

BOOK DISCUSSION

Book Discussion: Non-Governmental Orphan Relief in China: Law, Policy and Practice, by Anna High: Comments by Zheng Xu and Shahla Ali

Anna High’s masterful and thoughtful book, *Non-Governmental Orphan Relief in China: Law, Policy and Practice*, examines the interplay between non-governmental and governmental orphan relief efforts in Mainland China. Both specialist and non-specialist readers will appreciate the humanitarian value of this work, focusing as it does on issues of child rights in the context of China’s most disadvantaged children — *gu’er*, otherwise known as “the lonely orphans.”

High’s book is the result of in-depth socio-legal case-based research published by the Routledge Contemporary China Series focusing on the legal grey zone of non-state organized *gu’er* relief in contemporary China. It draws on a multi-year process participant observation and semi-structured interviews with non-governmental organizations (NGOs) and private caregivers across rural and urban China to shed light on the ambiguous role of law in child welfare. The author’s nearly decade-long longitudinal ethnographic fieldwork reflects recent developments in Chinese charity law, with particular reference to the silent, and at times invisible, uphill struggle of non-governmental *gu’er* welfare providers in China.

In the opening chapters of the book, High provides background on the condition of Chinese *gu’er*. Drawing on extensive fieldwork, High systematically depicts the causes of abandonment, the vulnerability of the orphan, and, importantly, the contribution of private caregivers. She illustrates individual stories through in-depth case-studies to provide context for the rapidly changing laws and policies in the private relief sector. Importantly, she highlights the political and ideological context surrounding the sensitive question of “who looks after our children” in the Chinese context.

In elaborating the ideology of “small government, big society” drawing from both traditional Chinese philosophy and Communist ideals, High traces the continuing influence of the deep-rooted notion that it is a state’s duty to take care of orphans. At the same time, China’s state orphanages have encountered significant difficulties in providing proper orphan relief¹ due to uneven distribution of governmental financial support, lack of professional caregivers (also known as *A’yi*), and a significant proportion of special and dedicated medical needs of abandoned children.² Orphanage facilities, particularly in low-income rural areas, have often struggled with inadequate resourcing and caregiving capacity alongside abundant demand for services.

Against the backdrop of “welfare statism,” government institutions have often had a fraught relationship with private-sector orphan care. High outlines several significant turning points in China’s orphan relief law and policy in its gradual movement toward “welfare pluralism.” In the 1980s, the dissolution of rural communes resulted in the termination of informal adoption through network kinship. The state took a “blind eye”

¹ High (2020), p. 47.

² *Ibid.*, pp. 24–47.

approach, or a “three ‘no[s]’ policy.” the local government acknowledged the work of private caring houses, but officials ignored the existence of these facilities as long as they operated in a low-profile manner. Since the 1980s, High argues that the Chinese government’s approach has undergone a gradual shift towards “welfare pluralism” beginning in the 1990s. An increasing proportion of local authorities began to accept private foster houses as a complement to the state welfare system, so long as they stayed out of trouble. However, in the mid-1990s, following the production of a 1995 television documentary film, “The Dying Rooms,” about Chinese state orphanages, the Chinese government’s distrust and hostility towards foreign involvement in child welfare once again heightened.

Soon after, the Chinese Ministry of Civil Affairs launched the “Blue Sky” project to expand state-operated orphanages and return orphaned children from the private sector. Expanded collaboration between private orphanages and local governments resulted in improved care and enhanced trust between the Chinese government and foreign-funded humanitarian programmes. High describes the change of attitudes towards such charitable enterprises a “social shift.”

The state began to rely more heavily on private care facilities to complement the state welfare system, while at the same time such facilities continued to be “technically” illegal. It was not until the tragic fire at the *de facto* private orphanage in Lankao in 2013 that the state decided to provide “a coordinated, central response” through the implementation of China’s new charity law and Foreign NGO Management Law. High’s final visit to China coincided with the implementation of these laws, which she described as providing general “encouragement and support” for private charitable activities.

In examining relevant orphan relief law and policy, High simultaneously engages in critical analysis of the gap between policy and practice. From the 1980s to recent times, the legitimacy of private orphanages often outweighed legality in practice. High traces the impact of the tacit understanding between government officials and private caregivers in the operation of local welfare facilities.³ In particular, she observes how private orphanages negotiated survival through cultivating legitimacy despite their “illegality.” Prospects for survival were highly dependent on the cultivation of good relationships and in many cases a web of relationships with local officials. As High observes, toleration at the local level for private orphanages, especially those receiving foreign funds, depended on “local-level negotiations, hidden rules, and discretion, with mixed outcomes for children.”

In conducting her fieldwork, High overcame access challenges arising from the sensitive nature of her research, and suspicion toward foreign NGOs and charities. In the course of High’s study, the mutual trust that she fostered with participants was essential to the success of her fieldwork. While her survey of private-sector orphan care providers was non-exhaustive, it provides significant insights into the conditions of China’s *gu’er* and larger questions of the interface between law and society in China.

High’s work fills a scholarly gap by providing a wealth of insights from care workers often operating in the shadows of the law. Drawing on Chinese and Western academic perspectives, her work provides a nuanced and sophisticated understanding of Chinese orphan relief work. Operating both as an insider and an outsider, High effectively embedded herself into the work of orphan care, engaging, conversing, and observing practice in order to provide the reader with vivid insight into Chinese charity law practice and the significance of cultivating legitimacy in humanitarian relief work. Her scholarship highlights existing gaps in state *gu’er* relief and encourages renewed consideration of existing laws in context.

³ *Ibid.*, pp. 75–91.

As High cautiously concludes, with the expectation of increased legitimacy and a shifting political context, the private sector will continue to remain crucial to the fate of Chinese *gu'er*. Humanitarian workers and NGOs from China and abroad continue to actively work to improve the quality of life for China's *gu'er* under the new charity law. High's book provides both humanitarian and scholarly impetus for continued work in this significant area of research. As High concludes, a transition is still unfolding.⁴

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Reference

High, Anna (2020) *Non-Governmental Orphan Relief in China: Law, Policy and Practice*, New York: Routledge.

⁴ *Ibid.*, p. 152.

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