Charity Organizations' Legal Governance of For-Profit Activities

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Abstract: With the continuous development of charitable sector, it has become increasingly common for charity organizations to engage in for-profit activities. While this trend provides stable funding sources for organizations, it also brings risks of straying from public welfare purposes. Currently, China's charity organizations face prominent challenges in their for-profit operations, including vague definition of such activities, inadequate regulatory mechanisms and insufficient tax policy incentives, which have led to declining public trust and sharp reductions in donations. By analyzing typical cases such as the Guo Meimei's display of weatlth, the Song Qingling Foundation's regulatory practices, and Li Yapeng's foundation regulatory violations, this thesis thoroughly explores the risks and root causes arising from charity organizations' for-profit activities. At the same time, drawing on advanced experience of the United States and the United Kingdom in governing charity organizations' for-profit operations, this thesis proposes specific recommendations for improving China's legal governance system for charity organizations' commercial behaviors from three dimensions: clarifying the definition of commercial activities, strengthening the regulatory system and optimizing tax policies. Establishing a scientific and sound legal regulation system is the core to promote the healthy development of charitable organizations.

Keywords: **Charity Organizations; For-profit Activities; Legal Governance; Supervision Mechanism; Tax Policy**

1. Introduction

A charitable organization refers to a non-profit organization that is legally established and aims at charitable activities. Some charitable organizations have engaged in profit-making activities, which have led to problems such as corruption in public welfare. This has made the legal governance of the profit-making activities of charitable organizations a major issue that urgently needs in-depth study. Dana Brakman-Rees [1] pointed out that eliminating certain restrictions on charitable organizations' engagement in commercial activities can benefit them; Jaclyn Cherry [2] noted that the participation of charitable organizations in commercial activities is no longer a new trend. If they are to bring value to society, this behavior needs to be advocated; Matthew Harding [3] believes that the engagement of charitable organizations in profit-making activities is the result of extensive social and economic functions. Professor Li Dejian [4] explored the legal framework, supervision mechanisms and their effectiveness in this field through research on UK charity law. Professor Yang Daobo [5] studied the legal regulation of public welfare organizations' for-profit activities. Professors Wang Haiyan [6] and Zhou Zifan [7] both recognized the feasibility of charity commercialization and put forward suggestions to further standardize such behaviors.

Despite abundant research achievements by domestic and foreign scholars in relevant fields, China still faces numerous challenges in the legal governance, including vague norms governing commercial operations, insufficient transparency, inadequate tax policy incentives, ineffective supervision measures and unclear definition of their social responsibilities. This thesis adopts a composite research method combining literature research, comparative research and case study. It conducts in-depth analysis of relevant domestic and foreign laws and regulations, academic papers and empirical cases, integrates China's national conditions to analyze how charity organizations balance social responsibilities and adhere to public welfare purposes in for-profit operations, and proposes targeted and operable optimization strategies for legal governance, so as to provide theoretical support for more effective legal regulation and advance the sound development of China's philanthropy.

2. Risks and Hazards of Charity Organizations Conducting For-Profit

Activities

Incidents represented by the Guo Meimei scandal have damaged public trust in charity organizations and aroused widespread public doubts about their commercial operations. Guo Meimei claimed to hold the position of "Commercial General Manager of the Red Cross Society of China" and flaunted her wealth on social media platforms. Coupled with her special identity, the public could not help questioning whether charitable donations were diverted for private gains instead of serving charitable goals. After the incident broke out, Guo Meimei's husband, who served as a director of a commercial project launched by the Red Cross, resigned from the post. After this scandal, public trust in the Red Cross plummeted, and the volume of donations declined sharply.

A large Song Qingling statue, built by the Henan Song Qingling Foundation in Zhengzhou, highlights a major project funded entirely through self-raised funds amounting to 400 million RMB. The special report *Xinhua Perspective* of Xinhua News Agency tracked and interviewed the case, and found that the foundation absorbed massive funds from rural areas under the guise of "public welfare medical insurance", while investing funds and issuing loans for real estate development in cities. Its operations have significantly deviated from charitable principles, carrying substantial risks and resulting in rapid asset growth approaching 3 billion RMB.

The Beijing Shuyuan Chinese Cultural Development Foundation, founded by Li Yapeng has also multiple regulatory violations. Li took advantage of public welfare resources to develop hotels and real estate, leaving numerous doubts about the foundation: Firstly, the foundation was located inside the office building of Zhongshu Investment Co., Ltd. without any external signboard, which made people wonder whether Li prioritized business over public welfare. Secondly, the foundation's actual use of funds remains unclear, as the investment company primarily focuses on hotel and residential developments. Zhao Jihui, Secretary-General of the foundation, repeatedly insisted that all funds of the foundation were used for traditional cultural public welfare projects such as such as identifying inheritors of intangible cultural heritage and building academies. However, when asked about specific charitable activities conducted since the foundation's establishment over a year ago, Zhao declined to provide further details.

It can be seen that the combination of charity and commerce has, to some extent, been questioned, accompanied by prominent problems such as seeking private gains under the guise of public welfare, imperfect supervision mechanisms and illegal lending of charitable funds. However, does this mean that charitable organizations' involvement in commercial activities is inherently wrong? Upon reviewing relevant materials, it becomes clear that such activities are indeed feasible to a certain degree. With timely legal regulation and strict oversight, the combination of charity and business can develop positively. The following discussion will focus on analyzing the root causes behind these problems and propose corresponding solutions by referencing existing international practices.

3. Institutional Deficiencies in China's Response to Risks of Charity Organizations' For-Profit Activities

Charity organizations are not forbidden to carry out for-profit activities, yet imperfect legal systems in China have triggered public doubts about their commercial participation. Current institutional frameworks have three major deficiencies in coping with risks brought by charity organizations' for-profit activities: ambiguous definition of commercial activities, imperfect supervision mechanisms and insufficient tax policy incentives. Vague definition of charity organizations' commercial behaviors hinders targeted supervision and regulation in practice; the existing supervision system lacks dynamics and coordination, failing to realize real-time monitoring and risk early warning; insufficient tax policy incentives will drive charity organizations to deviate from public welfare goals and increase compliance risks. Therefore, China's institutional system needs systematic improvement to balance public welfare and for-profit operations and guarantee the sound development of philanthropy.

3.1 Ambiguous Definition of Charity Organizations' Commercial Behaviors

The ambiguity in defining the commercial behavior of charitable organizations mainly manifests in the following two aspects: First, the definition of commercial actors is unclear. At present, most charitable organizations do not directly engage in commercial activities; but instead cooperate with commercial institutions or hold shares in commercial entities to conduct commercial operations, with commercial institutions distributing dividends or making donations to the charitable organizations. Nevertheless, our laws lack clear provisions regarding commercial behaviors of charity organizations' affiliated institutions, making it difficult to judge whether the commercial activities of affiliated institutions belong to the business scope of the parent charity organization in practice.

Second, the classification of commercial activities is undefined. China's laws have not clearly distinguished direct commercial activities carried out by charity organizations, and the absence of such classification blocks targeted regulation for different types of commercial behaviors. Meanwhile, indirect commercial activities are not differentiated between active high-risk investments (such as real estate investment) and passive low-risk investments (such as treasury bonds and stock purchases). As a result, this leads to the situation where all investment income of charitable organizations is subject to corporate income tax, which not only fails to effectively curb active investment behaviors but also fails to encourage passive investment behaviors, and is not conducive to the preservation and appreciation of the assets of charitable organizations.

3.2 Imperfect Supervision Mechanisms

China adopts a dual management model for the management of charity organizations, which consists of two levels: one is the management by the business department, the other is the management by the civil affairs department. From a formal perspective, this dual management model ensures the comprehensiveness of supervision of charitable organizations. However, the supervision by multiple departments is prone to the phenomenon of each department shirking responsibility, which is actually detrimental to the development of charitable organizations. The supervision of charitable organizations engaging in commercial activities will also be affected to a certain extent.

In addition, China has not set up an independent third-party supervision institution to supervise charity organizations' operations. In the United Kingdom, the Charity Commission serves as an independent government supervision body. Though its members are appointed by government ministers and its operating funds are fully provided by the Ministry of Finance, when exercising its powers, it is not subject to any constraints from any government minister or other government departments and is directly accountable to the parliament. The Charity Commission imposes effective constraints on charity organizations. In contrast, China's charity organizations only rely on internal councils and boards of supervisors for self-regulation, leaving substantial discretionary space for their operations and threatening the persistence of public welfare missions.

From the perspective of relevant legislation, our country has relatively complete regulations for charitable organizations engaging in profit-making activities. However, the problems that arise in practice cannot be ignored. The reason is that the relevant provisions of our country's laws regarding charitable organizations engaging in profit-making activities are merely principle-based. In such circumstances, the arbitrariness of charitable organizations is very large, which is not conducive to the implementation of effective supervision. In the case of the Song Qingling Foundation in Henan Province, the lending phenomenon persisted for a long time before being discovered by people. The phenomenon of using the name of charity for private gain not only reflects the imperfect supervision mechanism of charitable organizations in our country, but also indicates that the information of charitable organizations is not sufficiently open and transparent. The public cannot timely learn about the use of funds, and their right to know and supervision are to some extent deprived.

3.3 Insufficient Tax Policies and Incentives

The main problems of tax policies in charitable organizations can be summarized into two points: Firstly, the tax system does not provide sufficient incentives for charitable activities. The "Charity Law of the People's Republic of China" stipulates preferential tax policies and continuously improves tax reduction measures. However, with the vigorous development of China's charitable sector, the tax incentive system still needs to be continuously improved. Foreign legislation shows that they use certain tax measures to promote the development of charitable organizations. In China, only certain specific charitable organizations can enjoy tax exemption policies, which to some extent restricts the development of the charitable organization sector.

Second, tax exemption policies for charity organizations are single and inadequate. The tax preferential provisions in the Charity Law are general and principled, and tax exemption scope is limited to donation income, interest income and membership fees [8]. Besides, charity organizations are required to pay taxes on treasury bond investments in accordance with corporate income tax standards. Therefore, all income generated from charity organizations' for-profit activities is subject to taxation. Such provisions increase the tax burden on charity organizations conducting commercial operations, which is detrimental to their long-term development. "In tax collection practice, all commercial activities of non-profit organizations, whether related or unrelated to their institutional missions, are actually exempted from tax." This norm has not been fully implemented in China's practice, resulting in vague legal provisions governing charity organizations' for-profit activities, which inevitably hinders the development of charity undertakings and increases operational difficulties for regulatory authorities [14].

4. Research on International Experience and Innovative Development Paths

After entering the 20th century, the charity sector in the West developed rapidly and expanded its scope of activities. In the United States, the charity sector has become an independent category and fundraising for charity activities has gradually become professionalized. The tax policies of the United States regarding the commercialization of charitable organizations are relatively clear; the United Kingdom has advanced experience in legal governance of charitable organizations engaging in profit-making activities. This article will specifically elaborate on the practices of the United States and the United Kingdom to provide useful references for China.

4.1 U.S. Legal Governance Experience for Charity Organizations' For-Profit Activities

The U.S. charity model takes social organizations and individuals as the main bodies, with the government playing a regulatory role [9]. This model gives full play to the role of civil charity organizations and promotes efficient utilization of charitable funds. Therefore, the United States has established a sound tax preferential system for charity organizations, which can provide valuable references for China.

U.S. tax laws play a core role in regulating charity organizations. The modern definition of charity organizations is largely derived from tax law: "In modern America, the traditional definition of charity organizations has been largely replaced by tax law standards, which define charitable bodies as entities exempt from income tax and eligible for donor tax deductions" [10]. To obtain tax-exempt qualification, U.S. charity organizations must meet the following criteria: established for public welfare purposes, non-profit in nature, no private profit distribution, and prohibition of political participation. Only organizations satisfying all above conditions can obtain tax exemption qualifications. The tax incentive measures adopted by U.S. tax laws provide valuable references for China. In addition, U.S. charity organizations implement a dual governance structure that separates public welfare businesses from commercial businesses. U.S. laws allow charity organizations to set up for-profit subsidiaries or affiliated institutions, which clearly separate commercial activities from public welfare projects via the dual governance structure. This model not only preserves the organizations' tax-exempt qualifications, but also provides flexible channels for raising funds through commercial operations [11].

4.2 UK Legal Governance Experience for Charity Organizations' For-Profit Activities

The UK's 2006 Charities Act introduced the Charitable Incorporated Organisation (CIO) system, allowing charity organizations to obtain legal person status without registering as companies. CIOs can independently hold assets, sign contracts and conduct commercial activities, with directors exempted from personal liability. CIOs must register with the Charity Commission, and amendments to their articles of association require official approval to ensure all commercial activities serve charitable purposes [12].

In addition, the United Kingdom has established an independent Charity Commission to supervise charity organizations. As an independent government regulatory body, the Charity

Commission holds statutory powers including registration, investigation and asset freezing. It reports directly to parliament and exercises regulatory power free from political interference, so as to maintain neutrality and impartiality and guarantee the legal compliance of charitable activities. UK charity law establishes a governance and accountability mechanism centered on charity trustees. Trustees are responsible for supervising the legality, compliance and capital usage of charitable activities, and submitting regular reports to regulatory authorities. This mechanism ensures effective protection of public interests when charity organizations conduct for-profit activities [4].

5. Improvement Paths for Legal Governance of Charity Organizations' For-Profit Activities

As mentioned in the second part, the legal governance of charitable organizations engaging in profit-making activities is not sound enough. Therefore, strengthening legal regulation is a necessary measure to improve the conduct of commercial activities by charitable organizations. By referring to the governance experiences of the United States and the United Kingdom and fully considering China's national conditions, the following suggestions are proposed to improve the legal governance of charitable organizations' profit-making activities, so that charitable organizations can fully safeguard their public welfare purposes during their operations and use the profits to better serve the charity cause.

5.1 Clarify Classification of Commercial Activities, Establish Hierarchical Approval and Technology-Driven Supervision System

Improve the relevant legislation and further strengthen the legal regulations governing the commercial activities of charitable organizations. Firstly, for the provisions in the "Charity Law of the People's Republic of China" regarding the non-profit nature of charitable organizations, clearly distinguish between commercial behaviors related to their mission and those unrelated to their mission, providing clear legal guidance for charitable organizations. As early as 1950, the United States classified commercial activities into related commercial activities and unrelated commercial activities [5]. China can also refer to the substantive relevance test proposed in the 501(c) (3) clause of the "Internal Revenue Code" of the United States, that is, whether it serves the public welfare goal as the basis for judgment.

Second, a hierarchical approval and filing mechanism shall be established to ensure compliance and efficiency of charity organizations' commercial activities. For high-risk or mission-unrelated commercial activities (such as investment and cross-industry operation), charity organizations shall submit a Commercial Activity Plan to civil affairs departments or designated regulatory authorities; for low-risk or mission-related commercial activities, organizations may submit simplified filing forms via online platforms.

Finally, a dual prevention and control system combining a blockchain capital supervision platform and a big data risk early warning system shall be constructed for commercial activity supervision. All income generated from charity organizations' commercial activities shall be transferred to designated special accounts for data storage, and a public charitable information inquiry portal shall be opened to guarantee capital transparency.

5.2 Integrate Multi-Stakeholder Co-Governance, Technology-Driven Supervision and Independent Regulation

The supervision of charitable organizations is the guarantee for charitable organizations to always adhere to their mission when engaging in profit-making activities. Constructing an effective supervision system can guide their standardized operation. From the problems that arise when charitable organizations engage in profit-making activities, it is necessary to establish a comprehensive supervision system consisting of government supervision, industry self-discipline, and social [13] supervision; developing intelligent supervision tools to build a technology-driven new governance model; and drawing on the experience of charitable organization supervision in the UK, establishing a third-party supervision institution independent of government departments.

5.2.1 Improve government supervision, strengthen industry self-discipline and social supervision

As mentioned above, charity organizations adopt a dual-administration model supervised by competent industry authorities and civil affairs departments. Civil affairs departments shall play a leading role in establishing a comprehensive supervision mechanism, organize regular communication on charity supervision work, build a cross-departmental risk information exchange and early warning mechanism, and carry out cross-departmental comprehensive risk research and coordinated disposal.

Second, improve the internal governance structure and establish sound institutions such as the board of directors and the board of supervisors. The board of directors is responsible for completing the internal strategic planning and major decision-making of the charity organization, while the board of supervisors is responsible for supervising the organization's operations and ensuring that the organization's decisions are transparent, democratic, and open. Clearly define the responsibilities of each department and personnel to avoid management chaos caused by unclear responsibilities.

Finally, the information disclosure system shall be optimized to strengthen social supervision. Sufficient information disclosure of charity organizations is the foundation of social governance. Unlike ordinary enterprises, charity organizations have no so-called “commercial secrets” or state secrets [7], and must guarantee full transparency of operational information. On the one hand, a transparent financial management system shall be established: charity organizations shall conduct financial accounting in accordance with accounting standards to ensure true and accurate financial information, and regularly publish financial reports including income sources, capital flows and project expenditures to accept public supervision; charity organizations cannot refuse to disclose financial information to the public. On the other hand, an internal audit system shall be established to improve the quality of information disclosure, with regular financial audits to prevent financial fraud.

5.2.2 Develop intelligent supervision tools to build a technology-driven new governance model

Intelligent supervision tools shall be developed to improve supervision efficiency of charity organizations. In terms of risk early warning, an AI monitoring system shall be applied to analyze historical financial data, automatically identify abnormal behaviors such as frequent large-value transfers within a short period or commercial income growth exceeding the industrial average by more than 200%, and generate risk assessment reports for regulatory authorities.

At the level of compliance review, we developed dual-dimensional intelligent tools: The first one is a business behavior intelligent classifier. After inputting the description of the activity, the system, based on semantic analysis, matches the preset "relevance-risk" determination matrix, automatically outputs the regulatory category and triggers the corresponding process; the second one is an electronic filing and approval platform. It integrates functions such as logical verification of financial statements (such as abnormal warnings for cost-income ratio) and material completeness verification, and at the same time opens an interface for real-time query of approval progress. It compresses the traditional manual review cycle from 30 days to 72 hours, achieving an upgrade in regulatory efficiency of "data running instead of manual running" by replacing manual processes with data-driven operations.

5.2.3 Establish an independent third-party supervision institution: charity commission

The charity committee in the UK can exercise investigation powers over charity organizations, thereby achieving the goal of supervising these organizations. By drawing on the UK's approach, our country should be able to explore the establishment of a third-party supervision institution independent of charity organizations, to centrally regulate the activities of charity organizations. For instance, a vertically managed supervision institution could be established, responsible for approving profit-making activities, conducting compliance reviews, and imposing penalties for violations, reducing the interference of local protectionism. Encourage professional institutions in the legal or other fields to undertake the supervision functions of charity organizations and charitable activities, and strongly support charity industry organizations to build their credibility as the fundamental content of charity industry construction [14]. In the case of establishing a charity committee, it is necessary to reasonably balance the relationship between the government and the third-party institution to avoid administrative resistance.

5.3 Further Optimize the Tax Policy System

The *Charity Law of the People’s Republic of China* stipulates that charity organizations and their income enjoy tax preferential treatment, and donors are also eligible for tax incentives.

However, most relevant provisions are principled without specific tax treatment rules for for-profit activities. Drawing on international experience, this paper proposes the following suggestions to optimize the tax policy system:

5.3.1 Establish tax rules distinguishing mission-related and unrelated commercial activities

In the United States, charitable organizations are permitted to engage in commercial activities, with only non-commercial income subject to taxation, and explicit incentives are provided through the "Internal Revenue Code". In the United Kingdom, "main purpose trade" is exempted from taxation, while "non-main purpose trade" is subject to a tax exemption limit. Currently, the "Charity Law" stipulates that charitable organizations can conduct commercial activities through subsidiaries, but the tax exemption standards are not clearly defined. The model of the United Kingdom can be adopted, dividing tax incentives into different levels based on the relevance of commercial activities to the charitable purpose. For example, income from educational services is exempted from tax, and a stepped tax exemption amount is set for non-main purpose trade income. Additionally, for the property preservation and appreciation investment income of charitable organizations, clear tax incentives should be provided to enhance the "blood-sucking function" of charitable organizations.

5.3.2 Unify the legal system of charitable taxation

China's current charitable tax policies are scattered across multiple laws and regulations without unified legal norms. Top-level design shall be strengthened to improve laws and regulations, form a unified legal system of charitable taxation, simplify the qualification recognition procedures for charity organizations, clarify tax rules governing their for-profit activities, and promote the popularization of the Charity Law and supporting tax systems.

Furthermore, the tax exemption qualification recognition of charity organizations shall be transformed into a filing system: all charity organizations meeting statutory conditions shall automatically enjoy tax exemption qualifications, eliminating cumbersome batch-by-batch approval procedures. The scope of tax exemption for charity organizations shall be further expanded, for instance, reasonable investment income shall be included in tax-exempt items to support asset maintenance and appreciation of charitable bodies. Finally, the authority division between finance and taxation departments and civil affairs departments shall be rationalized to clarify their respective responsibilities in tax exemption qualification recognition of charity organizations. Civil affairs departments shall independently identify charity organizations' tax exemption qualifications [15], which shall be filed with tax authorities to simplify procedures and improve efficiency. Specific operation rules are as follows: after civil affairs departments confirm a charity organization's tax exemption qualification for charitable activities, the organization only needs to complete filing procedures with tax authorities.

6. Conclusion

In summary, charity organizations' engagement in for-profit activities has become an inevitable trend, which can inject sustainable vitality into charity organizations and guarantee their long-term development. However, imperfect legal regulation of such behaviors has triggered a series of social incidents and damaged public trust in charity organizations. The legal governance of charity organizations' for-profit activities is a complex and critical issue closely related to the credible and sustainable development of philanthropy. There are potential risks that charity organizations may deviate from public welfare missions in the integration of charity and commerce, so it is necessary to clearly define the scope of charity organizations' commercial activities. Comprehensive supervision shall be strengthened from three dimensions including government oversight, industry self-discipline and social supervision to improve the supervision system. Meanwhile, targeted optimization of tax policies is essential based on domestic and international legal governance systems for charitable causes. Relevant legislation can draw on the tax systems of the United States and the United Kingdom and formulate targeted tax policies adapting to China's national conditions.

This paper has limitations: although the proposed suggestions are operable, it ignores technical cost, privacy protection and compatibility with the existing legal framework. Further discussion is required on the implementation of relevant countermeasures. In the digital era, a new form of integration between online fundraising and commercialization has emerged in charity organizations. Follow-up research shall continuously track new trends, optimize legal governance strategies for specific practical problems, ensure charity organizations operate within legal and compliant boundaries, give full play to their unique value in improving social welfare and optimizing resource allocation, contribute to social harmony and stability, realize sustainable and prosperous development of philanthropy, and maximize the positive value generated by the integration of charity and for-profit activities.

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