

The Governance of Chinese Charitable Trusts

Hui Jing. Cambridge: Cambridge University Press, 2023. 350 pp. £95.00 (hbk). ISBN 9781009327909

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Hui Jing's exceptional study of *The Governance of Chinese Charitable Trusts* is an important milestone in understanding how Chinese philanthropy and Chinese law adapts to changing economic circumstances, and an important chapter in the scholarly research on Chinese charity and philanthropy, which has grown considerably in recent decades in China and beyond.

Jing begins, as he should, by situating this new Chinese philanthropic (and tax management) tool in the broader context of Chinese social welfare. He capably reviews the state-dominated nature of modern Chinese philanthropy and charity, the problems of trust and accountability in this growing system, and the regulatory framework that the Chinese government adopted to control and mold this growing sector. He reviews the regulatory framework that has been quickly adopted to fill the regulatory lacunae dealing with the particular charitable trust device, with an emphasis on the governance of this new instrument.

Jing asserts, I believe successfully, that China has adopted a “public law-private law hybrid model” for charitable trusts (p. 39). He is frank about the motives for this joint model – “the state is unwilling to relinquish control over ... charitable trusts, granting regulators extensive powers to monitor whether charitable assets are being used in alignment with the state's social welfare goals,” while permitting some private action – “greater scope to the civil capacity of legal actors” (p. 29). This framework, certainly in its early stages, is characterized by “vagueness” and the need to try to keep up with developments in practice, as charitable trusts have grown widely in China. For example, the new amendments to China's Charity Law in December 2023 included new provisions on charitable trusts as the state sought to keep up with developments in the field.

The volume traces these issues across the regulatory environment, including: the relationship between the regulation of this new instrument and broader Chinese charity law; the nature of the autonomy of different parties to charitable trust agreements; and a series of political, governance and practical issues in the trust arrangement. Jing is forthright about the problems in this new system – for example, the power given to trust settlors (usually wealthy donors) over the trust arrangements, which may appear to be an accommodation to the wealthy to encourage donations by enabling the retention of control. Two corollaries to this are the closeness of some beneficiaries to settlors – the use of charitable trusts as a tax-advantaged device for perpetuating family wealth – and, in some cases, the relatively little strong power given to trust settlors in these arrangements and the relatively little power given to some beneficiaries.

Jing identifies these problems and others, but the focus of his important and impressive study is delineating the legal outlines of this new charitable vehicle, and the ways in which both the state and private law are governing these arrangements. In this work Jing has taken important steps forward in our understanding both of Chinese philanthropy and of Chinese law.

doi:10.1017/S0305741024000705

