



## CHINA'S RECENT LEGISLATIVE RESPONSES TO COVID-19

BY XINTAO LU

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A degree of certainty will soon arrive after months of speculation surrounding the future of China's public health policies. The 17<sup>th</sup> session of the 13<sup>th</sup> National People's Congress (NPC) Standing Committee commenced in late April, and will for the first time thoroughly review amendments to existing public health and sanitation legislation—such as wildlife consumption, animal sanitation, and medical waste disposal laws—potentially adopting them by the end of the 10- to 14-day session.

This is a step in the right direction, as China seeks to restore public trust and improve its public health systems. The directives generally focus on elevating existing regulations and administrative reach as well as standards, in addition to addressing some of the more urgent issues the general public faces. The focus on administrative standards and public wellbeing shows a keen awareness and willingness on the part of the Chinese government to adapt its policies based on the current situation. Overall, the government's renewed interest and efforts to address public health concerns and administrative discipline should result in greater transparency, cooperation, and cohesion between the national and local governments on issues regarding public health. This will be a good start for the CCP's efforts to revise and elevate its public health systems in a COVID-19 stricken China. Moreover, as increased administrative regulation and accountability are important goals for Chinese society, administrative agencies, and business operations, implementation of these new directives could shed light on China's future in terms of administrative accountability.

Shen Chunyao, director of NPC's Standing Committee's Legal Works Committee, presented general directives for the overall revision and improvement of China's current public health laws

and systems to the NPC on April 29. These directives were subsequently approved by the NPC Standing Committee and consolidated into the 13<sup>th</sup> NPC Standing Committee's Work Plan for the Revision and Improvement of Public Health Legislations ("13<sup>th</sup> NPC Work Plan") on April 29.<sup>1</sup>

There are two notable takeaways from the presentation of this particular session's legislative agenda. First, typically the legislative agenda or Work Plan of a Standing Committee meeting is presented by representatives from the State Council's Legislative Affairs Office (LAO)<sup>2</sup> to the NPC Standing Committee and State Council leadership for approval. This time, however, the legislative agenda was presented by someone who was not directly under the State Council. Instead, a member of the NPC's Legislative Affairs Commission (LAC) presented the legislative agenda. This is significant because the LAC is the more visible of the two legislative groups (LAO vs. LAC) and typically deals with topics concerning criminal law, civil law, economic law, or social law. The decision to appoint a person originating from a department that specializes in dealing with the concerns of everyday people, and is thus considered more well informed than the LAO on the issues currently plaguing Chinese citizens, shows that the party is keenly aware of the need to address the general public's questions regarding the administrative competency of the government agencies and departments involved in the COVID-19 outbreak, containment, and treatment processes. In other words, by appointing a representative from the LAC, the party took its first step toward amending the damage done by COVID-19 and showed awareness of issues concerning public trust.

The second notable takeaway is that this is the first time the Standing Committee has dedicated an entire session to one specific field (COVID-19 related public health policies). While the exact topics of past legislative agendas are often altered post-approval, the general topics always stay the same. Therefore, it is safe to conclude that for the next three or so weeks, the NPC Standing Committee will be directing their efforts exclusively toward the revision and improvement of China's current public health policies. The significance of this cannot be understated; the Standing Committee is the most important NPC committee of the highest-ranking legislative body in the Chinese government. It has the authority and power to interpret the Chinese Constitution, pass laws, and amend basic laws. Additionally, not only does the

<sup>1</sup> A "Work Plan" is a non-binding legislative agenda for the legislative body to follow throughout the meeting process as to which topics to discuss and revise.

<sup>2</sup> The State Council is China's highest-ranking administrative body.

NPC possess the authority to directly influence or amend legislation, it is also staffed with the nation's brightest minds in various areas of expertise, such as legislative planning, criminal law, civil law, economic law, state law, administrative law, social law, regulation filing, etc. This means that for the next three or so weeks, China's brightest minds (insofar as legislative work is concerned) should be working exclusively on legislative issues concerning COVID-19 and public health laws. This is an unprecedented assembly of human resources, and combined with the legislative authority of the NPC, bodes well for China's road to recovery from COVID-19.

Ideally, as a result of improved connectivity between the regional and national government (as well as region to region), the Central Government (CCP) will have less opportunity to use "regional incompetence" as a red herring when local governments fail to properly carry out directives listed in national administrative regulations. In other words, related industries (medical, food processing, etc.) should be held to higher standards as the government (both regional and national) will be held accountable for potential health-related issues. Beijing will have a vested interest in maintaining higher industry standards lest it suffer further damage to its public image.

#### *Proposed amendments to public health legislation*

The first of these amendments concerns revisions to existing medical waste management laws.<sup>3</sup> The revisions, officially adopted by the NPC Standing Committee on April 29, 2020, proposed better-defined jurisdictions and responsibilities in the handling and disposal processes of medical waste. They also [stipulate](#) that "local health and environmental authorities should, within their respective jurisdictions, strengthen the supervision over and management of how medical waste is collected, stored, transported, and disposed." Certain amendments demonstrated a willingness to adapt to the unique challenges presented by COVID-19 on a case-by-case basis. For instance, the process of medical waste disposal typically has to follow the standard procedure of collection, storage, transportation, and disposal (at appropriate waste disposal facilities). However, due to the unusual amounts of medical waste being generated each day, as well as the potential for cross-contamination, mid-sized city hospitals [have been authorized](#) to directly dispose of accumulated medical waste onsite after

disinfection. Rural hospitals are allowed to follow a similar procedure. There is also a push to catalog all known best practices with regard to medical waste disposal into an organized policy document for future reference titled "National System for the Emergency Management of Medical Waste During Epidemic Situations." Legislators are thus actively attempting to evolve and adapt China's public health legislation to reflect lessons from its COVID-19 experience.

In addition to medical waste management, the NPC Standing Committee is currently discussing amendments to existing legislative concerning administrative discipline, biosecurity (specifically, disease control) law, wildlife consumption, and the control and prevention of environmental pollution by solid waste—aimed at supplementing medical waste management laws. These are all high priority issues weighing heavily on the shoulders of everyday [Chinese citizens and medical workers](#), and after months of ambiguity, they will finally receive some long-awaited answers.

Nonetheless, questions remain as to the actual implementation of said amendments, specifically the ones concerning administrative discipline. The draft version [stipulates](#) that "public employees' law-based performances of duties are safeguarded by the law and they shall not be subject to administrative sanctions without statutory reasons or legal procedures." Given the loophole-filled Chinese legal system, existing "statutory reasons or legal procedures" are likely to remain ineffective when addressing the issue of administrative failures. Nevertheless, proposals concerning administrative discipline are currently under review and discussion.

#### *A new biosecurity law*

With regard to revisions of China's current biosecurity law, little besides [general directives](#) has been disclosed to the public, which is to ensure the effective "prevention and response to biological threats, safeguarding of people's lives and health, promotion of sound development of biotechnology, and protection of biological resources and ecological environments." The draft also mentions laboratory biosafety management, biological resource safety management, and the overall reinforcement of biosecurity capacity, strengthening their significance as a matter of national security. Subsequent suggestions were made with regard to the development of a monitoring and early warning

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<sup>3</sup> These amendments were part of a larger legislation on the prevention and control of environmental pollution by solid waste, which was also adopted on April 29, 2020.

system that may prevent or control any major or sudden outbreaks of animal/plant life-related infectious diseases, though details are uncertain as of this time.

### *New directives for wildlife protection laws*

Last but not least, general directives regarding China's wildlife protection laws were also released. The reason for the inclusion of wildlife protection law revisions into the NPC Standing Committee's overall agenda to revise current public health related laws is twofold. First, wildlife and the consumption of wildlife have proven to be a dangerous source of contagious diseases. Therefore, NPC committee members [have deemed it necessary](#) to review and revise existing laws concerning the consumption of wildlife. Second, the popularization of the "[bat soup](#)"<sup>4</sup> theory has made it impossible for the NPC Standing Committee avoid the issue without suffering significant public backlash, both domestically and internationally.

The goal of these new directives is mainly to address the issue of wildlife consumption, which is what most researchers have concluded to be the root cause of the initial COVID-19 outbreak. With a dash of pragmatism, this goal manifested itself by way of a directive for the complete end of wildlife overconsumption. While details of the exact policies and implementation methodologies are still undecided, one thing can be logically deduced from the wording of this specific directive concerning the "overconsumption" of wildlife. The Chinese word used here is 滥食, meaning overconsumption or overeating. The use of "overconsumption" instead of "consumption" (食用 or 进食) or alternatively 全面禁食, which means a complete ban on consumption (of wildlife), is noteworthy. The purposeful avoidance of "consumption" in favor of "overconsumption" suggests that the NPC Standing Committee is aware of the economic benefits of a flourishing wildlife market within China. China has a wildlife industry worth approximately \$73 billion dollars that employs over 1 million people. This specific word usage is the NPC Standing Committee's way of avoiding significant economic repercussions while still attempting to address, albeit in a limited capacity, the concerns regarding infectious diseases caused by the consumption of wildlife.

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<sup>4</sup> While the bat soup theory has been debunked, the [origin](#) of the COVID-19 outbreak is still being associated with the consumption of wildlife in popular media and news outlets.

Nonetheless, the directives stipulate an overall increase in monetary punishment for violators, greater jurisdiction for agencies and departments responsible for the enforcement of wildlife consumption and protection laws, and stricter enforcement of existing animal sanitation laws. This matches the public's demand for stricter regulations with regard to the consumption of wildlife and its associated industries, especially the food industry.<sup>5</sup> Therefore, these directives on stricter wildlife consumption is likely to garner the support of the wider public to the extent that it does not interfere with certain critical cultural practices, such as traditional Chinese medicine. Taking into account the severity of COVID-19, state or regional authorities acting otherwise may even result in mass public outrage, which the Central Government will be keenly looking to avoid given the state of its economy. The raised stakes may encourage related authorities to act with more accountability, ultimately improving China's public health system by reducing the likelihood of the reoccurrence of a wildlife consumption-related epidemic or pandemic in the future.

### *A step in the right direction*

In conclusion, the "13th NPC Standing Committee's Work Plan for the Revision and Improvement of Public Health Legislations" presents a number of potential positives for China's overall efforts to improve its public health system. COVID-19 has placed a renewed sense of urgency and significance on this topic for both the Chinese government and its people. Cooperation between the NPC and specialized legislators represents the potential for greater legislative cohesion between central and regional governments, which bodes well for China's efforts to revise and improve its various public health laws. The increase in monetary punishment for violators, greater jurisdiction and accountability for agencies or departments responsible for the enforcement of public health laws, and updates to existing legislation are a step in the right direction. Now, more than ever, is the time to revise previously overlooked or underdeveloped areas such as administrative transparency, regional-national cohesion and cooperation, and administrative discipline.

However, preexisting obstacles such as cultural attitudes or practices and persistent system loopholes may hinder the enforcement of any revised legislation despite the seriousness of COVID-19. While the

<sup>5</sup> A comprehensive ban on the consumption of wildlife is unlikely to occur in the immediate future as the practice is deeply ingrained within Chinese culture, in addition to being part of an exceedingly profitable industry.

aforementioned legislative amendments are still drafts, the problems they are attempting to resolve have persisted within China's legislative system for decades. As such, they may indicate problems that even a pandemic cannot "solve." If another coronavirus or coronavirus-like outbreak were to occur due to administrative incompetency—especially if the outbreak was to occur within a relatively short period of time from now—the tremendous loss of life and income combined with a breakdown of trust between the people and the government could finally push China's middle class, and perhaps even the rest of its population, from obedience to defiance.

Nevertheless, territorial disputes and other forms of international confrontation—such as the current US administration's criticism combined with other countries around the world joining in an effort to "[hold China accountable](#)" for the COVID-19 pandemic—are likely to continue in one form or another. Chinese authorities will therefore still have ample opportunities to "play the victim" and link territorial disputes or divisive comments from foreign leaders to its national pride and sovereignty. Given the currently known capacities of China's expansive information and surveillance systems, which will only see improvements in the future, a propaganda campaign centered around the fight against "evil" Western influences (e.g., challenges to Chinese sovereignty in the South China Sea, corruption of Taiwan and Hong Kong and luring them towards separatism) may be enough to distract the Chinese population while CCP leaders regroup to regain control during a future outbreak.

Despite these grim predictions, the amendments and general directives discussed in this paper are a step in the right direction for the future of China's public health system. If these amendments are adopted by the end of this NPC Standing Committee session—with necessary adjustments made according to the needs of the Chinese people and China as a whole—China will be much better prepared in the case of another infectious disease outbreak with regard to disease prevention, containment, treatment, and recovery. It will also be implementing a suitable response to international demands for accountability and transparency.