is this information collected? How important is it in policymaking? At which level or place in the process is it most important?

## **Perceived Effectiveness and Role of Deliberation**

To understand how CSO participants perceived the effectiveness of the different advocacy channels, as well as the process of deliberation during the “policy window” created by public comment periods for the Charity Law, we interviewed representatives at five different CSOs or research institutes ranging in size and issue area in both Shanghai and Beijing between October and December of 2023 until the new Charity Law was passed by the NPC. As detailed below, we find that CSOs use all four channels simultaneously to amplify efforts but recognize that expert analysis through consultation

or conferences are the most effective channels. Public comments and media publicity are only effective if the organizations can mobilize enough people to attract the attention of officials. However, expert advocacy is most effective in changing policies through a private consultation process, rather than open meetings with a final report. This consultation channel is exclusive in that only the CSOs with the best resources or government connections are invited to participate. For all other CSOs, holding public meetings and distributing a conference report is the most effective option.

## Channels and Strategies

As an example of a well-resourced and connected CSO, Friends of Nature (FON) devoted an office to policy and legislative issues and pursued all four channels of advocacy simultaneously. As individuals they posted public comments, FON tried to solicit invitations for consultations by engaging in outreach to government officials, FON attended and held conferences and invited journalists to attend, and the group also publicly shared their opinions on online platforms like Wechat and Weibo.<sup>23</sup>

Another well-resourced and connected CSO, the China Foundation Development Forum (CFF) submitted draft comments for the revised Charity Act through the National People's Congress website and is often invited to government consultations. CFF also hosted meetings to discuss revisions and publicizes the resulting reports on their WeChat public account, but does not often pursue more publicity, unlike FON.<sup>24</sup>

A smaller CSO, Ginkgo Foundation (银杏基金会) attempted to mobilize Ginkgo partners to participate, but it was not overly successful because mobilization requires long-term strategies and organizational structure to lobby National People's Congress Standing Committee members and encourage citizens to submit comments. Similar to FON, Ginkgo used several channels simultaneously, including having staff submit suggestions through the National People's Congress online system, calling for other CSOs and volunteers to submit comments using their public account on WeChat, and arranging a conference to discuss the proposed legislation with other CSOs.<sup>25</sup>

Academic experts, like those at Shanghai JiaoTong University's Philanthropy Development Research Institute, also participated by submit-

ting public comments on the website, publicizing their perspectives through Weibo and WeChat, and holding meetings with CSOs to submit a report to the government. The top administrators are also invited for private consultations, but not the regular researchers.<sup>26</sup>

## Effectiveness of Strategic Choice

Larger organizations like CFF and FON believed that both consultations and conferences were the most effective. Conferences allowed FON to show expert consensus. However, the consultation channel had an identifiable and direct impact. FON leaders have strong personal connections to government officials, and the government often reaches out to CSOs like FON and CFF to ask them to provide professional comments and policy language.

For CSOs with government connections like FON, they often know the results of recommendations in advance through notifications from the Standing Committee or letters of appreciation from officials. However, for smaller CSOs or those without government connections, they do not know if they have any influence other than by looking at the final draft to see where the changes occurred. For example, Gingko Foundation did not have high expectations when making suggestions, but it noted that groups like FON are invited to help the government draft legislation through the consultation process. Similarly, CFF was not informed that their recommendations were adopted, but after reading the second draft, CFF found that two articles were adopted and quoted almost unchanged from CFF's comments in their report. One research institute employee explained that "I was told by officials who were deeply involved in drafting and revising the draft law that the analysis that comes from academics are the ones that they'll pay most attention to because they have the most authority to speak...they have the most social status and authority to speak on those issues...and also they [academics and government officials] all go to the same universities so have connections."<sup>27</sup>

The public comment channel is widely viewed as influential only when many people make similar suggestions; for example, crowdfunding scandals encouraged an outpouring of commentary such that the representative at Gingko Foundation argued it that "The 9958 incident made the second draft of the Charity Law more conservative [9958卷款事件让 慈善法第二轮

草案更加保守]”。<sup>28</sup> The interviewee at Gingko Foundation believes that the number of people making suggestions is more important than the reputation of the organization that is submitting the comments, because the setup of the public comment system focuses on the number of comments.

The most cynical interpretation came from a representative at CFF who argued, “The organization’s professional reputation and the number of comments are both important, but neither is the most important...No matter how many people make the same suggestion and no matter how famous the organization is, if the suggestion is too advanced for the times, it will not be adopted. Only if the suggestion is within the general frame of what the government is willing to adopt, it may be accepted.”<sup>29</sup> He believed that internal government discussions and preferences were the most important, and public comments or expert advocacy only mattered when it roughly aligned with government interests and concerns, such that authoritarian deliberation happened only in specific parameters created by the government.

## **Process of Workshops and Conferences: Any Value to Authoritarian Deliberation?**

In 2015–6, several research centers and CSOs held conferences, such as in Guangzhou (中山大学), Shanghai (上海交通), Chengdu, and Beijing. Government officials who participated in the process of writing the original Charity Act draft also attended along with approximately 15–20 groups (both CSOs and GONGOs) and CASS scholars. These meetings really focused on the new definition and concepts advanced by the government in the first draft, so they went over the draft line by line, and as a group identified areas of confusion, agreement, and disagreement. Participants in these conferences stressed how much of these workshops was actually about learning rather than advocacy.<sup>30</sup>

However, during the 2021–2 revision process, these meetings focused more on advocacy. The most prominent and active organizers of meetings during the public comment period are Shanghai Jiaotong University, Tsinghua University, the law firm ForNGO, and the China Foundation Forum (CFF). Shanghai Jiao Tong University hosted a series of 10 meetings from April 2021 to December of the same year, and the China Foundation Forum (CFF) hosted a series of 4 meetings in January 2023 and 3 meetings in November

2023. All of these meetings had a theme, and the discussions were organized accordingly. The attendees of the meeting include secretaries general of foundations, professors from different universities, staff from fundraising/charity platforms, lawyers, etc. Almost all of the participants of the meetings had practical experience in the field of charity. However, the meetings also invite and include government officials.

A report is written up at the end of each meeting and submitted to the NPC website, posted online, and shared with any government officials to whom the groups have access. For example, CFF hosted four meetings during the first round of the revised Charity Law and three meetings in the second round using an online format with approximately 20–30 participants in each session. Relevant representatives from affected CSOs and experts like lawyers and academics are invited to the meeting. There are organized panels to explain the draft legislation, but also open times where participants share concerns.

At each of these meetings, there were a range of starting opinions at the beginning because the CSO leaders will be directly affected as the Charity Act goes through the revision process. The interviewee at Ginkgo Foundation explained that they participated in an online meeting jointly organized by the China Charity Alliance and the China Foundation Development Forum, with a total of more than 100 attendees and government officials also joined the meeting. Before the meeting, the organizers provided a comparison of the old and new legislation so that participants can see where there have been changes. At the end of the meeting, the organizers will prepare a summary report, rather than just a transcript, which aggregates and synthesizes participant ideas. Ginkgo Foundation's suggestions were included in the meeting report.

At the conferences, some representatives arrived with positions, but many were there to learn about the draft law. Regardless of starting point, all attendees discussed and distilled down their concerns. Then, the organizers produced one report summarizing the group position. Thus, this process of learning and listening creates "deliberation" which leads to emergent outcomes not necessarily predicted by initial ideas. Given this learning function as well as the more inclusive format, conferences emerge as an important part of "authoritarian deliberation."

## Comparing the 2016 and 2022 “Policy Windows”

Based on online searches and interview evidence, there were more organized meetings during the 2021–2022 revision cycle than during the 2015–2016 revision cycle for the Charity Act. In the 2015–2016 revision cycle, more efforts were made to understand and explain the general framework of the new Charity Act, while in the 2021–2022 cycle, meetings were structured more around specific issues or articles of the Charity Act that CSOs believe need to be revised. One of the interviewees observed that his organization was only previously involved in creating and distributing pamphlets explaining the Charity Act in the 2015–2016 cycle, while he participated in more detailed discussions of the Charity Act revisions in the 2022–2023 cycle.<sup>31</sup>

He Yiting, Chairman of the Social Construction Committee of the National People’s Congress, explained that citizen participation was actively pursued during the revision of the Charity Law:

[We] carry[ied] out in-depth investigation and research, and went to local governments, ministries and charity industry organizations for 5 surveys and discussions to fully understand the actual situation and outstanding issues in the charity field. Also solicit opinions extensively, convening two coordination meetings and five rounds of written opinions solicitation, carefully listening to ‘one government and two courts’, more than 20 central units, 31 provincial (autonomous regions and municipalities) people’s congresses and social committees, local civil affairs departments, opinions of charity federations and charitable organizations and their proposals. Finally, entrusting the China Society of Social Security, Tsinghua University, and Beijing Normal University to draft proposals for amending the law, and soliciting the opinions of 21 experts and scholars through discussions or written forms. After repeated studies and revisions, the Charity Law (Revised Draft) was formed.<sup>32</sup>

However, participants noted that the public comment period (policy window) for the first draft in the 2021–2 round of revision was very long, but the public comment period for the second draft was very short, perhaps because the government did not want to create mobilization and more advocacy.<sup>33</sup>

## Implications

Content analysis shows definitively that each subsequent draft of the Charity Law did respond to expert recommendations, but the government had clear interests in certain areas that persisted even if experts did not discuss it. Thus, there was influence, but within certain government-defined boundaries. However, CSO leaders felt that private consultations were the most effective way to influence the legislation if they were well-resourced or had good connections. The problem with consultations over conferences is that consultations are exclusive, only delivering partial feedback on the legislation, and, more importantly, that conferences also serve a learning function for the CSOs, journalists, researchers, and government officials who attend. The act of deliberation means that initial concerns might be alleviated or changed, and new ones arise based on discussions, such that the final conference report is more than a sum of its parts. It is truly a group (or sector) statement, and thus is much more complete and useful than consultations.

Furthermore, interviewees explained that during the comment period for the 2016–7 Charity Law, civil society organizations utilized all four advocacy channels, including discussing concerns with each other across a number of workshops and meetings, and this deliberation shaped not only the nature of their concerns, but also their specific recommendations to change the draft regulations.

Many of these recommendations were adopted by the government or addressed during the process of finalizing these regulations. During the revision of the Charity Law in 2022–3, CSOs also reported using all four channels; however, interviewees believed that direct "consultations" are the most effective channel. Unfortunately, an atomized process of information collection eliminates the emergent character of deliberation, and therefore might only offer fragmented and underdeveloped feedback from society. Xi Jinping's administration has focused on "responsive government" as a key new form of legitimation, but privileges more exclusive channels of feedback, such as consultations and public comments. However, this type of authoritarian deliberation provides less effective citizen feedback on draft policies and creates a fragile form of legitimacy only focused on elite perspectives.

Thus, the public comment and notice mechanism is significant not by itself, but because it creates a mobilization point, or policy window, where

policymakers are accessible and actively seeking expert advocacy. Submitting public comments is only one advocacy channel available at this period, and not the most effective one. Instead, for well-resourced and connected CSOs, government consultations are most effective. For all other CSOs and the broader sector, issuing conference reports is also effective. In short, who comments (i.e., experts) matters more than how many advocate for the same thing through the public comment process. Policymakers are receptive to advocacy during this time period, especially from those they believe have the authority to speak.

Based on this analysis, the key findings and subsequent policy recommendations are:

- Authoritarian deliberation persists, but Xi Jinping's preference for exclusive channels does mean not comprehensive feedback, which thus dilutes the "authoritarian resilience" China enjoyed.
- This form of responsiveness privileges elites and is a fragile source of legitimacy, so the CCP will need to build a new social contract with regular citizens, such as through forthcoming Common Prosperity policies. China analysts should evaluate these policies, understanding them to be part of a potential social contract in lieu of economic growth.
- Legislative changes to the revised Charity Law highlight the increasing importance of "tertiary distribution" in Common Prosperity— or "voluntary" donations from the wealthy to the poor—as the preferred strategy to address income inequality, and thus signals the continuing pressure on wealthy elites and private businesses, such as seen with Jack Ma (Alibaba).

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## Notes






1. I would like to acknowledge the excellent research assistance by Yifan Yin and interview assistance by Runya Qiaoan, as well as thank my interviewees for their time and assistance.
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25. December 22, 2023 interview with a leader at Gingko Foundation and former leader at FON.
26. December 21, 2023 interview with a researcher at Shanghai JiaoTong University's Philanthropy Development Research Institute.
27. December 20, 2023 interview with a Hong Kong-based researcher participating in these meetings.
28. Gingko Foundation interview; for more detail on the 9958 incident see: <https://baijiahao.baidu.com/s?id=1776971071646034169&wfr=spider&for=pc>
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