

# **Extending Environmental Governance: China's Environmental State and Civil Society**

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## **Abstract**

This thesis is a study of environmental governance reform in China. It investigates how new governance policies and arrangements are being introduced in order to overcome problems associated with China's sizable environmental protection 'implementation deficit'. Using an analytical framework based on 'good governance' criteria of accountability, transparency, participation, and rule of law, it focuses on developments within China's environmental state, which includes state agencies and their policies, and civil society, incorporating environmental protection NGOs, citizen activists, and the media. Based on in-depth, qualitative research, this thesis examines several aspects of environmental governance reform in China: attempts to make local officials pay greater attention to environmental issues, formal public participation legislation and mechanisms, information disclosure, and 'private interest' activism.

This thesis identifies interactions between the environmental state and civil society as vital in establishing new, more participatory governance processes. Through acting as 'policy pioneers', environmental activists can consolidate governance reforms emanating from the environmental state, and promote new governance norms. At the same time, however, this thesis identifies significant obstacles to the establishment of a more inclusive 'governance' approach to environmental protection in China that goes beyond Party-state institutions and actors. For this reason, it challenges the argument that China's system of environmental governance is likely to converge any further with those observed in western liberal democracies.

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## List of Abbreviations

ADB	Asian Development Bank
APP	Asia Pulp and Paper Company Limited
CCP	Chinese Communist Party
CCTV	China Central Television
COD	Chemical Oxygen Demand
CPPCC	Chinese People's Political Consultative Conference
EEEC	Earthview Environmental Education Centre
EIA	Environmental Impact Assessment
EPB	Environmental Protection Bureau
EPL	Environmental Protection Law (of the People's Republic of China)
EPNRCC	Environmental Protection and Natural Resources Conservation Committee
EPO	Environmental Protection Office
FON	Friends of Nature
FYP	Five-Year Plan
GEP	Gold East Paper Company

GEV	Green Earth Volunteers
GONGO	Government-Organised Non-Governmental Organisation
GVB	Global Village Beijing
IDA	International Development Agency
IPE	Institute of Public and Environmental Affairs
IPO	Initial Public Offering
MEID	Measures on Environmental Information Disclosure (Trial Version)
MEP	Ministry of Environmental Protection
MNC	Multi-National Corporation
MOCA	Ministry of Civil Affairs
MURCEP	Ministry of Urban and Rural Construction and Environmental Protection
NBS	National Bureau of Statistics
NCEP	National Conference on Environmental Protection
NDRC	National Development and Resources Commission
NEMC	National Environmental Model City

NEPA	National Environmental Protection Agency
NEPB	National Environmental Protection Bureau
NGO	Non-Governmental Organisation
OECD	Organization for Economic Cooperation and Development
PROPER	Programme for Pollution Control, Evaluation and Rating
PX	Paraxylene
SDC	Scientific Development Concept
SEIA	Strategic Environmental Impact Assessment
SEPA	State Environmental Protection Administration
SEPC	State Environmental Protection Commission
TGC	Three Gorges Corporation
TPP	Traditional Policy Paradigm
TRI	Toxics Release Inventory
TVE	Town and Village Enterprise
UEQES	Urban Environmental Quantitative Evaluation System
UNCHE	United Nations Conference on the Human Environment

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## Chapter 1: Introduction and Literature Review

### China's Environmental Challenge

China's economic reforms that began in 1978 have been viewed as remarkably successful in terms of raising living standards, attracting foreign direct investment, and establishing China as a major global actor. According to official Chinese figures, the country's GDP grew at an annual average of 9.6 per cent from 1979-2004 (*Xinhua News Agency*, 9 January 2006), and the World Bank (2005) has calculated that 400 million Chinese were lifted out of extreme poverty between 1981 and 2001. By 2005, China was ranked number 72 on the World Development Index compared with a ranking of 108 in 1979 (World Bank and SEPA, 2007).

These remarkable achievements have, however, come at a significant environmental cost. Various academics, international agencies, and western media organisations have provided in-depth accounts detailing China's environmental challenge. This dissertation does not seek to replicate these studies (see Smil, 1993, 2004; Edmonds, 1994; World Bank, 2001; UNDP, 2002; Murray & Cook, 2002; Economy, 2004a; Cann et al, 2005).<sup>1</sup> However, for the purposes of this thesis it is necessary to briefly highlight the nature, scale, and implications of China's environmental challenge.

### *Environmental Degradation in China*

It is widely acknowledged that severe water and air pollution has accompanied China's impressive reform-era economic growth. In the period between 2001 and 2005, an average of 54 per cent of the water in the country's seven major rivers was officially unfit for human use (World Bank and SEPA, 2007). It is estimated that over 300 million rural Chinese lack access to clean water (*China Daily*, 23 May 2005), while 70 per cent of rivers and lakes, and 90 per cent of groundwater in urban areas, suffer from

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<sup>1</sup> The New York Times' 'Choking on Growth' series is a salient example of the western media's increased interest in China's environmental degradation. [http://www.nytimes.com/interactive/2007/08/26/world/asia/choking\\_on\\_growth.html](http://www.nytimes.com/interactive/2007/08/26/world/asia/choking_on_growth.html) (last accessed 16 July 2008).

contamination (Li, 2006; Yan, 2006). Meanwhile, the reliance of China on coal for approximately 70 per cent of its electricity generation has serious implications in terms of air pollution. According to the World Bank, 16 of the world's 20 most polluted cities are in China (*The Epoch Times*, 10 June 2006). Almost one third of the country is affected by acid rain (UNDP, 2002: 28). Whereas 2 per cent of cities suffered from highly acid rain (with pH below 4.5) in 2000, this had increased to 10 per cent of cities in 2004 (OECD, 2007: 19). Moreover, China is the world's number one emitter of sulphur dioxide, its emissions of which rose by 27 per cent from 2000-2005 (*Reuters*, 10 January 2007) despite a pledge by the central government in 2001 to reduce emissions by 10 per cent in the period from 2002-2005 (Economy, 2007).

Other serious environmental problems facing China include desertification, erosion, and biodiversity loss. Desertification in China is caused primarily by excessive land reclamation and increasing livestock numbers in affected areas (World Bank, 2001: 18). According to an official from the State Forestry Administration, China's annual rate of desertification dropped significantly, from a rate of 10,400 square kilometres at the end of the 1990s to approximately 3,000 square kilometres since 2001 (Asian Development Bank, 2006). However, the problem remains serious and it is estimated that the livelihoods of about 400 million people are under threat from the encroaching Gobi, Taklimakan, and Kumtag deserts (Ibid.). For the past few years, Beijing has increasingly suffered from severe sandstorms in the springtime that are caused by desertification in China's western provinces (Jiang, 2007). Furthermore, China has the world's highest ratio of potential to actual desertified land (World Bank, 2001: xv). China is one of the world's most biodiverse countries in the world. However, between 1992 and 2004 the number of plant species under threat grew tenfold, to the extent that currently 20 per cent of native plants are considered at risk (Botanic Gardens Conservation International, 2007).

China's environmental impact is global in scale. This has already been documented through acid rain originating in China falling on the Korean peninsular and Japan (Kim, 2007). Trans-boundary pollutants from China have been detected as far away as the west

and east coasts of the USA (Ibid.). Perhaps most worryingly, the Netherlands Environmental Assessment Agency released a report claiming that in 2007 China overtook the US as the world's single largest emitter of greenhouse gases, and that it accounted for two-thirds of global growth in greenhouse emissions in the same year (*International Herald Tribune*, 13 June 2008).

It is also important to note that China has made significant progress related to certain aspects of environmental protection. It has decoupled the emissions of several pollutants, including nitrogen dioxide and sulphur dioxide, as well as municipal and industrial waste, from economic growth (World Bank, 2002; OECD, 2007). Furthermore, during the reform period China significantly improved its energy efficiency (Rosen & Houser, 2007). However, the country's environmental problems remain acute due to the rapid speed of China's economic development, its size, and poor per capita endowment of natural resources (Ho, 2006). According to geographer and expert on China's natural environment Vaclav Smil (2004: 144), 'if a simplifying verdict [regarding China's environmental record] were still sought, I would summarise the record, without being alarmist, as genuinely disquieting'.

#### *Political Implications of China's Environmental Degradation*

The environmental problems that have emerged and/or intensified since the start of China's reform period have growing implications in terms of human health, economic growth, and social order. As a result, they also have serious implications for the Chinese Communist Party (CCP), which, since 1978, has staked much of its legitimacy on maintaining economic growth and social stability.

Environmental issues exert a huge financial cost on China. In 1997, the World Bank estimated that the cost of pollution in China was equivalent to 3.5-8 per cent of GDP per annum (Economy, 2004a). China's Ministry of Environmental Protection (MEP) has put the cost of pollution at 8-13 per cent of annual GDP (Pan, 2006). Vaclav Smil (2004: 188) has argued that the financial cost exerted by China's environmental degradation could be as high as 15 per cent of GDP. More recently, a 2007 report authored by the

World Bank and China's Ministry of Environmental Protection (MEP)<sup>2</sup> suggested that the financial cost of air and water pollution in 2003 was between 2.68 and 5.78 per cent of GDP (World Bank and SEPA, 2007). China's leadership is concerned that environmental issues might jeopardise the country's continued economic development. In his keynote address to the 2007 National Party Congress, President Hu Jintao acknowledged that, 'our economic growth is realised at an excessively high cost of resources and the environment' (*Reuters*, 15 October 2007). And, one environmental protection government official was quoted as saying that, 'the environmental problem has become a key bottleneck for social and economic development' (*The Guardian*, 11 January 2007).

There appears to be a growing correlation between public health issues in China and environmental pollution. Estimates place the annual number of premature deaths attributable to air pollution between 300,000 (OECD, 2006: 11) and 750,000 (*The Financial Times*, 2 July 2007).<sup>3</sup> Water pollution has been associated with rising cases of cancer in certain areas (World Bank and SEPA, 2007), and media reports have documented a growing number of so-called 'cancer villages' where localised high rates of cancer are blamed on heavy pollution (*China Daily*, 10 May 2004). The health impacts of pollution are one reason why China's environmental problems are partly manifested in growing public unrest. Official figures show that in recent years the number of pollution-related disputes in China has increased by 30 per cent annually, reaching 50,000 in 2005 (*China Daily*, 4 May 2006). Public order disturbances related to environmental issues have increased to the extent that, in the words of MEP Minister Zhou Shengxian, 'the high occurrence of environmental accidents and the issue of pollution has become a 'blasting fuse' for social instability' (*South China Morning Post*, 3 January 2007).

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<sup>2</sup> After being promoted in 2008, SEPA became the MEP. For more details, see Chapter 2. Except where necessary for purposes of clarification, this thesis the term 'MEP' when referring to China's central government environmental protection agency both before and after this reorganisation.

<sup>3</sup> It was reported that a World Bank report included, and then later, at the request of the Chinese government, omitted this higher figure due to the latter's concern about possible social unrest (*The Financial Times*, 2 July 2007).

### **China's Environmental Protection 'Implementation Deficit'**

As various scholars have noted, the Chinese Party-state has taken measures to address the country's environmental problems (Jahiel, 1998; Mol & Carter, 2006). As Chapter 2 notes in more detail, in the early 1970s the central authorities took the first steps towards establishing a nationwide environmental protection bureaucracy. The central government has also promulgated a comprehensive body of environmental protection laws, regulations, and standards. At present, the central-level MEP is replicated at the local government level in the form of Environmental Protection Bureaus (EPBs) that exist at the provincial, city, district, county levels, as well as some townships (Jahiel, 1998: 758-9), creating a nationwide environmental protection bureaucracy. EPBs are charged with enforcing environmental laws and regulations. According to one count, China has promulgated 20 environmental statutes, over 40 State Council regulations, 500 standards, and over 600 other documents that create legal norms concerning various environmental issues, as well as over 1,000 local level environmental laws (Ferris Jr. & Zhang, 2005: 75-6). This body of legislation comprises what has been described as, 'one of the region's most dynamic environmental law frameworks' (Ibid.: 75). And yet, it has been claimed that, although China's environmental protection framework has helped reduce the rate of environmental degradation, it has failed to enhance environmental quality in the face of rapid economic growth (Ma & Ortolano, 2000; World Bank, 2001; Lo & Fryxell, 2005; Shi & Zhang, 2006).

Deficiencies in China's system of environmental governance are an important factor why the country's environmental situation remains serious. China's initial system of environmental governance, which it started to develop in the early 1970s, was largely based on a top-down, command-and-control regulatory approach similar to the 'traditional policy paradigm' (TPP) that emerged in European and North American countries from the late 1960s (Carter, 2007). In many ways, this approach, which concentrates environmental protection in the central bureaucracy, with power and knowledge concentrated in the hands of officials and technical experts (Dryzek, 1997), was well-suited to China's planned economy and authoritarian political system (Palmer, 1998: 807).

However, in common with other countries that have employed regulatory approaches to environmental protection, it has been found that China suffers from a significant environmental protection ‘implementation deficit’ (Lo et al, 2006; Van Rooij, 2006a, b; OECD, 2006; Economy, 2007). An implementation deficit occurs ‘when legislative and policy intent is not translated into practice’ (Weale, 1992: 17). Enforcement of environmental protection legislation in China is so lax that, according to leading environmental lawyer and academic from the China University of Political Science and Law Professor Wang Canfa, China’s environmental regulations are only enforced 10 per cent of the time (*Xinhua News Agency*, 6 October 2005). Although this appears to have been a somewhat crude estimate, it does suggest that experts view the enforcement problem as being a severe one. Others have suggested that, although China’s implementation deficit has narrowed over time, this has been insufficient to overcome environmental degradation due to rapid economic growth (Lo et al, 2006).

To a large extent, China’s serious implementation deficit can be explained by deficiencies in its predominantly regulatory approach to environmental protection. Scholars have identified various interacting factors that limit the enforcement of environmental legislation in China (Lo et al, 2006). Although these are examined in greater detail in the next chapter, the main shortcomings in China’s system of environmental governance are briefly summarised here.

Scholars have identified the weak position of EPBs in the bureaucracy as a major impediment to environmental enforcement (Jahiel, 1997, 1998; Ma & Ortolano, 2000; Economy, 2005). EPBs come under the direct influence of local government officials who, since the early stages of the reform period, have been given powerful economic and career incentives to maximise economic growth (Whiting, 2001). This prioritisation of economic growth is often cited as contributing to lax enforcement of environmental legislation (Lieberthal, 1997; Oshita & Ortolano, 2006; Van Rooij, 2006a, b). In some cases, local governments turn a blind eye to polluters and prevent EPBs from carrying out their enforcement duties, especially when these polluting companies are important for the

local economy (Ma & Ortolano, 2000; Van Rooij, 2006a; Economy, 2007). Poor enforcement is further exacerbated by 'local protectionism' (*difang baohu zhuyi*), whereby some local officials ignore environmental legislation in order to protect their own industries from external competition so as to maximise local economic growth (Van Rooij, 2006a).

It has also been shown that EPBs lack resources, including financial and human resources, in order to effectively carry out their enforcement duties (Chan et al, 1995; Economy, 2005; Li, 2006). According to one estimate, as much as 50 per cent of polluting activity takes place outside the monitoring capabilities of enforcement officials (Shi & Zhang, 2006). Another problem with China's environmental protection regulatory system concerns vague and ambiguous environmental legislation that is also frequently out of touch with local realities and therefore difficult to enforce (Alford & Shen, 1997; Lo & Fryxell, 2005; Beyer, 2006; Van Rooij, 2006a, b). Although EPBs can fine polluters, these fines are often lower than the cost of installing or running pollution control equipment (Lotspeich & Chen, 1997, Economy, 2007).

Finally, China suffers from a series of wider 'governance deficits', including a lack of official accountability, public participation, and transparency, and weak rule of law (Howell, 2004b). These factors impede the effective enforcement of environmental legislation. It is widely acknowledged that environmental public participation and information disclosure is insufficient. As a result, the public is limited in the extent to which it can hold local officials to account (Lo & Leung, 2000; Lo & Tang, 2006; Economy, 2007).

The environmental protection implementation deficit is not uniquely a Chinese problem. As the next section discusses, it has been argued that many advanced industrial nations are in the process of introducing new governance processes and policies in order to overcome the limitations associated with a regulatory command-and-control approach. In the past ten years a similar trend has been observed in China. Various scholars have shown that the Chinese authorities are introducing environmental governance reforms



that are also intended to overcome some of the deficiencies in the country's predominantly regulatory approach. For example, and as discussed in greater detail below, Neil Carter and Arthur Mol (2006) have suggested that China's system of environmental governance is showing signs of convergence with those in OECD countries. They suggest that this is manifested in greater flexibility and decentralisation, a stronger environmental state and greater environmental protection capacity, a shift from regulation to governance, and an increasing role for environmental civil society (Ibid.).

### **Environmental Governance Reform: Moving Beyond the TPP**

This section discusses how other nations have undertaken environmental governance reform in a bid to overcome deficiencies associated with a regulatory approach to environmental protection.

#### *The 'Implementation Deficit'*

When developed nations first started to try and address environmental issues from the late 1960s onwards, the 'traditional policy paradigm' (TPP), also known as the 'first generation approach' became the dominant approach (see, for example, Weale, 1992; Durant et al, 2004; Fiorino, 2006). The TPP is centred on regulatory 'command-and-control' processes, whereby regulations governing the release of pollutants are issued (the 'command') and punishments levied should these be breached (the 'control') (Gunningham & Sinclair, 2002: 9).<sup>4</sup> The status of the environment as a public good, which can be defined as a good whereby 'each individual's consumption leads to no subtraction from any other individual's consumption of that good',<sup>5</sup> informed the belief that the environment could only be safeguarded by a strong 'environmental state' (Mol & Buttel, 2002: 2), which is defined to include state agencies and their relationships, legislation and policies (Mol & Carter, 2006).

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<sup>4</sup> As Carter (2007: 323) notes, the term 'command-and-control' is a pejorative term connoting coercive regulation. The widespread use of this term represents a 'rhetorical success of the neo-liberal backlash' against environmental regulation (Ibid.: 324).

<sup>5</sup> Samuelson, quoted in Carter (2007: 174).

As Albert Weale (1992) has noted, the TPP was based on several assumptions. These include the view that administrative measures, devised and enforced by a specialised environmental department within the bureaucracy, were the best way of addressing environmental problems. It was also assumed that the nature of environmental problems was well understood and that end-of-pipe solutions were sufficient (Ibid.: 75).<sup>6</sup> Above all, the TPP was founded on a belief that economic growth and environmental protection were mutually exclusive goals. This 'zero-sum' conception rendered it necessary to try and achieve a balance between economic and environmental considerations when setting pollution standards (Weale, 1992).

The TPP has been credited with contributing to significant environmental improvements that would otherwise have been unrealised. At the same time, however, it has been widely criticised and is increasingly seen as incapable of resolving many problems that remain (Durant et al, 2004). The TPP was designed to deal with pollution from large, identifiable sources such as power plants and large factories (Fiorino, 2006: 11). However, it is ill suited to dealing both with pollution from diverse, numerous and small sources (Durant et al, 2004: 3), and non-point pollution such as agricultural run-off which does not have an easily traceable source. Further criticisms levelled at the TPP include that it is adversarial, reactive, heavily bureaucratic, and fragmented, and does not encourage firms to go beyond the minimum requirements needed to meet discharge standards (Ibid.).

Another perceived shortcoming with the TPP is that it is prone to an 'implementation deficit' (Weale, 1992: 17). The first generation approach to environmental protection is administratively highly intensive. Regulators are faced with a huge number of pollutants as well as pollution sources that they simply lack the capacity to monitor effectively (Fiorino, 2006). This problem exists in developed countries, but is especially pronounced in developing countries, where environmental regulators often lack the financial, political, and human resources needed in order to effectively monitor and regulate

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<sup>6</sup> So-called 'end-of-pipe' solutions rely on dealing with pollutants after they have been discharged into the environment.

sources of pollution (Adeel & Nakamoto, 2003; Desai, 1998). Furthermore, the fact that regulation usually results in costs being levied on key interest groups in society (Carter, 2007: 180) makes it difficult to successfully enforce environmental legislation when economic growth is a country's main goal. In addition, environmental officials in developing countries are said to be particularly susceptible to rent-seeking and corruption opportunities associated with a regulatory approach to environmental governance (Brinkerhoff, 2007). This is not to say that establishing command-and-control systems cannot lead to environmental improvements in developing countries. Indeed, Michael Rock (2002b: 152) argues in relation to East Asian newly industrialising countries that doing so is vital in terms of improving environmental quality and management. At the same time, however, supplementary approaches that go beyond a regulatory approach are also important in order to compensate for the many drawbacks associated with the TPP.

Failings associated with the TPP also feed into growing concerns regarding the nature of the environmental risk and the ability of nation states to address it. Partly because of limitations inherent in a regulatory approach to environmental protection, nation states have been criticised for not adequately resolving problems associated with environmental degradation and risk, leading to what Martin Jänicke (1990) has labelled 'state failure'. Furthermore, it has been argued that, although the TPP was well suited to nations in the 'first phase of modernity', which has been identified by scholars as a time when society was seen to be highly manageable by state regulation (Arts & Van Tatenhove, 2006: 30), it is incapable of resolving new and complex problems such as climate change, biodiversity loss, and nitrate pollution that began to emerge in the 1980s (Weale, 1992; Fiorino, 2006). In addition, it has been suggested that citizens and governments have become more concerned, or 'reflexive' about the damaging environmental side effects of modernisation processes (Beck, 1994). Not only have states failed to effectively regulate these side effects, or 'risks', it has been suggested that some of these issues cannot be effectively solved via nation states acting alone (Van Tatenhove & Leroy, 2003).

*Beyond the TPP*

It has been argued that countries can adopt, and indeed have adopted, new governing styles in order to overcome the problem of achieving policy outcomes, including in the environmental protection sphere (Pierre & Peters, 2000). Although policy goals might remain the same, states are increasingly turning to approaches and actors beyond traditional governmental institutions in order to better achieve these goals. The 'governance' perspective, examined later on in this chapter in more detail, provides a framework for understanding these changing processes of governing (Stoker, 1998a).

It has been argued that, in the face of inadequacies associated with the TPP, as well as heightened concern for environmental risk, the nation-state has had to redefine its role in environmental protection (Gunningham & Sinclair, 2002; Durant et al (eds.), 2004; Fiorino, 2006; Mol, 2007). Some scholars have advocated a new approach to environmental protection that goes beyond the TPP. For example, it has been suggested that, rather than directly tackling pollution at the point that it is released, environmental issues should be treated more holistically, and should be integrated into wider development goals (Durant et al, 2004). Furthermore, it has been argued that new approaches that are more flexible and less confrontational, such as those relying on cooperation, information disclosure, market-based instruments, and incentives, can be effective when introduced alongside, or instead of, regulatory measures (Fiorino, 2004, 2006).

One aspect of this new approach that is particularly relevant to this thesis concerns the development of new relationships between the state and civil society. Van Tatenhove and Leroy (2003: 161) have argued that, 'new ways of governance have (to be) developed within and beyond the nation-state, since the state is incapable of accommodating the new and global risks of contemporary society'. This process is sometimes referred to as political modernisation, whereby new policy instruments and closer cooperation between state and non-state actors are introduced in order to develop a more preventive, proactive, and flexible strategy to deal with environmental issues (Arts & Van Tatenhove, 2006).

As already noted, the state was initially seen as the only institution capable of maintaining environmental quality due to the environment's public good status. At this time, the lines between government, market, and civil society were seen as being clearly drawn, which resulted in the 'political domain' being dominated by the state (Van Tatenhove & Leroy, 2003: 157). Under this arrangement, the role of civil society was to challenge the government and private sector and hold them both to account. In doing so, environmental activists often adopted contentious tactics. However, after the neo-liberal agenda led to a shrinking of the environmental state in many industrialised nations, new forms of governance materialised which blurred the lines between state, market, and civil society (Arts & Van Tatenhove, 2006: 29). Under these new governance arrangements, non-state actors that previously could only challenge the environmental policy making process from the outside have increasingly become included in this process (Bulkeley & Mol, 2003). As Harriet Bulkeley and Arthur Mol (2003: 144) state, 'increasingly, non-participatory forms of policy making are defined as illegitimate, ineffective and undemocratic, both by politicians and by stakeholders themselves'.

It has been suggested that, rather than focus on improving regulation structures, governments are increasingly trying to develop new institutional arrangements between state and non-state actors (Glasbergen, 2007: 20). This has given rise to state-society arrangements such as networks, associations, and partnerships, which can be defined as, 'the ideas, practices and (institutional) arrangements that provide non-state actors and non-conventional politics with substantially more room in environmental governance' (Mol, 2007: 216). In some cases, civil society may bypass the state entirely in order to affect better environmental outcomes. For example, if adequate information is made available in the public domain, citizens can target polluting companies directly (Gunningham & Sinclair, 2002: 196). Citizens might attempt to affect change through legal means, pressuring the company via consumer boycotts, or by negotiating a mutually acceptable solution (Kleindorfer & Orts, 1998; Stephan, 2002). In addition, some countries have introduced legislation that formalises public participation within policy instruments such as environmental impact assessment (Gunningham & Sinclair, 2002: 196).

It is important to note that, although some nation states have, to varying degrees, adopted some aspects of this new environmental governance approach, it is a highly normative concept. The environmental state is still seen as the most important actor in environmental protection, and state regulation remains a mainstay of environmental protection (Arts & Leroy, 2006). It has been argued that, despite entering the environmental protection discourse, it has proven difficult to put elements of a new environmental governance approach into practice (Ibid., Jordan et al, 2005). Partnerships between state and civil society actors often fail to live up to their theoretical promises due to strong state governance (Mol, 2007: 224). However, it has been argued that a more consensual governance approach, that has emerged in the form of new policy arrangements and instruments, has in some cases been ‘grafted onto’ the TPP, thus producing a mixture of arrangements, or hybrid structures (Durant et al, 2004; Van Tatenhove & Leroy, 2003: 159; Jordan et al, 2005; Arts & Leroy, 2006). Although the regulatory state may not have retreated, it is in the process of being reconfigured (Gunningham & Sinclair, 2002).

### **Reforming China’s Environmental Governance System: Towards Convergence?**

Some scholars have suggested that the Chinese Party-state is attempting to improve environmental protection, and overcome the country’s implementation deficit, through introducing environmental governance reforms along similar lines to those described above (Mol & Carter, 2006; Mol, 2006; Carter & Mol, 2006; Martens, 2006; Shi & Zhang, 2006). Neil Carter and Arthur Mol (2006: 332) have argued that China’s system of environmental governance is currently undergoing a ‘major transformation’ that in some ways resembles the introduction of new environmental governance processes in OECD countries as examined in the previous section.

Studies from the 1980s and 1990s examining environmental governance in the PRC unsurprisingly found that environmental protection efforts were concentrated within the Party-state apparatus (Ross, 1988; Sinkule & Ortolano, 1995; Lotspeich & Chen, 1997;

Vermeer, 1998). Although the Party-state still plays a dominant role, however, it has been argued that a shift away from pure reliance on regulation towards a more diverse 'governance' approach is underway in relation to environmental protection in China (Mol & Carter, 2006; Mol, 2006; Carter & Mol, 2006; Martens, 2006; Shi & Zhang, 2006; Rock, 2002a, b). This is partly in response to the shortcomings in China's system of environmental governance discussed above, and partly due to wider social, political, and economic changes brought about as a result of the reform and opening up policy (Mol & Carter, 2006).

A number of empirical studies have emerged that analyse the changes in China's environmental governance framework. They suggest that, in some cases, environmental governance in China is moving beyond a command-and-control approach in an attempt to better address the country's rising environmental challenge and the problems associated with an over-reliance on top-down, regulatory approaches. Although some scholars analysing Chinese environmental governance reform have concentrated on economic (Economy, 2006) and global integration (Chan, 2004; Jahiel, 2006) issues, the main focus of the literature has been on the 'environmental state' and civil society. As a result, this section addresses the relevant literature relating to developments in these two spheres.

#### *China's Environmental State*

As noted above, an important issue identified in the literature relates to the poor enforcement of environmental protection legislation in China, resulting in a serious implementation deficit. This has been partly blamed on deficiencies in the environmental state, including ambiguous legislation, and a lack of authority and resources (Chan et al, 1995; Alford & Shen, 1997; Economy, 2005). In addition, pro-growth local officials have been blamed for obstructing effective enforcement of environmental legislation (Lieberthal, 1997; Ma & Ortolano, 2000; Van Rooij, 2006a). However, some scholars have looked at policies that have been introduced in order to strengthen the environmental state and overcome deficiencies in China's predominantly regulatory approach to environmental protection.

A number of scholars have examined the extent to which shortcomings in China's environmental state can be overcome by policies that aim to change the behaviour of local officials. If these officials can be persuaded to place more emphasis on environmental issues, an important barrier to the enforcement of environmental legislation can be overcome. Michael Rock (2002a, b) and Elizabeth Economy (2006) have examined attempts to encourage city mayors to prioritise environmental issues through the 'Urban Environmental Quantitative Evaluation System' (UEQES) and its successor, the 'National Environmental Model City' (NEMC) initiative, respectively. In the same article, Economy also introduces a preliminary analysis of China's green GDP initiative.<sup>7</sup> All of these initiatives can be seen as attempts to provide incentives for local officials to pay greater attention to environmental protection. Initial findings suggest that incentives have helped improve environmental outcomes. For example, Rock (2002b: 89) concludes that the success of the UEQES initiative renders the view that local officials merely pursue economic growth regardless of the environmental cost as overly simplistic and, at worst, erroneous. However, Economy (2007) has claimed that only 7-10 per cent of China's cities currently meet the requirements necessary to be awarded the coveted NEMC status, which suggests that the provision of environmental protection incentives for Chinese local officials has significant limitations.

As well as providing incentives for local officials to prioritise environmental protection, attempts have been made to strengthen the environmental state by improving the environmental accountability of local officials. It has been suggested that, to an extent, incentives such as those described above can achieve this goal. For example, Arthur Mol (2006) has suggested that UEQES has ensured that local officials are no longer judged purely on their economic and political performance, but are also judged based on environmental protection criteria. Another way that officials can be held to greater account regarding environmental issues is through the cadre assessment system. In their examination of environmental governance processes in five cities in Guangdong province, Carlos Wing-Hung Lo and Shui-Yan Tang (2006) identify important

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<sup>7</sup> Green GDP aims to quantify the financial cost of environmental degradation and resource depletion. It then incorporates this figure into traditional GDP calculations in order to produce a GDP figure that reflects the environmental cost of economic growth.



institutional transformations designed to improve the effectiveness of the local-level regulatory apparatus. One of these is the inclusion of environmental protection as a performance indicator for local officials. Lo and Tang find that this has resulted in a positive effect on the environment. Finally, the central government has launched environmental protection clean-up campaigns in order to overcome local level resistance to environmental protection. In her case study of one such clean-up campaign on the heavily polluted Huai River, Economy (2004b) finds that this campaign has failed. Benjamin Van Rooij (2006a), however, argues that short term environmental campaigns can be effective in mobilising local officials to pursue campaign goals.

Environmental accountability among local officials can also be improved by the promotion of public participation. A lack of public participation in environmental governance has been widely cited as a major factor inhibiting environmental protection efforts in China, by scholars, international organisations, and Chinese government officials (Vermeer, 1998; Tang et al, 2005; Martens, 2006; World Bank, 2001; Pan, 2004c). In order to address China's worsening environmental situation however, some scholars have found that the public is being given a greater role in environmental protection, although they also identify various obstacles to public participation (Lo & Leung, 2000; Tang et al, 2005; Martens, 2006; Shi & Zhang, 2006).

Only a very limited number of studies have examined the extent to which this growing public involvement is a result of changes in the environmental state designed to improve environmental accountability by facilitating formal public participation. For example, some scholars have noted that the Chinese government has started to promulgate legislation designed to increase public participation (Wang et al, 2003; Tang et al, 2005; Moore & Warren, 2006). This has mainly been done through the promotion of public participation in the EIA process, which has been facilitated by the 2003 EIA Law and its implementing measures. In their analysis of this new law, Wang et al (2003) note that it intends to incorporate public participation by legislating for public hearings, and other means through which planners can obtain public opinion regarding proposed projects. However, provisions do not go as far as those in western countries, and a lack of

'political will' at the local level has been identified as the main reason why public participation in EIA is still highly limited (Ibid.). Li-Jin Zhong and Arthur Mol (2008) have examined public hearings in the context of the setting of urban water prices. They claim that 'public hearings do indicate that enhanced opportunities are provided to Chinese citizens to play a more formative role in environmental governance' (Ibid.: 901). However, they also find that public hearings are a 'mild' form of public participation that do not affect the fundamental position of the Party-state (Ibid.).

Some scholars have examined developments in China's environmental state that aim to increase transparency in environmental governance by publicly disclosing environmental information. Greater disclosure of information can empower the public and media to better hold polluters and officials to account, hence reducing the implementation deficit. Although it is generally accepted that public (and sometimes even official) access to environmental information is still highly restricted, some gradual improvements have been noted in this regard (Qing-Jie Wang, 2005; Shi & Zhang, 2006; OECD, 2006; Li et al, 2008). Changhua Wu (2005) argues that officials at both the central and local levels have shown strong commitment to governing in a more transparent manner, and identifies legislation that has been promulgated with the intention of facilitating the disclosure of environmental information (see also Li et al, 2008). However, it is also the case that implementation still lags far behind, and China remains at a stage of 'experiment and exploration' (Wu, 2005: 307). Hua Wang et al (2004) have examined environmental information disclosure in the context of China's GreenWatch project, which is a pilot initiative developed by the MEP in conjunction with the World Bank. GreenWatch involves assessing enterprises based on their environmental performance before assigning them with a colour-coded grade that is disseminated to the public via the media. They note that successful pilot schemes were carried out in locations in Jiangsu province and Inner Mongolia, suggesting that information disclosure can be a useful policy tool in China (Ibid.).

These empirical studies have identified important developments that have improved understandings regarding the reform of China's environmental state. And yet there are

many gaps in the literature that need to be addressed. As noted above, it has been shown that the Party-state has taken steps to change the behaviour of local officials in order to improve environmental accountability. And yet only a very limited number of studies have addressed this issue. Although some have expressed reservations regarding the efficacy of policies designed to change officials' behaviour (Economy, 2007), on the whole scholars have been positive regarding these developments (Rock, 2002a, b; Mol, 2006; Lo & Tang, 2006; Economy, 2006). Existing studies have focused on relatively wealthy parts of China, which may result in them overstating the significance of these policies. An important gap that has not been explored in the literature relates to ways in which local officials resist attempts to change their behaviour. Or, to put it differently, there is a need to examine how far policies designed to make officials prioritise environmental issues can go in China, especially in the context of its rapid economic development. Although it is important to understand ways in which Party-state initiatives are successful in terms of changing officials' behaviour, it is also vital to understand the obstacles that exist.

Another key issue identified in the literature is how the environmental state is changing in order to facilitate greater public participation and oversight in environmental matters. It has been established that the Party-state has attempted to facilitate public participation through official channels such as public hearings, a policy that has become more prominent with the promulgation in 2003 of the EIA Law. Most studies have not addressed the impact of this legislation, although there are several exceptions (Wang et al, 2003; Tang et al, 2005; Moore & Warren, 2006). In addition, there is still a gap in understandings of exactly what type of public participation the Chinese Party-state is promoting, and how this is affected by China's one-party political system. Understanding this through greater empirical study is important in order to evaluate the extent to which public participation as legislated for by the Party-state can improve environmental outcomes in China.

A second way in which the environmental state is attempting to facilitate greater public participation is through improving public access to environmental information. Although

some studies have raised this as an issue, none has examined information disclosure legislation in detail. This oversight is particularly significant given important recent legislative developments in this area. For example, in 2007 the MEP promulgated an important piece of legislation, namely the ‘Measures on Environmental Information Disclosure (Trial Version)’. However, no studies have examined these measures, which have been seen as an important step towards greater transparency in Chinese environmental governance. This is an important gap in the literature that should be addressed in order to improve understandings of environmental information disclosure in China. In addition, existing studies examine information disclosure in China as a top-down phenomenon (Wang et al, 2004; OECD, 2006; Li et al, 2008). None has investigated the extent to which public disclosure can stimulate greater public participation. Given that officials have cited increased public participation as a desired effect of information disclosure (see Chapter 5), this is an important omission in existing studies.

#### *Chinese Environmental civil society*

Although the Chinese Party-state remains the dominant force in environmental protection (Mol & Carter, 2006), it has tolerated a growing role for environmental civil society since the early 1990s (Lo & Leung, 2000; Ho, 2001; Economy, 2004a; Martens, 2006; Shi & Zhang, 2006; Yang & Calhoun, 2006). For the purposes of this thesis, civil society is defined to include grassroots NGOs,<sup>8</sup> citizen activists, and the media.

Since the mid-1990s, when China’s first ‘grassroots’ NGO, the Beijing-based Friends of Nature, was founded, scholars have taken an interest in Chinese environmental civil society. The majority of studies examining environmental civil society in China do so in the context of state-NGO relations (Knup, 1997; Saich, 2000; Yang, 2005; Cooper, 2006; Ho, 2001, 2007; Ho & Edmonds, 2007; Ru & Ortolano, 2008). This is partly because environmental NGOs are seen as one of the most active sectors of Chinese civil society and are therefore a good ‘laboratory’ through which to investigate state-society relations.

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<sup>8</sup> Chinese environmental ‘grassroots’ NGOs are organisations set up by individual citizens. They are differentiated from the many so-called environmental ‘government-organised’ NGOs (GONGOs) that have been set up by official government bodies. See Chapter 2 for more details.

It also reflects the significant influence that China's authoritarian political system exerts over organised environmental protection groups.

Studies that examine environmental civil society in the context of state-NGO relations have argued that the attitude of the Party-state towards environmental NGOs is ambiguous, or even contradictory (Saich, 2000; Ho, 2001). On the one hand, it has been claimed that the Party-state imposes significant constraints that continue to inhibit environmental NGOs (Ho, 2001; Schwartz, 2004). Arguably chief among these is the stringent registration process that organisations must go through in order to be officially recognised as a legal entity (Saich, 2000; Ho, 2001). At the same time, however, the Chinese government has acknowledged that it needs the help of non-state actors in order to overcome the country's environmental problems by improving policy implementation and holding local officials to account (Turner, 2004; Shi & Zhang, 2006; Carter & Mol, 2006). Many organisations are able to exist without going through the registration process as long as they do not oppose the Party-state.

According to Peter Ho and Richard Edmonds (2007; see also Ho, 2007), the government's ambiguous stance has contributed to a situation whereby Chinese environmental NGOs (and other environmental activists) are 'embedded' within the Party-state. Activists cultivate close personal ties with Party-state officials. They engage in self-censorship and do not show even a hint of opposition to the central Party-state. And yet, at the same time, activists can use their personal connections and political loyalty to the central authorities to exert influence with regards environmental issues. As a result, the concept of 'embedded activism' shows how China's authoritarian political system both restricts *and* facilitates Chinese environmental civil society.<sup>9</sup> As Ho (2007: 195) puts it, 'as long as [environmental activists] do not oppose the central state, many things are possible in China'.

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<sup>9</sup> Ho and Edmonds (2007) use the term 'semiauthoritarian' to characterise China's political system. The vast majority of scholarly work on China, however, refers to the PRC as being an 'authoritarian' state.

Only a limited number of studies have examined the significance of civil society to environmental governance processes. Scholars have been somewhat ambivalent in terms of the emphasis they place on the impact of civil society on environmental governance. Mol and Carter (2006) argue that the impact of NGOs has been ‘marginal’ in terms of promoting environmental reforms, in contrast to their western counterparts. Jonathan Schwartz (2004) is pessimistic regarding the ability of grassroots NGOs to influence environmental governance due to significant political, funding and human resources constraints. However, he does suggest that ‘semi-NGOs’, which he defines as those NGOs registered within the Chinese academic system, are more likely to be influential due to their better funding, expertise, and access to government officials.<sup>10</sup> Shui-Yan Tang and Xueyong Zhan (2008) argue that, although civic environmental NGOs have made important contributions in environmental awareness raising and education, they have been highly limited in terms of influencing government policy. Focusing on Guangzhou, Carlos Wing-Hung Lo and Sai-Wing Leung (2000) argue that Chinese citizens are increasingly playing a role in environmental governance by showing how environmental protection has, to a limited extent, extended beyond the state bureaucracy. However, they also point to ‘tremendous institutional constraints’ that limit the incorporation of public participation into environmental governance (Ibid.: 704).

Other commentators have adopted a more positive position regarding the influence of Chinese environmental civil society. Despite acknowledging the limitations of environmental civil society due to the country’s authoritarian political system, they have stressed how in some cases it has started to become more influential in terms of affecting environmental governance. According to Economy (2004b), the development of a non-state environmental sector represents ‘the most dramatic transformation in China’s environmental protection effort over the past decade’. She also argues that Chinese environmental NGOs are ‘a significant force for political reform’ (Economy, 2005). This has been echoed by other scholars, who have mentioned that Chinese environmental civil society can help advance accountability, transparency, and rule of law in China’s

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<sup>10</sup> Semi-NGOs are not the same as university student-run environmental groups.

environmental governance (Economy, 2005; Morton, 2005: 521; Carter & Mol, 2006: 336).

Several scholars argue that Chinese environmental civil society can influence environmental policy due to successful NGO campaigns. By far the most prominent example refers to NGO opposition to hydropower development in Yunnan (Mertha, 2008). The best-known case centred on Yunnan's Nu River. In 2004, Premier Wen Jiabao personally intervened and suspended plans to dam what is still one of only two undammed rivers in China due to what he described as a high level of societal concern (Mertha, 2008; Yang, 2004; Lu, 2007; Litzinger, 2007). This campaign has been stated, sometimes implicitly, as a watershed in Chinese environmentalism, at least in relation to environmental NGOs. In his detailed study of the Nu River campaign, Michael Büsgen (2006: 44) concludes that, 'the involved [environmental] NGOs have established themselves as a force for the promotion of pluralism and of an alternative view on development in China'. Andrew Mertha (2008) has examined several NGO campaigns against hydropower development in China. He has argued that NGO activists can take advantage of cleavages in China's fragmented political system that occur along territorial and/or jurisdictional lines, and influence government policy by playing the role of 'policy entrepreneurs' (Ibid.). And yet others, such as Yiyi Lu (2007), are more circumspect regarding the role of NGOs in the Nu River campaign. Although she acknowledges the role played by civil society in this campaign, Lu (2007) also points to the important role played by certain Party-state officials.

Although the majority of scholars examining Chinese environmental civil society have focused on NGOs, some have looked at the media as well as other forms of citizen activism. Alex Wang (2007) notes how some citizens have used the courts to successfully sue for compensation in relation to environmental damages. There is also evidence to suggest that citizens are increasingly making use of the environmental complaints system (Shi & Zhang, 2006; Brettell, 2008). According to Anna Brettell (2008), recent increases in environmental complaints suggest that institutionalised channels for voicing complaints are improving. Mol and Carter (2006: 161) suggest that citizen complaints

represent a relatively effective avenue for influencing the authorities. Yet they maintain that this remains a 'poor' form of participation (Ibid.). Elsewhere, it has been shown that homeowner groups have, in several small-scale cases, cited environmental legislation in a bid to defend their properties from local governmental developments (Zhu & Ho, 2008; Zhu & Wang, 2008). Finally, another way in which ordinary citizens have attempted to influence environmental outcomes has been through popular protest (Jing, 2000).

The Chinese media has been identified as an increasingly important actor in environmental protection. Several studies have noted that the Chinese government is giving the media more leeway in its reporting of domestic environmental issues, especially since the early 1990s (Wen, 1998). In a case study examining media coverage of an environmental administrative dispute in Guangdong province, Qing-Jie Wang (2005: 301-2) argues that the extensive media reporting that occurred in the beginning of the case was unprecedented, and that 'the news media... played a pivotal role in promoting or boosting transparency in the process of environmental governance'. However, in this case the government subsequently enforced a media blackout, highlighting how the media is very much subject to local state control (Ibid.). According to Yang and Calhoun (2007: 229), the media has contributed to the rise of what they term a 'fledgling green public sphere' where environmental discourse can take root. They argue that this green public sphere is shaped to a significant extent by citizens and NGOs, as opposed to being dominated by the Party-state. And, as Yiyi Lu (2007) has noted, the role of the media in the Nu River campaign was very important.

Chinese environmental civil society has attracted the interest of a number of scholars. However, there are some important gaps in the literature. This is particularly the case in terms of civil society's influence on environmental governance. One significant gap in the literature concerns the ways in which civil society interacts with the environmental state. As noted above, the Chinese Party-state has introduced top-down reforms designed to improve accountability and transparency through the promotion of public participation via media such as public hearings, and information disclosure. Although it has been mentioned as an issue (Tang & Zhan, 2008), no studies have investigated the extent to



which reform in the environmental state impacts on civil society, and affects state-society relations. And yet reforms such as promoting public participation and information disclosure appear designed to extend environmental governance to civil society. Likewise, no studies examine whether or not civil society can play a role in helping to promote and cement these reforms. Another gap in the literature concerns the extent to which Chinese environmental civil society can promote participation, accountability, transparency, and rule of law. As noted above, some scholars have claimed that civil society can be important in this regard. And yet they have not examined this issue in detail. These are significant gaps: if civil society can indeed promote better governance processes, it is important to understand how it does so.

Another shortcoming in the literature examining Chinese environmental civil society is its bias towards environmental NGOs. These organisations arguably have an important role to play in China's environmental governance. However, the role of 'citizen activists', or activists who pursue their goals outside of the NGO community, is also central to understandings of how environmental civil society affects governance. The fact that citizen activism has been examined to a much lesser extent than NGO activity may lead to distorted conclusions regarding the role of civil society in environmental governance. In particular, there is a need to disaggregate 'civil society' into different types of actor in order to examine the ways in which they influence environmental governance.

### *Main Questions*

In order to address gaps in the literature identified above that relate to China's environmental state and civil society, I examine the following main questions: How is the Chinese Party-state attempting to address the country's environmental protection implementation deficit by the introduction of new governance arrangements and policies? What are the main obstacles to a more diverse 'governance' approach to environmental protection in the PRC? How does Chinese environmental civil society react to developments in the environmental state that extend governance beyond the bureaucracy, and what are the implications for state-society relations in the environmental protection sphere? To what extent do China's environmental governance reforms examined in this

thesis represent a convergence with the more diverse governance arrangements that have emerged in some advanced industrialised nations?

This thesis examines several original case studies in order to address these main questions. It does so by using an analytical framework that draws on the ‘governance’ and ‘good governance’ concepts (see below). Specifically, this thesis looks in detail at attempts to change local official behaviour. It does so by examining how incentives are being introduced for local officials to pay more attention to environmental issues via the green GDP initiative. It also considers the implications of a series of so-called ‘environmental storms’ that were launched by the MEP in order to improve enforcement. Although environmental storms resemble traditional ‘command-and-control’ tactics, this case also highlights the role of the media in promoting environmental governance reform. This thesis also examines in detail government policies designed to increase public participation in the EIA process, and environmental information disclosure. It considers the ways in which these policies have affected Chinese environmental NGOs, and how these organisations have attempted to promote these policies. Finally, I examine the role that citizen activists played in relation to several high-profile cases of localised opposition to infrastructure projects in Xiamen, Shanghai, Beijing, and Chengdu. In doing so, I contrast these activists’ approach with that of environmental NGOs.

### **The Governance Concept**

The governance perspective provides a useful framework through which changes in governing styles can be understood (Stoker, 1998a). In political science literature, the notion of ‘shifts in governance’ has been used in order to explain the emergence of new governing processes in place of, or alongside, traditional, formal, and institutional channels, that have occurred in the private, semi-private, and public spheres (Pierre, 2000; Van Kersbergen & Van Waarden, 2004). It has been claimed that the governance perspective can offer fresh insights that might not otherwise be apparent (Stoker, 1998a). According to Pierre (2000: 241), ‘governance theory has tremendous potential in opening up alternative ways of looking at political institutions, domestic-global linkages, trans-national co-operation, and different forms of public-private exchange’.

This thesis utilises the governance perspective in order to improve understandings of environmental governing processes in China. The term ‘governance’ is employed in different ways by various academic disciplines, and its meaning varies greatly across different contexts. At the heart of the governance concept lies the notion that ‘governance’ is broader in scope than ‘government’ in that it includes non-state actors, including the private sector and civil society, as well as formal governmental institutions and actors, in the governing process (Rhodes, 2000: 61; Van Kersbergen & Van Waarden, 2004: 151). As a result, governance blurs the boundaries between the state and non-state sectors (Stoker, 1998a: 17). I adopt a definition of governance put forward by Gerry Stoker (1998b: 38). According to Stoker, ‘[the] essence of governance is the interactive relationship between and within government and non-governmental forces’. As Jan Kooiman (2003: 5) notes, ‘interactions as a social phenomenon, and governing interactions as a specific type of them, are a rich source for analysing and synthesising insights into many facets of governance’.

As noted above, in recent years the realisation that environmental problems are becoming increasingly complex, diverse, and severe, has emerged. In order to address these issues and maintain their ability to ‘steer’ society, governments have reached out to previously uninvolved actors such as the market and civil society, in order that they can become partners in governance (Kooiman, 2003). In the field of public administration, regulatory command-and-control approaches are sometimes seen as the essence of ‘government’, whereas those that go beyond this type of approach are equated with a ‘governance’ perspective (Jordan et al, 2005). By extending governance beyond formal institutional structures, policy goals can be better achieved.

Arthur Mol and Neil Carter (2006) have applied the concept of ‘environmental governance’ to the Chinese case. This thesis also adopts a governance perspective in analysing developments in China’s environmental state and environmental civil society. It focuses on the interactive relationship between these two spheres. For the purposes of this thesis, civil society is disaggregated into three main categories. I identify and

distinguish between two types of environmental activism in China. These are public interest activism, which includes NGOs and other non-state actors that work primarily on environmental issues for the public good. The second type of activism considered in this thesis is private interest activism, which incorporates groups and individuals who campaign primarily in defence of their own private interests when they are threatened by environmental issues.<sup>11</sup> In addition, this thesis includes the media in its definition of Chinese environmental civil society.

### *Good Governance*

In examining environmental governance in China, I focus on the issues of accountability, participation, rule of law, and transparency. In the wider literature, these issues have been conceptualised as ‘good governance’.

The good governance concept was developed in the field of ‘international development’, and became prominent in development discourse from the late 1980s. Good governance is essentially concerned with promoting better conditions in aid recipient countries in order to facilitate development and ensure that aid is used effectively (Nanda, 2006: 269-70). One way of ensuring this has been to attach political conditionalities to recipient countries under the rubric of good governance (Doornbos, 2003). It is precisely because of this that the notion of good governance has attracted controversy, with some seeing it as a loaded concept. For example, according to Martin Doornbos (Ibid.: 6), a central aim of good governance has been ‘to establish new institutional patterns of global hegemony’ based on Western neo-liberal values.<sup>12</sup>

Adrian Leftwich (1994: 371) has attempted to differentiate between various prominent interpretations of good governance by identifying three levels of good governance: systemic, political, and administrative. The latter is closely associated with international

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<sup>11</sup> This distinction is borrowed from Benjamin Read (2007: 172), who uses it to distinguish between Chinese home-owner groups which are primarily committed to the private interest, and public interest-oriented NGOs.

<sup>12</sup> According to Weiss (2000: 803), the trend of linking the ‘rolling back’ of the state in order to promote good governance has since given way to attempts at improving and reforming democratic institutions and cultivating a more active and creative non-state realm.

development agencies (IDAs) such as the World Bank and the Asian Development Bank (ADB). Due to the fact that they have been mandated as apolitical organisations, these IDAs have focused on achieving good governance through improving countries' administration and management. In contrast, western governments acting as bilateral donors initially promoted good governance in more overtly systemic and political terms (Leftwich, 1994: 365-6), emphasising the perceived relationship between good governance and neo-liberal values such as democratisation, state downsizing, and free market economics (Minogue, 2002: 121). However, in employing the good governance concept, the line that separates the political from the apolitical can be blurred, making it difficult for IDAs such as the World Bank to separate economic considerations from political ones (Nanda, 2006).

Good governance has received further criticism for being too vague and overly idealistic. George Philip (2007: 228) suggested that, '[The World Bank] seems to be advocating not so much good governance as perfect governance'. According to such a view, good governance is difficult, if not impossible, to attain. The concept has also been criticised for failing to take into account different countries' unique historical and political backgrounds due to its 'one size fits all' tendency (Beeson, 2001; Philip, 2007).

Despite these criticisms, however, the good governance criteria of accountability, transparency, predictability, and participation (see below) can still be usefully employed in analysing environmental governance reform in China. Good governance is useful because it can be used as an analytical yardstick for evaluating governance reform. In addition, as well as having entered Chinese political discourse (Yu, 2006; Zhang, 2007), scholars have suggested that good governance (in an administrative and managerial sense) is being promoted by the Chinese central government (Zhang, 2006; Zheng, 2006; Zhang, 2007). In keeping with the way in which good governance is employed in a Chinese context, this thesis steers away from the more overtly political interpretations of good governance. Instead, it defines good governance in administrative and managerial terms.

Despite there being no objective criteria for measuring the concept (Nanda, 2006: 269), there is a variety of subjective criteria in use. The World Bank (1992) has highlighted four mutually reinforcing and supporting ‘pillars’ that it sees as essential to good governance, namely accountability, transparency, predictability, and participation.<sup>13</sup> Accountability is essentially premised on the ability of government officials to answer for their actions (Sibbel, 2005: 7). Public officials should also be responsive to the entity from which they derive their authority to rule (Asian Development Bank, 1995: 8). Transparency means that the rules and functions by which a government operates are clear (Sibbel, 2005: 7). In addition, information is readily accessible to members of the public through channels including a free media and legislation that compels public officials to release information if requested (Asian Development Bank, 1995: 11). Predictability is closely associated with the rule of law. It means that laws, regulations, and policies are in place to regulate society, and, crucially, are applied in a fair and consistent manner. Also of importance is that state actors are just as answerable to the law as non-state actors (Asian Development Bank, 1995: 10). Finally, participation is concerned with providing a role for the public in development, be it by individuals or through NGOs. It assumes the position that governance can be improved if the people who are affected by development are also given influence as agents of development (Ibid.: 9).

Proponents of good governance argue that it can facilitate the successful implementation of government policies. As the ADB (1995: v) argues, regardless of which policies are chosen by governments, good governance is required to guarantee that those policies result in their desired outcomes. At the same time, correct policies may not translate into effective action if good governance is absent (Ibid.: 4). Good governance has also been promoted as vital for ensuring sustainable development (OECD, 2005: 11). If successfully established, good governance can change the whole decision-making culture of a country in terms of how decisions are made and carried out (UNDP, 2002: 72).

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<sup>13</sup> This interpretation of good governance is also accepted by the Asian Development Bank.

## **Summary of the Arguments**

This thesis seeks to make a contribution in several ways. First, it seeks to document and analyse ways in which the Chinese Party-state is attempting to reform environmental governance. As noted above, although some studies have started to address these issues, there are several important gaps in our understandings of these reforms. This thesis addresses some of these gaps by introducing several in-depth case studies, which are based on a large quantity of previously unexamined empirical material. I argue that the Chinese Party-state has identified governance reform as a vital part of improving environmental protection. In the past few years it has continued to take steps to extend governance to non-state actors. It has done so by introducing policies and legislation designed to facilitate public participation and information disclosure. In addition, this thesis shows how the MEP has attempted to reach out to non-state actors, including the media, in order to raise its profile and promote environmental protection policies. In doing so, the MEP is turning to a new way of governing that is designed to overcome its relatively weak institutional position and supplement China's regulatory approach to environmental protection.

At the same time, not all governance reforms originate in the Party-state. This thesis finds that non-state actors also impact on governance processes. In this respect, it subscribes to the 'states in society' approach that stresses the mutually transformative nature of state-society relations (Migdal et al, 1994). I introduce the concept of 'policy pioneers' in order to show how civil society actors can contribute to the establishment of new governance norms. I show how civil society can help consolidate reforms emanating from the Party-state by 'pioneering' environmental governance policies. The 'policy pioneers' concept is not necessarily in conflict with existing conceptualisations of state-society relations in China's environmental protection sphere, the most notable of which is Peter Ho and Richard Edmond's (2007) notion of 'embedded activism'. However, whereas previous studies of state-society relations in China's environmental sphere focus on the power relationship between these two actors (Saich, 2000; Ho, 2001; Cooper, 2006; Ho & Edmonds, 2007), my employment of a governance perspective highlights important ways in which this relationship can be interactive and mutually beneficial. By showing how

environmental activists have been successful in terms of putting new policies designed to promote public participation and information disclosure into practice, I find that interactions between the environmental state and civil society are potentially important in terms of advancing environmental governance processes in China and promoting a Chinese version of 'good governance'.

This thesis makes a further important contribution to understandings of state-society relations by identifying and distinguishing between environmental public and private interest activists. As noted above, the vast majority of studies examining Chinese environmental civil society have focused on NGOs. In the process, these studies largely overlook what I define in this thesis as private interest activism. Furthermore, existing studies do not make a clear conceptual distinction between different forms of Chinese environmental activism. This thesis shows how public and private interest activists differ in terms of their tactics and the nature of their aims. Public interest activists view environmental governance reform as an important step along the road towards better environmental protection in China. This thesis shows how, in several cases, public interest activists have attempted to promote a new and more participatory governance approach that may provide these activists with greater means to influence environmental outcomes in the future. However, this may depend upon the institutionalisation of the reforms related to public participation and information disclosure that this thesis examines. As a result, promotion of these policies has become an end in itself for many public interest activists. On the other hand, private interest activists are arguably less concerned with promoting governance reform per se. Their primary concern is the favourable resolution of issues that affect their own private interests. And yet private interest activists can also help pioneer new governance policies. Officials may respond to relatively contentious private interest activism by discharging their public participation responsibilities in order to appease these activists. At the same time, I show how private interest activists have put pressure on officials to incorporate their concerns into decision-making processes. This is because these activists believe that they stand a greater chance of being successful if officials are compelled to open up channels for soliciting public opinion.



At the same time, I also find that civil society continues to face considerable obstacles despite some recent initiatives emanating from the environmental state. These obstacles, which arise mainly from China's authoritarian political system, limit the extent to which it has been able to improve governance processes. More widely, this thesis finds that, despite there being some positive aspects of Chinese environmental reform, there are significant obstacles to the adoption of the more diverse environmental governance approach some have claimed is occurring in advanced industrialised nations. As a result, I argue that the extent to which China's environmental protection system is converging with those of advanced industrialised nations is very limited.

### **Methodology**

The findings derived from this thesis are primarily based upon a wide range of original Chinese language documentary materials. I draw on a large quantity of Chinese media reports from state-owned and private sector publications. These include interviews with government officials, activists, and other relevant actors, opinion pieces, and factual accounts referring to some of the case studies that are examined in this thesis. In addition, I make use of media reports from non-Chinese sources. I also refer to a large quantity of relevant government documents, including State Council decisions on the environment, and MEP legislation, policies, news circulars, and speeches. Furthermore, this thesis refers to a wide range of documents from public and private interest activists. These include documents referring to NGO campaigns that have been placed in the public sphere by activists, as well as some material that was obtained through personal contacts. These materials include NGO public announcements, letters to government officials and polluting enterprises, transcripts of meetings and public hearings, and various opinion pieces published by environmental organisations. Where relevant, I make use of materials from Internet blogs.

Two field trips to China, from June-September 2006 and October-December 2007, were undertaken as part of the work for this thesis. During these trips, approximately 20 interviews and informal discussions were held between myself and academics from

Chinese universities and the Chinese Academy for Social Sciences, NGO activists, GONGOs, and journalists. The majority of interviews are not cited in the text of this thesis because they did not provide information that deviated from that available in documentary materials. There may be several reasons why this was the case. It may have been that the official version of events did not deviate from the experiences of the interviewees. Another possible reason is that, although many interviewees were very welcoming towards me, it is possible that they preferred to feed me the official version of events rather than providing information that might jeopardise their own positions. As a PhD student in China I was seen as a junior figure, and did not always get the level of access that I hoped for. For example, although obtaining interviews with Chinese NGOs was not difficult, in the majority of cases I was only given access to relatively junior members of staff, which may have affected the quality of information that I was able to procure. Furthermore, in the majority of cases, I had to 'cold call' potential interviewees rather than relying on personal connections and mutual trust that might have smoothed this process. This may also explain why I found it difficult to talk to senior figures in environmental NGOs, and it certainly accounts for why I was unable to interview any central government officials. During my fieldwork I did begin to cultivate personal relationships with various environmental activists. For example, for the past two years I have been helping one environmental NGO translate documents from Chinese to English. Although I did not reap much benefit from this during my two field trips, I intend to continue to cultivate relations with this NGO in order to conduct further research in the future.

I attended several events including NGO-organised journalists' salons where journalists were invited to listen to presentations from environmental experts and discuss the implications. In October 2007 I attended an NGO conference organised by the government-organised NGO China Association for NGO Cooperation, in order to ascertain the main issues facing the NGO sector. Where relevant, these interviews are cited in the dissertation, although due to ethical considerations the names of interviewees as well as any other information that might reveal their identities have been anonymised.

This dissertation examines several case studies in detail. It is necessary to explain the choice of cases. Most of the cases that I examine were relatively high profile. The green GDP, environmental storm, Yuanmingyuan public hearing, Nu River case, and the cases of private interest activism that I look at all attracted a significant amount of media coverage and debate. The other case studies were lower profile but nonetheless still quite widely reported in the domestic media. A key factor in the choice of cases was the availability (or otherwise) of a large quantity of documentary materials. Due to difficulties in gaining access to interviewees, documentary materials were a vital source of information for this thesis. As a result, it was necessary to select cases for which I could find sufficient documentary evidence. In addition, during my fieldtrips to China it was these cases that interviewees saw as being the most significant in terms of explaining the trajectory of environmental governance reform in China. For example, the green GDP and environmental storm initiatives received a huge amount of interest in the Chinese media, which in turn made it possible for me to find sufficient documentary evidence in order to conduct a detailed case study. The Yuanmingyuan case was seen as an important test case for public participation in China, and it remains the only national-level environmental public hearing to have been convened in the PRC. I chose to look at information disclosure partly because the activists with whom I spoke during my field trips viewed this as a potentially important policy. Activists also discussed with me the perceived importance of the Xiamen anti-PX demonstrations, which led me to also investigate other similar cases in Beijing, Chengdu, and Shanghai. During my discussions with people involved in environmental protection in China, the cases that I examine in this thesis were referred to repeatedly as representing significant developments in Chinese environmental governance. This is also supported by the high level of media interest that accompanied these cases.

### **Outline of the Dissertation**

This thesis is structured as follows. Chapter 2 traces the evolution of environmental protection efforts in the PRC. This chapter draws mainly on secondary material, as well as many primary materials including policy statements from the State Council and MEP, Chinese media reports, and official speeches, to set out changes in China's system of

environmental governance before 2009. In keeping with the emphasis of this thesis, it focuses on the environmental state and civil society. In examining the evolution of China's environmental governance system, it finds that recent trends towards a stronger environmental state that have been observed by other scholars are being consolidated. In addition, reforms identified in the literature designed to move away from a regulatory approach towards a more diverse 'governance' approach to environmental protection have accelerated in the past decade. However, it also suggests that merely strengthening the environmental state is not sufficient to ameliorate China's environmental problems. Chapter 2 also looks at the evolution of Chinese environmental civil society, arguing that it has become more active during the past five years.

Chapter 3 focuses on attempts by the central government to improve local officials' environmental performance and accountability. It uses original and detailed case studies of two recent MEP initiatives, namely green GDP and so-called 'environmental storms'.<sup>14</sup> The former represented an attempt to institutionalise a system of green accounting that could ultimately supplant traditional GDP as one of the main indicators of cadre performance. It was hoped that this would encourage local officials to develop in a more environmentally friendly and resource efficient manner. Although other studies have already looked at China's green GDP scheme, this chapter examines it in much greater detail, drawing on a wide body of empirical materials. It is also the first to consider why green GDP has largely failed to achieve its aims.

In the period from 2005-2007, the MEP launched three 'environmental storms', which refer to a series of high-profile crackdowns on large-scale construction projects that were in violation of environmental legislation. Although widely reported in the media, this chapter presents the first scholarly account of these crackdowns. Despite having arguably attained their goals, environmental storms are by their very nature one-off 'command and control' campaigns that do little to change long-term behaviour. They also show how top-

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<sup>14</sup> The term 'environmental storm' is adopted in this thesis reflecting its widespread use in the Chinese media and environmental protection circles. It should not be interpreted as a negative term, rather it is used to connote the sudden and aggressive sweeping away of bad environmental practice by the central authorities.

down campaigns are still a prominent feature of environmental governance in China. Both initiatives were made possible by heightened concern in the central leadership for environmental issues. In addition, they show how the MEP has been skilful in utilising the media in order to go beyond its institutional limitations. This chapter concludes that, although the two initiatives raised the profile of environment and resource issues in China, they also highlight the limitations inherent in top-down efforts designed to improve official accountability for environmental protection when economic growth remains the overriding priority.

The extent to which the Party-state has created room for formal public participation in environmental protection is addressed in Chapter 4. In recent years, the MEP has argued that public participation should be protected and promoted as a constitutional right of the Chinese people. To this end, legislation has been promulgated by the MEP and the State Council that makes provisions for public participation in environmental protection, most notably through public hearings under the EIA and Administrative Licensing processes. This chapter documents and analyses this emerging body of legislation, suggesting that it aims to create a more orderly system of public participation based on the rule of law. It then considers what this means in practice through examining in detail the case of China's first national level environmental public hearing that was held in 2005 at Yuanmingyuan (the Old Summer Palace) in Beijing. This is a well-known case of an MEP attempt to promote public participation through official channels. This chapter draws on a wide array of original documentary materials in order to examine and improve understandings of this case and its significance for environmental governance in China. It is the first study to examine the role played by civil society activists leading up to, during, and after the hearing. It argues that, although activists had close personal involvement with Yuanmingyuan and cared about the outcome, this was ultimately secondary to the goal of cooperating with the MEP in promoting and legitimising more participatory governance processes. Although public hearings of this type are still extremely rare in China, this chapter suggests that cases such as Yuanmingyuan are important as they raise the profile of new governance processes. However, at present formal publication does not represent an effective way for citizens to hold officials to account.

Chapter 4 also examines one aspect of the campaign against hydropower development in Yunnan. Public interest activists have pressed the central government to adhere to its own public participation legislation and convene a public hearing regarding the proposed hydropower development on the Nu River. And yet, these calls have not been adhered to, and it appears that the hydropower development on the Nu River will proceed without any formal public participation. This suggests that discharging public participation requirements as mandated by legislation is still done arbitrarily. Nevertheless, this chapter also suggests that officials have been influenced by civil society in relation to another hydropower development in Yunnan at Ahai. For the first time, officials presiding over a hydropower project opened up the process to allow public comments. In addition, NGO representatives were invited to take part in an experts' meeting regarding the project. This appears to have been partly related to NGO pressure for officials to carry out public participation obligations in the Nu River case, suggesting that, to a limited degree, public interest activists are able to contribute to the establishment of new governance norms. At the same time, this chapter finds that public interest activists are better placed to promote public participation reforms emanating from the government as opposed to actively forming links with the genuine 'grassroots'.

Information disclosure is viewed as a vital prerequisite to public participation. It is also closely linked to the transparency issue in good governance. Chapter 5 explores recent state policies designed to improve access to environmental information in order to pressurise companies and officials into improving their environmental performance. It is the first study of the MEP's 'Measures on Environmental Information Disclosure (Trial Version)' which came into effect on 1 May 2008, and which compel the release of environmental information under certain circumstances. Chapter 5 suggests that since the turn of the century the Chinese government has stepped up efforts to promote environmental information disclosure. Moreover, information disclosure is increasingly being used to pressurise polluters rather than being confined to 'state of the environment' reports.

This chapter examines how greater information disclosure affects environmental NGOs. It argues that the government's policy to promote greater transparency in environmental governance has legitimised the work of civil society organisations in this area. It presents the first scholarly case study of the first Chinese NGO involved in information disclosure, the Institute for Public and Environmental Affairs (IPE), which was founded in 2007. The IPE has been hailed in sections of the western media as a groundbreaking NGO. This chapter, however, notes that its existence was only made possible through state approval of increased information disclosure. This chapter then examines two NGO campaigns designed to use environmental information to pressurise, or encourage, polluting companies to operate in a more environmentally friendly manner. In relation to the 'Green Choice' campaign, it finds that multinational corporations (MNCs) have been held accountable by the Chinese media and NGOs to a far greater extent than domestic companies. Although NGOs have successfully pressurised several MNCs to pay more attention to environmental protection through this campaign, they have been unable to exert influence over the vast majority of polluting enterprises. This is mainly due to their use of non-contentious tactics, and highlights a limitation of public interest activism. The second campaign concerns an attempt by several NGOs to block the listing of Gold East Paper, which was set up by the paper manufacturer Asia Pulp and Paper Company Limited, and six subsidiary companies, on the Chinese stock exchange. Although this issue has yet to be resolved, this case shows the obstacles that exist with regards holding enterprises to account through official channels. This chapter concludes that, without more freedom for civil society, information disclosure is unlikely to lead to better civil society oversight. This in turn highlights some of the limitations inherent in a governance approach to environmental protection in authoritarian China.

Chapter 6 examines the extent to which private interest activists can promote 'good governance' in Chinese environmental governance. It considers four previously unstudied cases whereby groups of citizens organised to oppose development projects partially on environmental grounds. The first case to be examined occurred in Xiamen in 2007. Residents who opposed local government plans to construct a factory manufacturing large quantities of the chemical paraxylene (PX) organised via the Internet and mobile

phones and conducted a large, but peaceful, demonstration. The second case took place in Shanghai in 2007, when plans to extend the city's maglev train system to within 30 metres of some people's houses drew opposition resulting in a series of peaceful demonstrations. The third case centred on residents' opposition to the construction of a waste incineration plant in the Liulitun area of Beijing. Finally, this chapter examines public opposition in Chengdu regarding plans to construct an ethylene plant and an oil refinery nearby. In the first three cases, organised public pressure that demanded a more transparent and accountable decision-making process appears to have helped activists win concessions from officials. Not only were the three projects suspended, officials who had initially largely ignored formal public participation requirements incorporated greater public participation after coming under pressure from activists. Activists in Chengdu, however, appear to have been less successful. Rather than engaging with citizens, local officials were able to contain the unrest. Nevertheless, this chapter argues that private interest activists can be important actors in consolidating governance reforms that emanate from the central state in the defence of their private interests. They are also important in terms of promoting accountability, transparency, rule of law, and participation in environmental protection.

Finally, Chapter 7 sums up the findings of this thesis and offers some conclusions. It discusses the implications of these findings in terms of China's environmental state and civil society. It also examines the obstacles that hinder environmental governance reform in China. In addition, Chapter 7 looks at the relevance of the findings in terms of political reform in the PRC.



## **Chapter 2: Developments and Trends in China's Environmental State and Civil Society**

As noted in the previous chapter, serious environmental problems have accompanied China's rapid industrialisation and economic growth. In order to address these problems, in the early 1970s the Chinese government took its first steps towards establishing a comprehensive, nationwide environmental protection bureaucracy and legislative framework. The development and strengthening of China's 'environmental state', which incorporates state agencies and their policies (Mol & Carter, 2006), has continued throughout the reform period up until the present day. In addition, as environmental problems have intensified, the Chinese government has tolerated the emergence of environmental civil society, including NGO and citizen activism, and greater media coverage of environmental issues.

The purpose of this chapter is to provide a detailed overview of the evolution of China's environmental state, and civil society from the Maoist era up until the present day. This is necessary given this thesis's focus on these two elements of China's environmental governance system. In addition to drawing on a significant amount of secondary material, this chapter also refers to government policy documents and official communications, as well as media reports, in order to update the existing literature and reflect important developments that have occurred in the past couple of years.

This chapter is organised as follows. First, it analyses shortcomings in China's system of environmental protection, focusing on issues such as the weakness of the environmental protection bureaucracy in terms of ranking and resources, and the difficulties associated with enforcing environmental legislation when confronted by growth-oriented local officials. It then details chronologically the main legislative, institutional, and policy developments relating to environmental protection in China. This chapter finds that the trend towards strengthening China's environmental state, as identified by various scholars (Jahiel, 1998; World Bank, 2001; Economy, 2004; Mol & Carter, 2006), is

continuing as environmental and resource issues continue to rise up the political agenda. Despite this positive trend, this chapter notes that there are still fundamental weaknesses in China's environmental state that have yet to be successfully addressed. Although policies designed to strengthen the environmental state should be welcomed, it is unlikely that this alone will be sufficient in order to resolve China's environmental challenge.

The second part of this chapter then examines the emergence of environmental civil society in China. It shows how the role of civil society actors in environmental protection increased throughout the 1990s. A notable success came in 2003-2004 when NGOs played an important role in opposing a hydropower project on the Nu River in Yunnan province, leading to the temporary suspension of the project by Premier Wen Jiabao. In addition, this chapter discusses how media reporting of environmental issues has been encouraged by the state, and ordinary citizens are increasingly holding officials to account through the complaints process. This suggests that, under certain circumstances, civil society can play an important role in environmental governance. However, this chapter also notes that the Party-state exerts considerable influence over Chinese environmental civil society. Environmental organisations remain constrained by a difficult registration process, and environmental activism can still bring ordinary people into conflict with government officials. Furthermore, following the prominent role of NGOs in pro-democracy 'colour revolutions' in parts of the former Eastern Bloc, notably in Georgia (2003), the Ukraine (2004), and Kyrgyzstan (2005), the political environment for NGOs in China has become more restricted.

### **Environmental Protection in the PRC: Current Institutions and Challenges**

This section provides a brief overview of China's environmental protection institutions at the central and local level, as well as considering issues related to environmental legislation in China. It also considers major shortcomings in China's environmental state. Subsequent sections expand on some of these points.

### *Institutional Overview*

At the central level, the government body with overall responsibility for environmental protection is the Ministry of Environmental Protection (MEP).<sup>15</sup> Its main duties include drafting legislation, dealing with large-scale environmental accidents, nuclear safety, and international cooperation in the field of environmental protection. The MEP is also responsible for various aspects of pollution control, including the setting of pollution standards (State Council, 2008). The Environmental Protection and Natural Resources Conservation Committee (EPNRCC), under the National People's Congress (NPC), was created in 1993 and is responsible for providing regulatory proposals to the NPC Standing Committee (Ma & Ortolano, 2000: 14). Although the State Council is, in principle, the executive arm of government, it also provides draft laws to the NPC Standing Committee (Ibid.). In addition, numerous central government departments, including the National Development and Resources Commission (NDRC), State Economic and Trade Commission, the Ministry of Water Resources, and the State Forestry Administration, affect environmental issues.<sup>16</sup>

The MEP is replicated at the provincial, municipal, and county levels by environmental protection bureaus (EPB), which are responsible for ensuring that central level policy is implemented at local levels (Jahiel, 1998). More specifically, EPBs oversee those environmental impact assessments that do not require top-level guidance, monitor emissions from factories, assess and collect pollution fees, and, where necessary, take legal action against polluting firms (Economy, 2005: 103). At present, there are approximately 2,000 EPBs, employing about 60,000 personnel (Economy, 2005). As noted in the previous chapter (and expanded on below), EPBs come under the influence of local governments, which can have a negative impact on their work due to the prioritisation of economic growth by many local officials. Other government actors whose work relates to environmental issues at the local level include Local People's Congresses, which create environmental statutes and which also supervise EPBs;

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<sup>15</sup> Unless where necessary for clarification purposes, this chapter uses the term 'MEP' to refer to the central level environmental protection agency. For information on the various incarnations of China's central-level environmental protection agency, see subsequent sections in this chapter.

<sup>16</sup> For a comprehensive list of government departments involved in environmental protection, see Ferris Jr. & Zhang (2005: 73).

planning and economic commissions; industrial bureaus, which have a role to play in everyday pollution abatement; and mayors' offices (Ma & Ortolano, 2000: 55-76). In addition, civil society is playing an increasingly prominent role in environmental protection.

### *Environmental Legislation*

As noted in the previous chapter, China has promulgated 20 environmental statutes, over 40 State Council regulations, 500 standards, and over 600 other documents that create legal norms concerning various environmental issues (Ferris Jr. & Zhang, 2005: 75-6). It is also estimated that over 1000 pieces of local environmental legislation have also been passed (Ibid.: 80). This body of environmental legislation has been described as 'one of the region's most dynamic environmental law frameworks' (Ibid.: 75). However, China's environmental legislation has also been widely criticised (Alford & Shen, 1997; Palmer, 1998; Beyer, 2006; Van Rooij, 2006b). Environmental legislation is often vague and ambiguous to the extent that it frequently bears more resemblance to policy statements than laws (Alford & Shen, 1997: 134-5). It also suffers from a significant degree of overlap and contradiction (Beyer, 2006).

These shortcomings are largely due to the extensive bargaining process between government departments that characterises the drafting of Chinese environmental legislation. When government departments with varying mandates bargain over the content of environmental legislation, laws and regulations are frequently 'watered down' (Economy, 2004: 103).<sup>17</sup> Although Benjamin Van Rooij (2006b: 96-9) has argued that environmental legislation has become stricter and clearer since the 1996 'State Council Decision Regarding Certain Environmental Protection Problems', he also notes that it still suffers from being weak and vague.

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<sup>17</sup> According to Benjamin Van Rooij (2006b: 71), ambitious clauses relating to information disclosure, public participation, and EPB reform were dropped from the final draft of the 1996 Water Pollution Prevention Law due to extensive bargaining. And, as Chapter 4 of this thesis notes, the watering down of environmental legislation is still an issue.

Furthermore, environmental legislation has been accused of sometimes being out of step with local realities. This in turn hinders enforcement. Van Rooij (2006b: 365-6) argues, in relation to Lake Dianchi in Yunnan, that,

Lawmaking and enforcement failed to find a balance between the goals of the law and law enforcement on the one hand, and the dominant local interests and circumstances of the cases of behaviour such laws and enforcement were aiming to change, which were largely constituted by the local economic context, on the other.

One problem in this regard is that there is only very limited scope for public input into the legislation drafting process, despite attempts in the past few years to incorporate public views into environmental legislation. Since the turn of the century, it has become increasingly common for government bodies to solicit public comments on draft legislation. In the environmental field, citizens and NGOs have submitted comments on recent pieces of legislation (see Chapter 4). A wide-ranging national survey inviting public comments on the environmental protection aspects of the 11<sup>th</sup> Five-Year Plan (FYP) is also evidence of increasing scope for public involvement in environmental policy making (Shi & Zhang, 2006: 288-9). However, in reality public input remains limited.

In the past few years there have been moves to address the various weaknesses in environmental legislation. For example, between 2004 and 2007, 35 proposals and suggestions regarding the possible revision of the 1989 Environmental Protection Law (EPL) were submitted to the National People's Congress and National Party Congress (*Zhongguo Jingji Shibao (China Economic Times)*, 27 February 2007). MEP Vice-Minister Pan Yue has stated that the EPL needs to be amended in order to better hold local officials to account in relation to environmental issues (Ibid.). And, in 2006, the MEP announced that it intends to formulate a national environmental policy law in order to overcome the problem of contradictory environmental legislation (*Fazhi Ribao (Legal Daily)*, 10 January 2006).

*China's Environmental Protection Implementation Deficit*

As noted in Chapter 1, despite China's comprehensive body of environmental legislation and nationwide environmental protection bureaucracy, it has been widely acknowledged that China suffers from an 'implementation deficit', which occurs 'when legislative and policy intent is not translated into practice' (Weale, 1992: 17).<sup>18</sup> Although it has been suggested that this implementation deficit might have narrowed in recent years, this has not been sufficient to stimulate environmental improvements (Lo et al, 2006).

China's problems in terms of enforcing environmental legislation can be explained by several factors. First, and arguably most important, is the overwhelming emphasis on economic growth that has characterised the reform period (Edmonds, 1998; Economy, 2007). As Eduard Vermeer (1998: 955) has argued, 'the dominant political group stresses economic growth over environmental quality, even if the official policy is that "economic growth and environmental protection should go hand in hand, and the one should not go at the expense of the other"'. Maintaining high levels of economic growth has become a key source of CCP legitimacy in place of the communist ideology that characterised the Maoist period.

The prioritisation of economic growth is reflected in the weak position of environmental protection departments in the bureaucracy, despite the strengthening of the environmental state during the reform period. Although SEPA was promoted to full ministerial status in 2008 when it became the MEP, the central level environmental protection bureaucracy does not have direct control over its local level incarnations, namely EPBs. As well as answering to the MEP in a vertical hierarchy, EPBs also come under the influence of the local government at the corresponding jurisdictional level. This means that, for example, the Shandong provincial EPB is overseen by the MEP *and* the Shandong provincial government simultaneously. However, in reality local governments hold far more influence over EPBs than the MEP. EPBs are beholden to local governments for promotions and resources (Jahiel, 1998). Due to the incentives created by decentralisation and the economic growth imperative (see Chapter 3 for more details), local officials

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<sup>18</sup> For information on China's implementation deficit see, for example, OECD (2007).

frequently prioritise economic growth above environmental issues (Lieberthal, 1997). This impacts on the ability of EPBs to carry out their enforcement obligations.

Because of their weak institutional position, there is a gap between what EPBs are officially authorised to do and what they can achieve in practice when enterprises violate environmental regulations (Ma & Ortolano, 2000: 116). In reality, EPBs take a pragmatic approach to enforcement (Ibid.: 165). Negotiation plays a key role in fee-collection. This can result in the reduction or even waiving of fines for loss-making companies (Ibid.: 119). Furthermore, courts only play a very limited role in environmental enforcement (Jahiel, 1998). Another important point is that mayoral offices exert considerable influence over EPBs. According to Xiaoying Ma and Leonard Ortolano (2000: 82), ‘an EPB director that attempts to challenge a mayor that violates the law runs the risk of being fired for violating unwritten rules about the ability of top officials to violate environmental laws with impunity’. It should be noted, however, that mayoral influence is not necessarily detrimental to the environment as some mayors do promote environmental protection in their jurisdictions (Rock, 2002a).

As well as facing political obstacles, China’s environmental protection authorities are also hampered by a lack of resources. Although the promotion of SEPA to become the MEP increased staff numbers at the central level from 200 to 311 (State Council, 2008), this still compares poorly to the United States Environmental Protection Agency, which employs approximately 6,000 staff at the federal level in a country of similar size to the PRC (Lam, 2006). There has, however, been an increase in spending on environmental protection in the past few years. According to Mol and Carter (2006: 154) there has been an ‘astonishing’ increase in the amount of money invested by the government in environmental protection, from 0.6 per cent of GDP in 1989 to 1.4 per cent of GDP in 2004. However, according to a 2007 report from the China Academy of Environmental Planning, these figures have been exaggerated by over 50 per cent, putting the current

amount of money invested in environmental protection at 0.6 per cent of GDP (*South China Morning Post*, 16 February 2007).<sup>19</sup>

At the local level, EPBs also lack resources. It has been suggested that almost half of the country's industrial economic activities take place outside the monitoring of EPBs (Shi & Zhang, 2006: 277). There is an acute lack of funding, especially in poorer provinces (Economy, 2005: 111). This in turn partially manifests itself in EPB staff numbers. For example, in 1999 the Shanghai EPB's staff of 100 inspectors was responsible for inspecting a jurisdiction that included 20,000 factories (Ibid.: 107). In 2006, an MEP official was quoted as stating that environmental protection law enforcement staff needed to be increased from their current level of 50,000 to 100,000 or even 150,000 (*China Daily*, 16 October 2006).

### **China's Environmental State Under the Planned Economy**

When Mao Zedong and the Chinese Communist Party (CCP) established the People's Republic of China (PRC) in 1949, they embarked on a policy of heavy industrialisation in order to modernise China based on the Soviet model. As a result, China started a transformation from a predominantly agrarian society towards becoming an industrial and manufacturing force by the end of the century. Under Mao, major cities such as Beijing were turned into 'producer cities', and planning processes largely ignored environmental concerns (Murray & Cook, 2002: 39).<sup>20</sup> The proportion of national output accounted for by industry rose from 28 per cent in the early 1950s to 55 per cent by the end of the 1970s (Ibid.: 40). Inversely, the share of agriculture in China's national output fell from 55 per cent to under 30 per cent in the same period (Ibid.).

The policy of rapid heavy industrialisation had a negative environmental impact, which was further exacerbated by Maoist policies that brought about widespread natural

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<sup>19</sup> According to the *South China Morning Post* (10 January, 2007), some provinces class items such as the construction of petrol stations as investments in environmental protection.

<sup>20</sup> Beijing alone was home to 200 steel mills during the Maoist era, including the giant 'Capital Steel' (*Shougang*) plant (Murray & Cook, 2002).



destruction. Judith Shapiro (2001) has documented this period extensively.<sup>21</sup> She notes how nature was frequently portrayed by the central government as something that could and should be tamed by humans in the quest for industrialisation and development. This sentiment was embodied in slogans of the time such as ‘people must conquer nature’ (*ren ding sheng tian*). A variety of campaigns were designed to achieve just that, including the reclamation of land from lakes and rivers for agricultural purposes. One campaign in particular, the Great Leap Forward, which was designed to propel China to industrial parity with the UK within 15 years, had a devastating impact on the environment as trees were chopped down to provide fuel for the numerous backyard furnaces.

Another environmentally damaging legacy to emerge from the pre-reform People’s Republic was the commitment to population growth. Maoist thinking dictated that a large population equalled a strong country, and those who challenged this view such as scholar Ma Yinchu were suppressed (Shapiro, 2001).<sup>22</sup> Rapid population growth led to increased deforestation, erosion, and the use of fragile land for agricultural purposes in order to increase the country’s food supply (Banister, 1998). Population growth is no longer a major contributor to environmental degradation due to the present low growth rate. However, it has been suggested that the need to create employment for China’s huge population could impact negatively on the environment, as social stability is likely to trump environmental concerns (Ibid.).

Some laws did emerge that included clauses designed to address certain environmental problems during the early Maoist period, such as the ‘Provisional Outline for Water and Soil Conservation of 1957’ (Harashima & Morita, 2001: 4), and the ‘State Council Directive on Strengthening the Work of Purchases and Utilisation of Waste Products’, which introduced the concept of managing and recycling the ‘three wastes’ (*san fei*), namely gaseous emissions, water discharges, and industrial residue (Palmer, 1998: 789). In addition, it has been suggested that communes were beneficial for the environment

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<sup>21</sup> This paragraph is based on Shapiro (2001).

<sup>22</sup> Ma Yinchu was dismissed from public life after he advocated controlling population growth, but was rehabilitated in 1979. He inspired a popular saying in the late 1970s and early 1980s, namely ‘we lost one Ma Yinchu but we gained an extra 300 million people’ (*China Daily*, 6 January 2005).

through, for example, irrigation and water conservancy projects (Murray & Cook, 2002: 46). However, the overall picture that emerges of this period is one of almost total disregard for the environment by the authorities. It was not until the early 1970s, after the worst excesses of the Cultural Revolution, that environmental issues started to emerge on the government's agenda.

Following the environmental neglect of the previous years, environmental management in China gradually improved in the 1970s (Edmonds, 1999: 641). According to Elizabeth Economy (2004a: 93), the beginning of state-led environmental protection in the PRC was prompted in part by ecological disasters in Dalian and Beijing that highlighted the link between environmental degradation and public health. In 1972, the coastal city of Dalian suffered a serious pollution incident that caused the beach to turn black and led to the loss of millions of kilograms of fish. At around about the same time, fish from the Guanting Reservoir that had been contaminated by polluted water appeared in Beijing markets (Ibid).

Perhaps significantly, these incidents roughly coincided with China's increasing engagement with the outside world following the isolationism that characterised the early years of the PRC.<sup>23</sup> China's reengagement with the international community enabled Premier Zhou Enlai to sanction the participation of a Chinese delegation to the 1972 United Nations Conference on the Human Environment (UNCHE) in Stockholm. This has been widely seen as an important turning point in environmental protection in the PRC (Economy, 2004a: 93). Yet at the time, the majority of Chinese officials did not share the concern that Zhou Enlai showed in relation to environmental issues. Qu Geping, who headed China's environmental protection bureaucracy throughout the 1980s, later claimed that, without Zhou's efforts, the start of environmental protection in the PRC could have been delayed by another 10 years (Lili Wang, 2005: 202-3).

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<sup>23</sup> After the Sino-Soviet split that started in the late 1950s, the PRC had been relatively isolated internationally. In the early 1970s, however, the PRC resumed relations with the US and President Nixon made an official trip to Beijing in February 1972. In addition, the PRC was recognised by the UN in 1971 as the sole legitimate government of China.

In August 1973, one year after the UNCHE, another significant step was taken when China convened the First National Conference on Environmental Protection (NCEP) in Beijing.<sup>24</sup> This has been seen as the point at which China's environmental protection effort was officially launched (Yang, 2007). The First NCEP set the overall direction for environmental protection in China. It also introduced the concept of environmental impact assessment (EIA) (Wang et al, 2003). One year previously, China's first environmental management tool, the so-called 'three synchronisations policy'<sup>25</sup> (*san tongshi zhengce*), had been introduced (Beijing Municipal Environmental Protection Bureau, 1994). According to this policy, enterprises carrying out construction projects must design, install, and operate pollution control facilities at the same time that the construction project is designed, constructed, and goes into operation.

Following on closely from these developments, the first stage in the formation of China's environmental protection bureaucracy was achieved in 1974 with the establishment of the Environmental Protection Office (EPO). The EPO came under the direct jurisdiction of the State Council, and was granted a staff of 20 people (World Bank, 2001: 101). Its purpose was to develop procedures and guidelines concerning environmental protection that would then be implemented by local level EPOs that had been established at the provincial, county and city levels (Wang et al, 2003: 545). In addition, the central level EPO was charged with drafting China's first environmental protection law (Ibid.: 545-6).

### **China's Environmental State in the Reform Period**

Since 1978, China's environmental challenge has become more complex and severe. As discussed in the previous chapter, China's economic reforms have contributed to worsening industrial pollution. In addition, rising living standards have led to a surge in demand for consumer durables, which has placed additional strain on China's ecological system. As Vaclav Smil (2004: 143) put it, since the start of the reform era 'new destructive forces of blind consumerism have filled the void left by the old destructive forces of the retreating rigid ideology'.

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<sup>24</sup> Subsequent NCEPs have been held in 1983, 1989, 1996, 2002, and 2006. According to Vermeer (1998: 962), these conferences mark new long-term policies and influence subsequent government measures.

<sup>25</sup> Sometimes referred to as the 'three simultaneous'.

The onset of the reform period saw a significant change in China's industrial structure. State-owned enterprises (SOEs) dominated industrial production in the centrally planned economy before the reforms. However, in the 1980s town and village enterprises (TVEs) proliferated. Due in part to their poor environmental management capacity, their inefficiencies partly associated with their small size, and the difficulties faced by EPBs in terms of monitoring them due to their being widely dispersed across rural areas, TVEs contributed to growing pollution.<sup>26</sup>

Another important change that affected environmental protection was decentralisation (Mol & Carter, 2006). As others have noted, this has led to a greater variation in environmental quality between different localities (Ibid.; Beach, 2001). For example, evidence suggests that richer eastern seaboard provinces have invested many more resources in environmental protection than those in poorer inland regions (Economy, 2004a). It has also been claimed that decentralisation has been problematic for the environment due to a relative lack of independent oversight with regards local officials (Beach, 2001; Beyer, 2006). In addition, decentralisation has made economic growth at the local level even more important, as local governments are now compelled to fund a greater number of public goods from their own revenue sources (Whiting, 2001).

#### *1978-1987: The Environmental State in the Early Reform Period*

The construction of China's environmental state accelerated with the onset of the economic reforms. This was triggered by worsening environmental problems, as well as Deng Xiaoping's realisation of the importance of resource efficiency (Jahiel, 1997). In 1978 the Constitution was amended to include the principle of state responsibility for environmental protection,<sup>27</sup> and China's Constitution still provides the underlying basis for the country's environmental laws and regulations (Ma & Ortolano, 2000).

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<sup>26</sup> According to the World Bank (2001: 2), between 1990 and 1995 combined TVE emissions grew by 120 per cent. In the same period, SOE emissions fell by 99 per cent.

<sup>27</sup> Article 11 of the 1978 Constitution states that, 'the state protects the environment and natural resources, and prevents and eliminates pollution and other hazards to the public' (as cited by Palmer, 1998: 791).

An important milestone in the creation of China's environmental state was the promulgation of the Environmental Protection Law of the People's Republic of China (For Trial Implementation) in 1979 (hereinafter referred to as the 1979 EPL).<sup>28</sup> It emerged out of a debate between those who argued that China should 'pollute first and clean up later', and those who saw the need for steps to be taken in order to safeguard the environment (Edmonds, 1999: 641). This perhaps explains its somewhat tentative 'trial' status. The 1979 EPL focused on pollution prevention and introduced the concept that polluters should take responsibility and pay for their pollution (Ferris Jr. & Zhang, 2005). It also provided a formal legal foundation for the three synchronisations policy, EIA process, and the pollution discharge fee system. In addition, it established national and local level EPBs (Ma & Ortolano, 2000: 16).

Following the enactment of the 1979 EPL, a series of sector-specific environmental laws were promulgated during the 1980s, covering every major environmental sector (Mol & Carter, 2006: 152). These included the Water Pollution Prevention and Control Law (1984), the Law on the Prevention and Control of Atmospheric Pollution (1987), the Marine Environmental Protection Pollution Law (1982), the Grassland Law (1985) and the Forestry Law (1986) (Palmer, 1998: 799). Another important development during this period was the raising of environmental protection to the status of 'basic state policy' (*jiben guoce*) at the Second NCEP convened in December 1983. This conference also reaffirmed the policies of 'prevention first', 'polluter pays', and the need to 'strengthen environmental protection management'.

Also during this period, important institutional developments in environmental protection were enacted. The establishment of China's environmental protection bureaucracy accelerated, although not all developments were viewed positively. For example, in administrative reforms carried out in 1982 the EPO's staff was increased to 60 people, and it was promoted to bureau status (Jahiel, 1998, 768). However, in the same year the

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<sup>28</sup> The 1979 EPL was one of seven codes promulgated by the National People's Congress and its Standing Committee following the breakdown in the legal system during the Cultural Revolution. The promulgation of an environmental protection law at this stage shows the seriousness with which environmental issues were viewed (Beyer, 2006: 192).

EPO ceased to report directly the State Council. Rather, it became a department in the newly established Ministry of Urban and Rural Construction and Environmental Protection (MURCEP). By virtue of losing its independent status, the EPO emerged from this round of administrative reforms weaker than before (Ibid.). In addition, this administrative reshuffling negatively impacted on local level Environmental Protection Bureaus (EPBs). Some areas that had established independent environmental protection bureaus now placed them under the jurisdiction of local level MURCEP bureaus and cut back their staff allocations (Ibid.).

At the Second NCEP, various environmental officials and scholars expressed their concern about the 1982 administrative reforms. As a result, in 1984 the environmental protection department under MURCEP was promoted and renamed the National Environmental Protection Bureau (NEPB) (Jahiel, 1998). At the same time, its personnel allocation was doubled to 120 people. Another positive development in the strengthening of China's environmental state was the establishment in 1984 of the State Environmental Protection Commission (SEPC). The function of the SEPC was to coordinate environmental protection across ministries and to set broad guidelines on environmental policy in view of other national priorities, including economic growth (Wang & Liu, 1998: 376). The position of many EPBs also improved following the 1984 central level reforms, although the negative impact of the 1982 reorganisation was felt by many county level EPBs well into the 1990s (Jahiel, 1998: 768).

*1988-1995: New Policies are Introduced and China Officially Subscribes to 'Sustainable Development'*

In the period between 1988 and 1995, the Chinese government introduced new environmental protection mechanisms, and continued to strengthen the legislative framework for environmental protection. In 1989, the Environmental Protection Law of the People's Republic of China (hereinafter referred to as the 1989 EPL) was promulgated. It built on the 1979 EPL and, significantly, was no longer for trial implementation. Under the 1989 EPL, the 'three old systems' denoting the three synchronisations, EIA, and pollution discharge fee, were improved. In addition, the so-

called ‘five new systems’, which comprised a discharge permit system, an environmental responsibility system, annual assessment of the urban environment, limited time treatment, and centralised pollution control, were introduced.<sup>29</sup> Taken together, these eight policy instruments form the backbone of China’s predominantly top-down system of direct regulation that emerged during the first decade of the reform era.

As well as providing a solid legislative base for China’s environmental protection framework, the 1989 EPL gave local governments explicit environmental protection responsibilities for the first time (Ma & Ortolano, 2000: 16). Before this, many officials believed that responsibility for environmental issues was the sole domain of the environmental protection bureaucracy (Ibid.). This move reflected decentralisation dynamics that had started in the early 1980s. As a result of decentralisation, local officials were given greater responsibility for the provision of services and public goods, including environmental protection (Beach, 2001).

In the early 1990s, there was an important shift in the government’s development strategy. Up until 1992, the Chinese government officially pursued a policy of ‘co-ordinated development’ (*xietiao fazhan*).<sup>30</sup> Under this policy, economic development was officially prioritised over environmental protection, and no emphasis was placed on the environmental rights of future generations (Palmer, 1998: 791-2). However, this changed in 1992 when China participated in the Rio Earth Summit. Following the summit, China officially adopted the policy of sustainable development, largely supplanting the previous policy of co-ordinated development (Ibid.: 792).

As others have already noted, China started to diversify its approach to environmental protection during this period (Mol & Carter, 2006). The 1989 EPL included provisions for environmental information disclosure (see Chapter 5). Policies such as the Urban Environmental Quantitative Evaluation System (UEQES) represented a move away from a purely regulatory approach to environmental management (see Chapter 3). In addition,

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<sup>29</sup> For a detailed description of these, as well as the ‘three old systems’, see Beijing Municipal Environmental Protection Bureau (1994) and Ma & Ortolano (2000).

<sup>30</sup> Official commitment to co-ordinated development was re-affirmed at the third NCEP in May 1989.

as noted below, permission was granted to establish China's first 'grassroots' NGOs from 1994, and other non-state actors began to influence environmental protection.

Another important policy change emerged in the early 1990s, when the emphasis on pollution control started to shift away from 'end-of-pipe' solutions to a more comprehensive approach. During a speech given in 1993, head of NEPA Xie Zhenhua outlined a three-point strategy to this end. First, it involved introducing concentration and mass-based systems for pollutant discharge, where previously a purely concentration-based approach had been employed. Second, Xie advocated a more centralised approach to waste treatment in order to try and move away from individual enterprises treating their own waste. And finally, Xie stated that China should move towards cleaner production and pollution prevention (Ma & Ortolano, 2000: 28). Cleaner production was introduced in China in 1993 (World Bank, 2001: 105), whereas the other two points of Xie's strategy were incorporated in the 1996 Water Pollution Prevention and Control Act (Ma & Ortolano, 2000: 28).

A further reflection of the increasing official concern for environmental issues came in 1988, when the NEPB was given the rank of agency to become the National Environmental Protection Agency (NEPA). Significantly, it also achieved independence from MURCEP and once again reported directly to the State Council. In addition, staff numbers rose to 321 people (Jahiel, 1998: 769). In 1993, the EPNRCC of the National People's Congress was established. It was responsible for revising and drafting new environmental laws and ensuring their swift promulgation (Ibid.: 770). According to Abigail Jahiel (Ibid.), this development significantly strengthened the position of EPB officials, as well as lightening their workload. However, in a bid to streamline government at the county level, the 1993-4 administrative reforms placed a limit on the number of first-tier administrative units that could exist at each local government level. As a result, many county level EPBs were downgraded to second-tier status, representing a setback for China's environmental protection bureaucracy at this level (Ibid.).



*1996-2000: Greater Leadership Concern for Environmental Issues*

By the mid-1990s, signs were emerging that greater official emphasis was being placed on environmental protection. In July of that year, President Jiang Zemin and Premier Li Peng attended the Fourth NCEP. This was the first time that the country's two most senior officials had attended one of these conferences (Jahiel, 1998: 773). Following this conference the 'State Council Decision Regarding Certain Environmental Protection Problems' (hereinafter the 1996 Decision) was released. It paved the way for stricter legislation and enforcement (Van Rooij, 2006b: 87). The 1996 Decision stated that jurisdictions should move to 'basically control' the worsening pollution situation. Significantly, the 1996 Decision also called for greater media reporting of environmental issues in order to 'expose' and 'criticise' pollution and environmental degradation (see Chapter 5 for more details) (State Council, 1996). This was another important step towards diversifying China's environmental governance approach.

The 1996 Decision also stated that the environmental management of TVEs should be improved (Ibid.). The proportion of industrial output accounted for by TVEs, which frequently employ outdated and inefficient production methods grew significantly in the first two decades of the reform period. Many TVEs are located in relatively remote or inaccessible rural areas. As a result, they are not only often highly polluting but also difficult to regulate,<sup>31</sup> especially considering that China's environmental protection framework was designed principally with the regulation of SOEs in mind (Shi & Zhang, 2006: 277). After the 1996 Decision was released, the so-called '15 smalls' (*shiwu xiao*) campaign was initiated. During this campaign, approximately 65,000 small, heavily polluting TVEs in 15 industrial sub-sectors were closed down (World Bank, 2001: 2).<sup>32</sup> Although the 15 smalls campaign was in part considered a success, it was also socially disruptive and not a viable long-term solution (World Bank, 2001: 2, 5).

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<sup>31</sup> TVEs are currently responsible for about one third of China's sulphur dioxide emissions and more than half of all soot and dust emissions (Ho & Vermeer, 2006: 257).

<sup>32</sup> According to the World Bank (2001: 2), 20-30 per cent of these TVEs subsequently resumed operations, either illegally or having rectified their environmental management procedures.

The 9<sup>th</sup> Five-Year Plan (FYP) for the 1996-2001 period also signified increased central government concern for the environmental impact of China's rapid economic growth.<sup>33</sup> It was China's first FYP to include explicit environmental performance objectives that could be monitored. In addition, it introduced China's first pollution investment programme (World Bank, 2002: 40). Also of significance was the 9<sup>th</sup> FYP's inclusion of the '33211' campaign, which aimed to target priority areas, namely three lakes (Tai, Chao, and Dianchi), three rivers (Huai, Hai, and Liao, two control zones (two regions with severe sulphur dioxide emissions and high levels of acid rain), one sea (Bohai), and one municipality (Beijing) (World Bank, 2001). These areas had suffered severe pollution. However, as Elizabeth Economy (2004a) found in relation to the campaign to clean up the Huai River, these initiatives have not always been successful.

In 1998, amid another round of administrative reform, NEPA was promoted to ministerial status and was renamed the State Environmental Protection Administration (SEPA). Despite this promotion, SEPA was only made a second-tier, non-cabinet level ministry with inferior ranking to powerful economic development-oriented ministries (Ma & Ortolano, 2000: 80; OECD, 2007). This was problematic because, at the same time, the SEPC was disbanded. SEPA assumed the responsibility of co-ordinating environmental protection across central government departments, yet struggled to fulfil this role due to its relative lack of bureaucratic clout (OECD, 2007). According to the OECD's Deputy-Secretary General Kiyotaka Akasaka, 'environmental protection involves many ministries, unless SEPA has an equivalent rank, it can't discuss with the other ministries' (*China Daily*, 11 November 2006). In addition, SEPA's promotion did not immunise it from the staff cuts arising from bureaucratic downsizing that were carried out across the central government. As a result, its workforce was reduced from 321 to about 200.<sup>34</sup> Nevertheless, SEPA emerged from the administrative reforms as the government body with overall responsibility for the environment (Jahiel, 1998).

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<sup>33</sup> For a detailed discussion of the 9<sup>th</sup> FYP's environmental goals, see Vermeer (1998).

<sup>34</sup> However, as Jahiel (1998) notes, although NEPA was given a staff allocation of 321 people in 1988, it only employed around 200 staff.

In an attempt to overcome the problem of lax enforcement of environmental legislation, in the late 1990s a requirement was introduced whereby all EPB head appointments had to be endorsed by the next level up in the environmental protection bureaucracy (World Bank, 2001: 99). This was the second attempt to resolve the horizontal/vertical issue after the introduction of the environmental responsibility system (Ibid.: 122). However, as already noted in this thesis, compliance with environmental standards remains a significant problem in China.

*2001 onwards: Moving Towards a New Environmental Protection Paradigm?*

Since coming to power in 2002, the PRC's fourth generation of leaders, headed by Hu Jintao and Wen Jiabao, have declared their intention to steer the course of the country's development away from the blind pursuit of increased GDP that was seen by some to be the case under Deng and Jiang and onto a more balanced development path that pays more attention to issues such as growing inequalities and environmental degradation. As Chapter 3 argues, this represents a 'paradigm shift' in how the central leadership views China's development. This approach, which can be seen as representative of an emerging body of 'Hu Jintao thought' (Fewsmith, 2004), is articulated through concepts such as 'harmonious society' (*hexie shehui*) and 'the scientific development concept' (*kexue fazhan guan*).<sup>35</sup>

The significance of this paradigm shift for environmental protection was outlined in the 2005 'State Council Decision Regarding Implementing the Scientific Development Concept and Strengthening Environmental Protection' (hereinafter the 2005 Decision) (State Council, 2005). It acknowledged that China's environmental situation is still 'extremely serious', and called on environmental protection to be placed in a more strategic position in the country's development. It also called for a fundamental transformation in China's economic growth model.

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<sup>35</sup> This new development path is examined in detail in the next chapter.

China's Sixth NPEC was convened in 2006.<sup>36</sup> It echoed the call in the 2005 Decision to place environmental protection in a more strategic position. At the conference, Wen Jiabao enunciated the so-called 'three transformations' (*san ge zhuanbian*) strategy. These were as follows:

1. Change from prioritising economic growth whilst neglecting environmental protection to giving equal attention to economic growth and environmental protection. Develop whilst protecting the environment.
2. Transform the situation whereby environmental protection lags behind economic development to one where the two are promoted at the same pace. Don't create new environmental debts, and repay old environmental debts. Change the situation of polluting first, cleaning up later, and treating pollution whilst degrading the environment.
3. Transform from relying primarily on administrative methods to protect the environment to the synthesised use of legal, economic, technological, and necessary administrative measures in order to resolve the environmental problem. Conscientiously follow economic laws and natural laws, increase the level of environmental protection work.

As MEP official Tian Weiyong explained in an interview, the third element of this transition includes the creation of policies conducive to information disclosure, democratisation of the decision-making process, encouragement of public interest litigation, and the strengthening of relations with environmental NGOs (China Government Online, 2007). Some of these issues are discussed in detail in subsequent chapters.

Following the Sixth NPEC, in an attempt to improve enforcement of environmental legislation, in July 2006 the MEP established 11 Law Enforcement Supervision Departments that would report directly to the MEP and be independent of local governments (SEPA, 2006a). Of these, five are 'environmental protection supervision

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<sup>36</sup> Information in this paragraph is based on a *Renmin Ribao* editorial (*Renmin Ribao*, 19 April 2006).

centres', situated in Nanjing, Guangzhou, Xi'an, Chengdu, and Shenyang.<sup>37</sup> These five centres' duties include monitoring local environmental law and policy enforcement, investigating and dealing with 'major incidents', and mediating over cross-jurisdictional disagreements. The other six are labelled 'nuclear and radiation safety supervision stations' (Ibid.). Originally, 15 vice-directors were appointed to these 11 departments, but in October 2006 the MEP announced that this number would double (*South China Morning Post*, 23 June 2006).

In 2008, SEPA was upgraded to full ministerial status and renamed the Ministry of Environmental Protection (MEP). Following this promotion, the MEP's official staff allocation increased to 311 (State Council, 2008). Some responsibilities, such as approving and issuing water pollution permits, were devolved to EPBs (Ibid.). The creation of the MEP had been repeatedly advocated by Chinese scholars, environmentalists, and international organisations such as the World Bank (2001) and OECD (2007), and was broadly welcomed by observers due to the increased influence of the environmental protection agency. One environmental protection official said that, 'SEPA was subordinate to the State Council, but the MEP is a department of the State Council and can play a bigger part in the country's synthesised decision making. In addition, incorporating the environmental problem into the State Council's overall decision making process is more convenient, and adds weight [to environmental issues]' (*Xin Jing Bao (The Beijing News)*, 12 March 2008). The MEP has the authority to independently draft and implement environmental protection plans, policies and standards (*Xin Jing Bao*, 13 March 2008). SEPA also did this, but powerful economic ministries such as the NDRC had to agree to them before they could be implemented (Ibid.). However, the promotion of SEPA to full ministerial status will not solve China's environmental problems in an instant. Qu Geping, who headed the EPO, NEPB and NEPA from 1982 to 1993, argued that only a fundamental change in the country's

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<sup>37</sup> The Nanjing station was responsible for supervising Shanghai, Jiangsu, Zhejiang, Anhui, Fujian, Jiangxi, Shandong; the Guangzhou station was responsible for supervising Hu'nan, Guangdong, Guangxi, Hainan; the Xi'an station had responsibility for supervising Shaanxi, Gansu, Qinghai, Ningxia, Xinjiang; the Chengdu station was responsible for supervising Chongqing, Sichuan, Guizhou, Yunnan, Tibet; and the Shenyang station had responsibility for supervising Liaoning, Jilin, Heilongjiang.

economic growth model can resolve China's environmental problems. He said, 'it is impossible for the severe environmental problem to be solved through a single institutional promotion, and it is impossible to rely on the MEP, which is a single department, to resolve [the environmental problem]' (*Zhongguo Qingnian Bao (China Youth Daily)*, 16 April 2008).

At the local level, some governments have responded to the establishment of the MEP by upgrading EPBs from bureau status to become a department (*ting*) of the local government. The first EPB to be upgraded was the Jiangsu provincial EPB (*Xin Jing Bao*, 12 March 2008). The Heilongjiang EPB was also promoted. However, some observers stated that the latest administrative reforms still do not address the weak position of EPBs. MEP Vice-Minister Wu Xiaoqing confirmed that the MEP would not exercise direct supervision over EPBs in the short term (*Xin Jing Bao*, 13 March 2008). Rather, the issue would be resolved 'based on the actual situation' (*Ibid.*).

### **Environmental Civil Society**

The following section outlines the main developments in relation to Chinese civil society, which this thesis defines to include NGOs, citizen activists, and the media. Due to the significant amount of scholarly interest in Chinese environmental NGOs, these organisations are discussed in more detail than other elements of civil society that have been relatively neglected in the secondary literature.

#### *Environmental NGOs*

China's environmental NGO sector has developed fairly rapidly in a short space of time. According to a survey carried out by the All-China Environmental Federation (2006: 3), which is a government-organised NGO (GONGO) established by the MEP, by the end of 2005, China had a total of 2,768 environmental NGOs. These included 1,382 GONGOs, 202 grassroots NGOs, 1,116 student groups, and 68 international NGOs (see below for an explanation about different types of Chinese environmental NGOs).

China's first 'grassroots' NGO, Friends of Nature, was established in Beijing in 1994. Two years previously at the 1992 Rio Earth Summit, the Chinese delegation was reportedly embarrassed by its lack of grassroots NGO representation in comparison with other countries (Economy, 2004a: 162). This appears to have contributed to a paving of the way for the emergence of environmental NGOs in China. As a result, China was able to include an NGO presence at the 2002 World Summit on Sustainable Development only 10 years later (Ibid.).

The emergence of environmental NGOs in China also reflects wider shifts in state-society relations during the reform era. In this time, the Chinese state has withdrawn from many aspects of social life and has started to adopt a more relaxed stance towards associational activities. The Maoist policy of 'strong state, weak society' has given way to the concept of 'small government, big society' (*xiao zhengfu, da shehui*) (Turner, 2004). As a result, social organisations have been allowed to contribute more to society and, in many cases, take over or supplement the role of the state. In 1998 Luo Gan, the then Secretary General of the State Council, admitted that, 'government has taken up the management of many affairs which it should not have managed, is not in a position to manage, or actually cannot manage well' (as cited by Saich, 2000: 128). This view was reinforced by Premier Wen Jiabao in his government report to the 2004 NPC, which stressed the need to speed up the transfer of 'matters that should not be undertaken by the government' to the non-government sector, including NGOs (Wen, 2004).

Before this chapter outlines the impact of Chinese environmental NGOs on environmental governance, it is necessary to discuss several important conceptual points related to the relationship between these organisations and the state, and the different types of organisation that currently exist.

#### *State-society relations*

The Chinese government's attitude to NGOs has been somewhat ambivalent (Ho, 2001; Wong, 2005: 53). According to Qiusha Ma (2007: 47), two contradictory factors have shaped the way in which the Party-state views these organisations. On the one hand, as

noted above, the government recognises the positive role that NGOs can play in reform-era China. This is especially the case with regards environmental NGOs, which are among the most active and vibrant groups (Turner, 2004). In particular, the MEP has welcomed the involvement of green NGOs as partners in raising environmental awareness and improving the implementation of environmental legislation.

On the other hand, the Chinese Party-state has also sought to limit and closely regulate NGOs. In 1996, Jiang Zemin called for greater control to be exerted over NGOs (Ma, 2007: 87). As a result, in 1998 the government passed the ‘Regulations for the Registration and Management of Social Organisations’ (hereinafter the 1998 Regulations), which specified strict requirements for any group wishing to register as a social organisation. In an attempt to bind NGOs more closely to the Party-state, the 1998 Regulations attached strict conditions to the registration of NGOs (Saich, 2000: 129). According to the legislation, any organisation wishing to operate as an NGO must first find a sponsoring unit in the form of a government bureau, often referred to as a ‘mother-in-law’ (*guakao/popopu*) unit.<sup>38</sup> Once a sponsor has been found, the NGO is then obliged to register with the Ministry of Civil Affairs (MOCA). The purpose of implementing a two-tier or ‘dual’ registration process is to prevent the NGOs increasing at too rapid a pace (Ma, 2007: 65). In addition, it is designed to foster communication between NGOs and the government (Ibid.).

Even if the NGO can find a sponsoring unit, which is difficult considering that there is arguably little incentive for a government bureau to become a sponsor, it must meet other stringent conditions. For example, article 10(5) of the 1998 Regulations states that national-level social organisations wishing to register must have funds of at least 100,000 *Renminbi* (about US\$12,500), whilst local-level organisations need a minimum of 30,000 *Renminbi* (about US\$3,500). These sums represent significant amounts to Chinese NGOs, the vast majority of which struggle for funds. And, in order to further limit the power of NGOs, they are not allowed to establish branch organisations across the country

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<sup>38</sup> Mother-in-law units may withdraw their support at any time (Ma, 2007: 65).



(State Council, 1998). According to Guobin Yang (2005: 54), the 1998 Regulations have exerted a restrictive influence on the development of civil society.

In reality, however, state-NGO relations are more fluid than the 1998 Regulations might suggest. Ma (2007: 74) argues that the Chinese government does not hold a unified official position regarding NGOs. Rather, regions and government departments deal with NGO-related issues in a way that suits their own interests. In spite of, or perhaps because of, the strictness of the 1998 Regulations, many NGOs register as ‘for-profit’ businesses whilst operating on a non-profit basis. Many others do not register at all (Ho, 2001; Howell, 2004c). As long as they do not challenge the Party-state, these organisations are generally tolerated. According to Ma (2007: 105), MOCA officials believe that non-registered organisations actually outnumber those that are formally registered. Xiaoguang Kang and Heng Han (2008) have argued that the Party-state exerts control over NGOs by operating a ‘system of graduated controls’, ranging from suppression to a laissez-faire approach. Politically antagonistic organisations, such as the Falungong, are prohibited, and are dealt with harshly. Grassroots NGOs that provide public goods and which practice self-censorship, on the other hand, are generally not interfered with.<sup>39</sup>

#### *Types of Chinese environmental NGOs*

There are various types of environmental NGO currently active in China. They vary significantly from each other in terms of size, funding, and level of autonomy from the state. In fact, some organisations could not be accurately described as being ‘non-governmental’. In order to seek clarity, various commentators have drawn up taxonomies of Chinese NGOs (see Schwartz, 2004: 37; Cooper, 2006: 122; Yang, 2005: 50). Table 1, is taken from Yang (2005: 50), and presents a taxonomy of the main types of domestic NGO operating in China.

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<sup>39</sup> There are disadvantages for NGOs that are not registered, including difficulties with fundraising and attracting staff (Ho, 2001: 905).

<b>Organisational Type</b>	<b>Registration Status</b>	<b>Examples</b>
<i>GONGOs</i>	Social organisations established by the government	China Environmental Science Association
<i>University research centres/institutes</i>	Affiliated with institutions of higher learning but operate as NGOs	Centre for Legal Assistance to Pollution Victims
<i>Registered NGOs</i>	Registered as an NGO	Friends of Nature
<i>Non-profit enterprises</i>	Registered as businesses, but operate on a non-profit basis	Global Village of Beijing
<i>Unregistered voluntary groups</i>	Unregistered groups that operate as NGOs	Green Earth Volunteers
<i>Web-based groups</i>	Unregistered groups that operate mainly through the internet	Greener Beijing
<i>Student environmental associations</i>	Affiliated with institutions of higher learning, but operate as NGOs	Sichuan University Environmental Volunteer Association

Table 1: Typology of Chinese NGOs (based on Yang, 2005).

Table 1 highlights the different types of domestic environmental NGO operating in China. In order to aid conceptual clarity, this thesis condenses these into two main categories of organisations operating in China. These are government-organised NGOs (GONGOs), and ‘grassroots’ NGOs, which incorporate all of the organisational types listed in Table 1 apart from GONGOs.

### *GONGOs*

Government-organised NGOs (*ban guanfang zuzhi*), often referred to as GONGOs,<sup>40</sup> form part of what has been described as a ‘parastatal non-profit sector’ (Young, 2001). There are currently several GONGOs operating beneath the MEP, including the China Environmental Science Association (CESA), China Environment Protection Industry Association, the China Environment Fund, and the All-China Environment Federation (ACEF). GONGOs can be distinguished from other, more autonomous NGOs by virtue of having been set up by a government agency or institution, and often function as centres of research and consultancy for the government (Wu, 2002: 48). Aside from the provision of these services, part of the rationale for setting up GONGOs has been to attract funding from overseas governments and organisations that wish to support China’s efforts in areas such as environmental protection, but which do not want to give money directly to the Chinese government. Another important function served by GONGOs has been to create jobs for some of the government officials made redundant as a result of bureaucratic downsizing.

As Wu Fengshi (2002: 45) notes in a rare study that focuses exclusively on GONGOs, these organisations have often been seen as little more than extensions of the government, lacking in any real autonomy. However, although some GONGOs continue to be virtual extensions of the government, it has been argued that some are becoming increasingly independent of the government (Young, 2001; Economy, 2004a: 135). Wu (2002) has argued that this greater autonomy stems partly from improved capacity on the part of GONGOs, which enables them to implement projects more independently, and partly from the influence of international NGOs, which are increasingly seeking to work with more autonomous organisations in China.

Wu (2002: 53-4) argues that, unless they can become more independent themselves, GONGOs may be in danger of foregoing overseas funding. In recent years, government funding for some GONGOs has been reduced or stopped altogether (Ma, 2007: 96). According to the All-China Environment Federation (2006: 6), only 32.9 per cent of

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<sup>40</sup> Nick Young (2001) refers to these organisations as State-owned NGOs, or SONGOs.

GONGOs have a fixed source of income. The same report also stated that GONGOs' level of independence from the government was still 'insufficient', and that many sub-provincial GONGOs rarely carry out activities (Ibid.: 11).

### *NGOs*

For the purposes of this thesis, NGOs are distinguished from GONGOs in that they are not established by the government. The decision to set up an NGO is taken by an individual, or group of individuals who have a personal interest in the area of activism. In other words, they are organised from the bottom-up.<sup>41</sup> As shall be discussed below, many of these organisations work fairly closely with the government, and some have close personal links to the authorities. For example Liang Congjie, the founder of China's Friends of Nature, is also a member of the Chinese People's Political Consultative Conference (CPPCC). At the same time, however, Chinese NGOs do not rely on the government for funding, and they do set their own organisational priorities, albeit in a restrictive environment (Howell, 2004c: 156-8). Only 20 per cent of these groups have a fixed source of income (All-China Environment Federation, 2006: 6).

Table 1 includes five different sub-types of NGO, ranging from registered NGOs to student environmental associations. Indeed, one of the main ways of distinguishing these groups from each other is whether or not they have registered with the authorities. Whereas some groups, such as Friends of Nature, have registered with the government, many have not due to the stringency of the registration conditions. Of those that have registered, some have done so as NGOs, while others have registered as businesses, although operate as non-profit enterprises. In addition, there are also about 184 student environmental associations throughout the country, which are registered with universities (Turner, 2004).

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<sup>41</sup> In Chinese, these are referred to as bottom-up, or '*zi xia er shang*', whereas GONGOs are seen as top-down (*zi shang er xia*) organisations.

*Development of environmental NGOs*

This thesis focuses on grassroots NGOs as opposed to GONGOs. This chapter now examines the emergence of these organisations and the impact they have had. Based on discussions with Chinese environmental activists, this is divided into two sections: 1994-2000, and 2000 onwards.

*1994-2000*

As mentioned above, China's first 'grassroots' NGO Friends of Nature was established in 1994. Shortly thereafter, various other organisations were established. Both Beijing and Yunnan are 'hotspot' areas of environmental NGO activity. Many NGOs locate in the former in order to be geographically close to central government officials, while the latter is an area of incredible ecological wealth and biodiversity. In addition, organisations have been established in many other parts of China.

Initially, NGOs focused primarily on environmental education and awareness raising. Indeed, these activities still represent a major part of NGO activism at time of writing. Environmental education is considered a 'safe' area for activists, and virtually every Chinese NGO has been involved in environmental education or awareness raising at some point or other (Wang, 2006: 251-2). For example, the Tianjin NGO Friends of Green has been running a 'beautiful environment' education project that, by 2006, had been participated in by 50,000 students across various schools and universities (Interview 1, 2006). In 2000, Friends of Nature unveiled an environmental education van that it has so far used to visit over 200 schools across the country and spread the message of environmental protection to more than 20,000 primary and middle school pupils (All-China Environment Federation, 2006: 12). In addition, in 1996 the NGO Global Village Beijing began producing a weekly television series broadcast on national TV entitled 'Environmental Protection Hour' (Ho, 2001: 910).

Quite early on in the development of China's environmental NGO sector, two high-profile campaigns to protect endangered wildlife highlighted the important role that

NGOs could play in environmental protection beyond education and awareness raising.<sup>42</sup> The first campaign was centred on Deqin County in Yunnan Province. In 1995, illegal logging sanctioned by the local government threatened the survival of the endangered Snub-nose monkey. The logging was exposed by local photographer Xi Zhinong who, with the help of Friends of Nature activists and the media, brought the logging to the attention of the central government. As a result, the State Council ordered the illegal logging to stop, although it has been suggested that the logging is continuing in some areas.

The second campaign involved an effort to protect the Tibetan antelope, which has become endangered due to poaching. Starting in 1998, Friends of Nature has played an important role in raising public awareness of this issue. They also raised money to buy two jeeps for the Wild Yak Brigade, which defends the animal from poachers in the sparsely populated northwest region of China. In addition, Liang Congjie lobbied NEPA and the Ministry of Forestry, calling for more resources to deal with the problem. According to Economy (2004a: 149), ‘these campaigns not only energised the environmental activists but also helped catalyse a nationwide environmental movement and establish a foundation for future campaigns’.

#### *2000-present*

Environmental NGOs have continued to develop and emerge to the extent that some commentators view them as important actors in environmental governance in China (Economy, 2004a, b; Lu, 2007). There are signs that certain NGOs are becoming more specialised. One example is the Centre of Legal Assistance for Pollution Victims (CLAPV), which offers free legal assistance to victims of pollution that wish to pursue legal action. By 2006, CLAPV had won 31 of the 74 cases it had accepted (Xu & Wang, 2006). The Institute of Public and Environmental Affairs (IPE), examined in Chapter 5, is an organisation established in 2006 whose main task is to collect and disseminate data on air and water pollution via an interactive, online map. In addition, other organisations such as the Shaanxi Mothers’ Environmental Protection Volunteers Association and the

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<sup>42</sup> Information in the next two paragraphs is taken from Economy (2004a: 149-56).

Pesticide Eco-Alternatives Centre (PEAC) have focused on single issues. Since 1999, the former has constructed 1,144 biogas generation units in 26 Chinese villages (Friends of the Earth, n.d.). PEAC, meanwhile, provides information on pesticides and carries out pesticide risk monitoring and assessment.

The Chinese NGO community has also become increasingly adept at networking. NGO activists are increasingly forging links with academics and other specialists in order to add legitimacy to their positions (for example, see Chapter 4). Furthermore, NGOs have continued to cultivate close, mutually beneficial relationships with environmental protection officials, as well as journalists. Regarding the latter, the Beijing-based NGO Green Earth Volunteers holds regular 'green journalist salons'. Journalists attending these seminar-like events are briefed in detail on certain environmental protection issues by various experts. The salons are designed to increase environmental awareness and knowledge among green journalists.

More recently, NGOs have cooperated with each other in order to raise environmental awareness and advocate changes in government policy in relation to specific issues. A successful example of this was the '26 degree air-conditioning' campaign, which began in 2004. Six NGOs took part in the campaign, which urged people to set their air-conditioners at no lower than 26 degrees in the summer in order to save energy. As a result of the campaign, the government released a regulation in June 2005 that forbid government buildings from lowering their temperatures below 26 degrees in the summer (Qiao & Wang, 2006). According to Liao Xiaoyi, who is the founder of the NGO Global Village Beijing, this was the first time that Chinese NGOs had come together in pursuit of a specific goal (*Jingji Ribao (The Economic Daily)*, 3 December 2004).

Arguably more than any other event, the Nu River campaign highlights how the influence of NGOs has grown. In April 2004 it was reported in the media that Premier Wen Jiabao had stepped in to temporarily halt a proposal to build a set of 13 dams on Yunnan's Nu River (Nujiang). Although the existence of a 'high level of social concern' was cited as the reason for the project's suspension, there were also disagreements within the central

government and pressure emanating from downstream countries such as Thailand and Myanmar (Litzinger, 2007). The decision to halt the project was seen as a major victory for the coalition of public interest campaigners, including both Chinese and international NGOs, elements of the media, and academics, that had mobilised against the project. This opposition centred on the Nujiang's immense ecological value. Nujiang is part of the Three Parallel Rivers that in 2003 was designated a World Heritage Site by UNESCO, and is one of only two rivers in China that have not been dammed. The NGO campaign against dam building on the Nu River included the mobilisation of 15,000 students in Chongqing municipality who signed a petition against the project (Yang & Calhoun, 2006). In addition, a study tour of the Nu River region was organised whereby activists invited journalists to see the area's ecological importance for themselves. Upon returning to Beijing, a photographic exhibition of the Nu River and its people was organised. This attracted significant media attention in the issue.

In his study of the Nu River campaign, Michael Büsgen (2006) has argued that, although protecting the Nu River's ecology was the initial drive behind the NGO campaign, NGOs subsequently began linking hydropower development to issues such as environmental justice and rule of law. One NGO organised a group of villagers from the Nu River area to visit another group of villagers from a different region that had been relocated due to a dam project. However, this tactic was considered overly provocative by the local authorities, and the NGO in question came under significant pressure. Andrew Mertha (2008) has analysed NGO involvement in the Nu River campaign, and concluded that these organisations, in some cases, act as 'policy entrepreneurs'. Nevertheless, as discussed in Chapter 4, there are limits to what NGOs have been able to achieve in this case, and it seems likely that dams will be constructed on the Nu River in the near future.

However, even though they have become relatively well established, Chinese NGOs are not immune to periodical government interference. Following a series of 'colour revolutions' in the Ukraine, Georgia, and Kyrgyzstan, environmental NGOs in China were subjected to increased state control (Ho, 2007: 197). In order to prevent any similar movement in China, in late 2005 authorities conducted 'intrusive' audits of green NGOs,



particularly those in receipt of overseas funding (*San Francisco Chronicle*, 25 June 2006). In addition, NGOs had to reregister, and communication links such as the Internet were subject to greater control (Ho & Edmonds, 2007: 335). In addition, the China Development Brief publication, which regularly conducted research on Chinese civil society, was shut down in 2007 (Young, 2007). Although this was apparently unrelated to the government concern generated by the colour revolutions, it does show that NGOs are still subject to the vagaries of the Chinese political environment. In other words, the development of NGOs should not be viewed merely as a linear process, even if many organisations have made much progress since their inceptions.

#### *The Media and Citizen Activism*

There are relatively few studies in existence that examine the role of the media and citizen activism in Chinese environmental governance. Nevertheless, it has been suggested that the Chinese media has enjoyed greater freedom to report on environmental issues since the early 1990s (Wen, 1998). In part, the government has encouraged journalists to expose environmentally harmful behaviour in order to hold culprits to account. At the same time, the media industry has changed in some important ways. Since the reforms, some newspapers have become increasingly reliant on sales and advertising, as opposed to funding from the government. As a result, there is an imperative to publish interesting and newsworthy stories, which often include articles related to environmental issues.

In addition, many green journalists have close links with NGO activists. Many important NGO figures such as head of Green Earth Volunteers Wang Yongchen are from a journalistic background. The media has played a vital role in some of the successful NGO campaigns noted above. Guobin Yang and Craig Calhoun (2006) have argued that a 'green public sphere' is emerging in China, whereby debates in the public sphere can facilitate pluralism and influence government policies. They claim that the media has contributed to this by producing and circulating a newly created environmental discourse (Ibid.).

Initial studies have suggested that citizen activists are also playing a greater role in environmental governance, for example via the complaints process (Brettell, 2008). It has been suggested that citizen complaints can influence government officials to improve their enforcement efforts (Dasgupta & Wheeler, 1996). In addition, citizens have sued local governments and polluting enterprises, and have petitioned local and national government departments (Van Rooij, 2008). Although there are substantial obstacles to taking legal action against polluters (Ibid.), this tactic can be successful. In one notable case in 2005, which was taken on by CLAPV, over 1,700 plaintiffs from Fujian Province won a class action suit against China's largest chlorate manufacturing plant (*Eugene Weekly*, 2 January 2006).

Finally, as noted in Chapter 1, citizens have carried out environmental protests. According to state media, in 2005 there were 50,000 pollution disputes in China (*China Daily*, 4 May 2006). Furthermore, these disputes are increasing in number by about 30 per cent a year (Ibid.). Some environmental protests are large-scale. For example, in April 2005 approximately 20,000 protestors, whose grievance was related to pollution from a nearby industrial park, clashed with police. As a result, the polluting factories were closed, although the protest's organisers were jailed (Lum, 2006).

## **Conclusion**

Since the early 1970s, China has established a nationwide environmental protection bureaucracy that has periodically been strengthened by the country's leadership due to a growing environmental problem. In addition, China has promulgated a comprehensive body of environmental legislation. However, there is still a discrepancy between China's western-style laws and its capacity to effectively implement them (Ho & Vermeer, 2006). Despite the strengthening of China's environmental state, it has been argued that improvements have not been fast enough to ensure sustainable development (Ho, 2006). Since the start of the reform era, increasing demands have been placed on China's environmental protection bureaucracy to the extent that there has been a widening in the gap between its resources and what it is mandated to do (World Bank, 2001: 100). In

short, the process of strengthening China's environmental state has not proceeded quickly enough in order to keep up with growing environmental degradation.

As others have argued (Mol & Carter, 2006), and as this chapter has illustrated, from the 1990s China's system of environmental governance has diversified, although the state maintains a dominant role. China has taken steps towards addressing pollution problems 'further up the pipe' through initiatives such as cleaner production and increased referral to total pollutant loads when monitoring enterprises. The development of an environmental civil society is another example of this diversification. Since the mid-1990s not only have China's first environmental NGOs emerged, but the media has been allowed much greater freedom in its reporting of environmental issues. Moreover, individual citizens are increasingly taking action in relation to environmental issues, albeit in relation to isolated incidents. However, civil society still occupies a relatively precarious position. Despite notable successes, for example with regards the Nu River campaign, the need to self-censor remains imperative.

As this chapter has argued, the position of environmental protection in China's overall development strategy has changed markedly since environmental issues emerged on the country's political agenda in the early 1970s. However, China's environmental challenge remains serious. Furthermore, high-level concern for environmental issues does not necessarily translate into better outcomes at the local level. The next chapter examines in more detail the 'paradigm shift' towards a more environmentally friendly and resource efficient development path that the current leadership has tried to promote since 2002.

## Chapter 3: Reforming the Environmental State – Green GDP and Environmental Storms

As Chapter 2 noted, environmental issues have risen up the political agenda in reform-era China due to the significant environmental degradation that has accompanied the country's rapid economic growth since 1978. One result of this has been the progressive strengthening of China's environmental state since the start of the reform period and the emergence of environmental civil society in the mid-1990s.

This chapter continues to investigate the growing concern among China's central leadership for environmental issues and its impact on the environmental state. It has been argued that since the 1980s many advanced industrialised nations have moved away from 'economic rationality', whereby economic interests are established as a society's dominant organising principle. As a result of becoming more reflexive about the side effects of economic growth, environmental concerns have become an increasingly important consideration in these countries' development blueprints (Beck, 1994; Mol, 2006). One consequence is that environmental issues are no longer confined to a single dedicated environmental protection agency in the government bureaucracy. Rather, they have become a central part of the work of government as a whole (Weale, 1992). As discussed in more detail below, some scholars have claimed that similar processes are occurring in China as it becomes more reflexive about the environmental impact of its rapid economic growth (Rock, 2002a, b; Economy, 2006; Lo & Tang, 2006; Mol, 2006; Carter & Mol, 2006).

This chapter analyses the role that environmental and resource issues have been given in the current 'fourth generation' leadership's development strategy.<sup>43</sup> Since assuming formal control in 2002, the (President) Hu Jintao and (Premier) Wen Jiabao leadership has repeatedly emphasised the need to protect the environment and conserve energy

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<sup>43</sup> Mao Zedong, Deng Xiaoping, and Jiang Zemin are seen as the 'core' of the PRC's first, second, and third generation leadership, respectively.

resources whilst pursuing economic growth. This trend is encapsulated in the current leadership's promotion of a 'Scientific Development Concept' (SDC), which represents in part an attempt to reorient China's development strategy towards a more environmentally sustainable direction.<sup>44</sup> This policy is consistent with the advice of international agencies such as the World Bank (2001: 135), who argue that only through changing its growth strategy can China successfully address its environmental challenges. This chapter argues that the Chinese leadership is undergoing an important 'paradigm shift' in terms of how it views the country's development. With this paradigm shift, environmental issues are increasingly moving beyond the domain of China's environmental protection agency to become an important part of the country's overall development strategy.

This chapter contributes to understandings of how official accountability for environmental issues is being promoted. Specifically, it examines how officials are held to account to higher levels of government. Although strong central government rhetoric in favour of a more balanced development approach arguably augurs well for China's environmental situation, there is clearly a challenge in terms of translating this rhetoric into better environmental outcomes. This chapter argues that, if the central leadership's paradigm shift regarding China's development trajectory is to make a meaningful difference to environmental outcomes, changing local officials' behaviour by making them more accountable to higher levels of government for environmental issues is vital. Improving local official accountability is a key aspect of any strategy to reduce the environmental protection implementation deficit and ensure that development is more environmentally sustainable.

In examining the likely impact of the central leadership's paradigm shift on China's ability to improve environmental compliance and move towards a more sustainable development model, this chapter focuses on two recent Ministry of Environmental

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<sup>44</sup> Also referred to as the 'Scientific Outlook on Development'.

Protection (MEP)<sup>45</sup> initiatives designed to make local Party-state officials pay greater attention to environmental protection. Both schemes were made possible by the SDC, and both possess goals that are consistent with it. Additionally, the two initiatives have been strongly linked to the SDC by MEP officials. The first initiative involved an attempt, in conjunction with the National Bureau of Statistics (NBS), to establish a system of measuring green GDP. The aim of green GDP is to incorporate the cost of environmental degradation and resource depletion into traditional GDP calculations. As GDP is a key performance indicator for local officials, the purpose of the green GDP project was to provide an incentive for local officials to accord higher priority to environmental and resource efficiency issues. The second initiative examined in this chapter involved the MEP launching several high-profile crackdowns on various large-scale projects in breach of environmental regulations in what the Chinese media has dubbed a series of ‘environmental storms’.<sup>46</sup> These environmental storms, which were crucially backed up by the central leadership, were seen primarily as an attempt to improve the enforcement of environmental legislation and therefore promote the rule of law. In addition, both initiatives were designed to improve local officials’ accountability with regards environmental issues.

Although Elizabeth Economy (2006) has briefly examined China’s green GDP project in the context of an ‘emerging economic dimension’ in the country’s environmental governance, this chapter introduces new empirical material that takes advantage of the lapse in time since Economy’s study in order to show how the project ultimately stalled due in part to local level resistance. Environmental storms, meanwhile, have not been examined in the scholarly literature, despite their prominence in the Chinese and, to a lesser extent, overseas media. Through presenting detailed studies of these two important initiatives, this chapter aims to address these gaps in the literature.

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<sup>45</sup> Before 2008, the MEP was referred to as the State Environmental Protection Administration (SEPA). For clarity, this chapter uses the term ‘MEP’ when referring to the central level environmental protection agency both before and after this bureaucratic reorganisation.

<sup>46</sup> The term ‘environmental storm’ is adopted in this chapter reflecting its widespread use in the Chinese media and environmental protection circles. It should not be interpreted as a negative term, rather it is used to connote the sudden and aggressive sweeping away of bad environmental practice by the central authorities.

This chapter has two main focal points. First, it considers the extent to which the MEP has been able to benefit from aligning its own goals with those of the fourth generation leadership's new approach to development. As John Kingdon has argued (2003: 16-17), issues can be pushed up the policy agenda by events such as crises, a change in indicators (for example worsening pollution), or a change in administration. Such events may lead to the opening of 'policy windows' that, albeit sometimes fleetingly, present an opportunity for government officials, or 'policy entrepreneurs', who are 'advocates willing to invest their resources ... into a problem in order to gain benefit' (Ibid.: 179). Action is most likely to be taken on a policy when the need for such a policy is recognised, a policy exists in order to address the issue, and political support is present. This chapter argues that the way in which the green GDP and 'environmental storm' initiatives have been closely associated with the SDC suggests that the MEP has benefited from a policy window created by the new leadership and its new development approach. This policy window has been skilfully exploited by MEP vice-minister Pan Yue, particularly in his use of the media. However, this chapter also argues that the outcomes of these initiatives show that this benefit has been mainly confined to a raising of environmental protection agency's profile, as well as that of environmental issues through the media, rather than ensuring the implementation of environmental legislation by local officials.

Second, this chapter aims to assess the main obstacles to overcoming local official resistance to a more balanced development path, as evidenced through the green GDP and environmental storm initiatives. In both cases, local officials displayed strong opposition to what they perceived as attempts to impinge on their 'bottom line' of economic growth. In the case of green GDP, this ultimately led to a significant watering-down of this policy. Whereas the first green GDP findings were published openly amid much media interest, local cadre opposition ensured that subsequent green GDP data would not be published, but would instead be confined to internal use only. In the case of environmental storms, high-level support played an important role in supporting the MEP in the face of local level opposition, demonstrating a heightened commitment to environmental and resource issues in the central leadership. However, this initiative is

much less ambitious than green GDP, and is unlikely to have any lasting effect beyond highlighting the scale of China's enforcement challenge due to its 'campaign' nature.

This chapter concludes that the central leadership's paradigm shift towards a more balanced development path has enabled the MEP to pursue policies that would not be possible without support from leadership elites. Additionally, it demonstrates how environmental issues are increasingly moving beyond the sole domain of the 'environmental state' and are becoming a growing priority for the central leadership. These should be seen as positive developments. However, this chapter also argues that, to date, the growing central leadership concern for environmental issues has not been effectively translated into more effective environmental governance at the local level, at least not in the case of the two initiatives examined in this chapter. The green GDP and environmental storm initiatives are best understood as a skilful attempt by the MEP to strengthen its position through positioning itself at the forefront of the SDC, as well as showing its value in terms of implementing the government's macroeconomic policies, rather than improving local officials' environmental accountability to higher levels of government. Local officials will continue to resist initiatives that threaten GDP growth as long as this remains the main criterion by which they are judged. As a result, it appears that attempts to incorporate ecological rationalities into China's development strategy will fail as long as officials are simultaneously encouraged to prioritise economic growth.

## **Background**

### *The Problem of 'Careless and Unrestrained' Development*

Chapter 2 noted that poor enforcement of environmental legislation has been identified in the literature as a major shortcoming with regards environmental governance in China. Both scholars and officials within the Chinese central government frequently blame local officials for prioritising economic interests ahead of environmental issues, to the extent that they fail to abide by environmental regulations (see, for example, Liu, 2007a).

As noted in Chapter 2, one commonly cited problem is the fact that Environmental Protection Bureaus (EPBs), which represent the MEP at the local level, are heavily reliant



on the local government in overall charge of their jurisdiction for resources and career advancement (Jahiel, 1998). In order to understand how local government officials approach environmental protection, it is important to appreciate the factors that ultimately guide their behaviour. Since the early reform period, local government officials have been strongly influenced by the various quantitative goals set for them by officials above them in the bureaucracy (Whiting, 2001; Edin, 2003).

As Susan Whiting (2001: 72) has argued, the most powerful factors shaping the behaviour of local officials since the mid-1980s have been the revenue-sharing fiscal system and the cadre evaluation system. Fiscal reforms enabled township governments to keep a share of revenue collected on top of their mandatory contribution to higher administrative levels (Ibid.: 78). In addition, local governments became increasingly responsible for funding public goods that were previously financed centrally (Wong, 1991). The early 1980s also saw a move towards imposing quantifiable, specific performance indicators on local officials under the cadre evaluation system (Whiting, 2001: 102). In many cases, officials' salaries and career advancement became directly linked with economic performance. Both of these changes provided strong incentives for cadres to maximise economic growth through promoting the rapid development of local industry (Whiting, 2001). Elsewhere, Maria Edin (2003) has also found that officials have been strongly encouraged to pursue economic growth by the cadre evaluation system.<sup>47</sup> In addition, due to the often blurred line between officialdom and business, local officials often have a direct personal stake in local industry. As a result, local officials tend to have strong vested career and personal financial interests in maximising GDP growth, which can contribute to the poor enforcement of environmental legislation (Lieberthal, 1997).

The pursuit of GDP growth that fiscal reform and cadre evaluation methods have encouraged has been blamed for encouraging 'careless and unrestrained' (*cufang*)

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<sup>47</sup> According to Edin (2003), there are three types of target for cadres: 'soft', 'hard', and 'priority'. She found that economic performance was classed as a 'hard' target. In her fieldwork, Edin identified two 'priority' targets which, if not met, would mean that all other achievements would be negated. The 'priority' targets were the maintenance of social stability and family planning. These two indicators must therefore be achieved at all costs.

development at the local level. According to one report, the quest for GDP growth has played a significant part in contributing to a reversal of the trend away from heavily polluting and energy-intensive heavy industry towards light industry as officials at the provincial, county and city level compete with each other to grow GDP (Rosen & Houser, 2007). Since the late 1990s, heavy industry has become more profitable and this sector has grown markedly as a result. Whereas in 2002 heavy industry accounted for 39 per cent of China's total energy consumption, in 2007 it accounted for 54 per cent (Ibid.: 14). This GDP-centric approach to development pursued by many local governments often leads to careless and unrestrained development. The latter phenomenon was neatly encapsulated by MEP Minister Zhou Shengxian when he said that, 'the thing that is burned away is resources, the thing that is left behind is pollution, the thing that is produced is GDP' (Hu, 2007).

The trend towards energy and resource intensive heavy industry has negative consequences for China's energy intensity. Figures indicate that China's energy intensity per unit of GDP, which fell almost threefold from 1978-2002, actually rose in the period between 2002-2005 as total energy consumption increased by 70 per cent in the five years between 2000 and 2005 (The World Bank and SEPA, 2007: xi, 7-8). All of this has serious implications for the central government's target to quadruple GDP by 2020 compared with 2000. According to one estimate, China will have to double its primary energy supply in the same period in order to meet this goal (OECD, 2007: 20). This is clearly an issue that is of concern to the country's leadership. In a speech delivered in April 2007, Premier Wen Jiabao said, 'if we do not speed up [economic] restructuring and transform the growth model, resources will not hold out, the environment's carrying capacity will be exceeded, society will not be able to endure the cost, and it will be difficult for economic development to continue' (*Xinhua Tongxun She (Xinhua News Agency)*, 7 May 2007). As well as contributing to pollution and social unrest therefore, the development trajectories pursued by local governments are increasingly impinging on the central government's ability to sustain economic growth.

### *Attempts to Change Local Officials' Behaviour*

Poor enforcement of environmental legislation in China highlights the problems associated with pursuing a 'command-and-control' approach to environmental protection in developing countries where economic growth is viewed as the main priority (Adeel & Nakamoto, 2003; Desai, 1998). As some scholars have noted, however, China's central government has taken steps in an attempt to reassert control over local officials and encourage them to take environmental issues more seriously. One strategy has been to provide incentives for local officials. Based on an examination of China's Urban Environmental Quantitative Evaluation System (UEQES), Michael Rock (2002a, b) has questioned the dominant view in the literature that Chinese local officials' pursuit of economic growth necessarily leads them to neglect environmental issues. Under this initiative, major cities are ranked based on their environmental performance, and this information is published in environmental yearbooks and sometimes in the media. Rock (2002a, b) argues that the UEQES is changing industrial policy making in some Chinese cities. Following the introduction of UEQES, he found that EPBs were taken more seriously by other government departments, and city mayors have taken a much greater interest in their jurisdiction's environment (Ibid.). Arthur Mol (2006: 41) has argued that, in making local governments accountable to higher levels, UEQES is an example of how environmental rationalities can be introduced in China, in spite of the prioritisation of economic growth.

Elizabeth Economy (2006) has examined the National Environmental Model City (NEMC) initiative, which builds on the UEQES. Under the initiative, cities can apply for NEMC status, the awarding of which is based upon the city in question meeting various environmental protection criteria. There are three basic requirements and 25 specific criteria that must be met in order for NEMC status to be conferred. By October 2006, 63 cities and 5 city districts had been awarded NEMC status (*Zhongguo Huanjing Bao* (*China Environment News*), 26 October 2006).<sup>48</sup> City mayors see the attainment of

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<sup>48</sup> In response to the increased importance attributed to environmental issues by central government documents such as the 2005 'State Council Decision Regarding Implementing the Scientific Development Concept and Strengthening Environmental Protection' and the 11<sup>th</sup> Five-Year Guidelines, the indicators determining whether or not a city can be given NEMC status were made stricter in 2006 (SEPA, 2006).

NEMC status as beneficial in attracting foreign investment as well as hosting international events, and some have actively sought out NEMC status as a result (Economy, 2006: 178). For example, in 2006 the Wuhan city government announced that it would invest over 34 billion RMB on environmental protection during the 11<sup>th</sup> Five-Year Plan period in a bid to obtain NEMC status during this period (*Hubei Ribao (Hubei Daily)*, 23 May 2006). According to Economy (2006: 179), NEMC has stimulated ‘dramatic’ change in certain cities.

The central authorities have also attempted to reform the ways in which cadres are assessed by linking environmental performance to the evaluation of cadres via the environmental quality administrative leadership responsibility system (Lo & Tang, 2006).<sup>49</sup> Under this system, the leaders of local jurisdictions agree to environmental targets. At the end of the year, their performance in relation to these targets is assessed. If targets are missed for three consecutive years, the officials in question are not eligible for promotion for the next five years. This system has been credited with making local leaders in Guangdong province more concerned about environmental issues.

Another way in which the central level Party-state has also tried to exert control over local officials has been through organising environmental enforcement political campaigns. In a rare study examining such campaigns, Benjamin Van Rooij (2006a) has suggested that they can be effective in achieving short term goals, although they have failed to resolve the underlying problems that cause weak compliance with environmental protection legislation.

Can attempts to change local officials’ behaviour significantly improve the way in which they pursue development? Most scholars examining attempts to encourage or compel local officials to prioritise environmental issues highlight the positives of such an approach. This is partly because most studies have focused on relatively wealthy parts of China. For example, Rock (2002b) acknowledges that his findings in relation to UEQES are based on research done in wealthy, coastal cities, and do not necessarily apply to

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<sup>49</sup> This paragraph is based on Lo and Tang (2006).

poorer areas inland. This is also the case with Economy's (2006) work in relation to the NEMC. Cities must reach a certain level of wealth before they can be considered for NEMC status, which in turn prevents many cities from taking part. Hence, although scholars have been cautiously positive about schemes such as UEQES and NEMC, these conclusions appear to only apply to richer cities on China's eastern seaboard. Although incentives can be attractive to wealthy cities with mayors willing to invest more resources in environmental protection, this approach might not be effective in other locations.

This chapter finds evidence to suggest that there are serious obstacles to changing local official behaviour with regards the environment. This is particularly so in poorer, inland areas. Although incentives and enforcement campaigns can lead to positive results in some cases, such schemes need to be backed up by deeper reform in how local cadres are assessed.

### **Towards a New Development Paradigm**

In view of the worsening environmental and resource crisis that is increasingly impinging on the fundamental CCP goals of economic growth and social stability (see Chapter 1), since coming to power in 2002 China's current 'fourth generation' leadership has emphasised the need to follow a more balanced path to development that affords greater priority to environmental protection and resource efficiency. In terms of official rhetoric, it marks a significant break from the primacy given to economic growth during the Jiang Zemin era (Lam, 2005). At the centre of this new development path is the 'Scientific Development Concept' (SDC), which was formally written into the CCP Constitution at the 17<sup>th</sup> Party Congress in October 2007. According to China's president Hu Jintao, with whom the SDC is closely associated (Fewsmith, 2004a), the SDC aims to '[combine] the development of the economy with the protection of resources and the environment' as well as '[striving] to take a civilised development path characterised by the development of production, a well-off life, and a good ecological environment' (Ibid). According to an official definition of the SDC, it aims to create dialectical unity between people and

nature.<sup>50</sup> In this sense, it represents the coming of full-circle since Mao's 'war on nature' (see Chapter 2).

It has been argued that, due to their content and manner in which they were drafted, the current 2006-11 Five-Year Guidelines<sup>51</sup> should be seen as representing the current leadership's economic programme (Naughton, 2005). As well as incorporating a goal to double the nation's GDP in 2000 by 2010, the guidelines also include the goal of reducing energy intensity per unit of GDP by 20 per cent by 2011. Another aim stated in the guidelines is to reduce major pollutants, including sulphur dioxide and Chemical Oxygen Demand (COD) by 10 per cent, also by 2011. In the words of Barry Naughton (Ibid.), 'the Plan contains a strong call for environmental protection: it is the first time that the national government has been so strongly committed to the environment'.

The setting of ambitious environmental goals in China is not a new phenomenon. The 10<sup>th</sup> Five-Year Plan included environmental goals such as reducing industrial pollution nationwide by an average of 10 per cent (Murray & Cook, 2002: 5). And yet these goals were not realised in practice. Speaking in 2006, Wen Jiabao said that, 'if we talk about the 10<sup>th</sup> Five-Year Plan, most of our targets were basically achieved. However, I can frankly tell everyone that environmental targets were not met' (*Zhongguo Wang (China Online)*, 14 March 2006). Worryingly in terms of whether or not China's leaders can direct the country towards a more sustainable development path, it was reported that in the first year of the 11<sup>th</sup> Five-Year Guidelines period, sulphur dioxide and COD levels had both risen, by 1.8 per cent and 1.2 per cent, respectively (*China Daily*, 13 February 2007). In addition, although energy intensity per unit of GDP fell by 1.23 per cent in 2006, this was far from the 4 per cent required in order to meet the 20 per cent energy intensity reduction target (*Xinhua Tongxun She*, 4 March 2007). It appears that translating the rhetoric and ambitious goals in support of a new development trajectory into practice will be a formidable task.

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<sup>50</sup> This definition (in Chinese) is taken from the Shanghai Keji Weiyuanhui (Shanghai Science and Technology Commission) website. Available at <http://www.stcsm.gov.cn/learning/lesson/guanli/20040628/lesson.asp>.

<sup>51</sup> These 'guidelines' contain very few quantitative targets, unlike previous five-year 'plans', hence the terminology (see Naughton, 2005).

The new development paradigm as promoted by the Hu-Wen leadership might ultimately lead to a change in how local officials pursue economic growth. There appears to have been a change in emphasis by some local officials. For example, Party Secretary of Jiangsu Province Li Yuanchao was quoted as saying that, in relation to efforts aimed at cleaning up the Tai Lake, 'the measures [to clean-up the lake] must be strictly implemented, even if they cause a 15 per cent downturn in the province's gross domestic product' (*The Financial Times*, 9 July 2007). However, it should also be noted that these comments came after a severe outbreak of algae on the Tai Lake led to the temporary suspension of drinking water for nearby residents. This incident attracted a large amount of media coverage and criticism both in China and overseas, which in turn put pressure on the authorities to be seen to be taking action to cleanse the lake.

In spite of the difficulties associated with directing China onto a more balanced development path, it is clear that the central government has recognised the need to pursue a more sustainable development trajectory. Overcoming careless and unrestrained development is arguably of fundamental importance in this regard. In order to be successful in terms of its environmental and resource elements, therefore, the SDC must alter how local officials approach development. This chapter now examines in detail two schemes, namely green GDP and environmental storms, which have been framed as attempts to do just that.

### **Green GDP**

Research into green accounting in China started relatively early, in the 1980s (Pan, 2004a). However, steps to put it into practice in earnest were not taken until March 2004 when the MEP joined forces with the NBS in order to conduct research into establishing an initial framework 'based on China's national conditions' for calculating green GDP within three to six years (Ibid.). Green GDP involves calculating and then subtracting the financial cost of environmental degradation and resource consumption from conventional GDP, finally producing a figure that reflects the environmental and resource cost of economic growth.

The timing of the green GDP project is related to the central leadership's desire to promote 'scientific' development. The initiative has been endorsed by Hu Jintao (Pan, 2004a; *South China Morning Post*, 26 May 2006). Green GDP has been portrayed as being consistent with the SDC because it can be used as a tool to promote a more balanced development path amongst local officials. According to the MEP, the ultimate goal of green GDP would be to use it as a quantifiable measure of cadre performance that could provide a strong incentive for local officials to pursue a more resource efficient and environmentally friendly development path.<sup>52</sup> As MEP Vice-Minister Pan Yue stated, 'green GDP means a deep conceptual transformation, it means a completely new concept of development and cadre assessment' (Pan, 2004b).

In 2005 it was announced that green GDP would be piloted in 10 municipalities and provinces.<sup>53</sup> These regions were charged with developing green GDP models that took into account local conditions, as well as contributing to improving the national model of green GDP calculation (Zheng & Chen, 2006). In September 2006 the MEP and NBS published their first annual green GDP report.<sup>54</sup> The 'Research Report into the Calculation of Green GDP in China, 2004 (Public Version)' was somewhat tentative and incomplete, reflecting the significant technical difficulties associated with the calculation (SEPA & NBS, 2006). According to the MEP, a complete green GDP calculation should include at least five indices relating to natural resource depletion, namely the depletion of land, mineral, forest, water, and fishery resources. In addition, it should account for the cost of pollution and ecological degradation. However, the report only accounted for losses caused by pollution, and even this calculation was incomplete as it only considered 10 out of more than 20 items that should be accounted for (SEPA, 2006). According to one commentator, the report represented only 'the tip of China's environmental iceberg' (Green, 2006). Despite the report's obvious limitations, it claimed that in 2004 the financial cost of the 10 items of pollution under consideration had been 511.8 billion

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<sup>52</sup> MEP officials have, however, stressed that incorporating green GDP into the cadre assessment process is a long-term goal that cannot be achieved in the short-term (*Xinhua Tongxun She*, 8 September 2006).

<sup>53</sup> These were Beijing, Tianjin, Chongqing, Anhui, Guangdong, Hainan, Hebei, Liaoning, Sichuan, and Zhejiang.

<sup>54</sup> A 'public version' of the report was made available to the general public.



Yuan,<sup>55</sup> equal to 3.05% of GDP, a figure described as ‘shocking’ by one MEP official (*Reuters*, 23 July 2007).

After the 2004 report was published the green GDP project was expanded nationwide. However, opposition to the project from various sectors has grown. Reports of friction between NBS and the MEP have spilled over into the media, with the former accusing the latter of failing to appreciate fully the technical difficulties associated with the project. At the same time, conflicting signals have emerged from the two departments. For example, one NBS official was quoted in the media as saying that the whole project was being stopped due to its difficulty (*Financial Times*, 9 May 2006), whilst MEP officials have maintained that work on green GDP will continue (*Xinhua Tongxun She*, 13 January 2007). Overall, NBS arguably has much less to gain from green GDP, whereas the MEP has been able to generate high levels of publicity that serve to raise its profile as well as keeping environmental issues high up the political agenda.

Although green GDP is notoriously difficult to calculate due to the problems associated with assigning market values to non-market goods such as clean air and water, conflict between the NBS and the MEP has not been purely based on this factor.<sup>56</sup> Green GDP has faced the problem of opposition from provincial and municipal governments who fear that their GDP figures could be reduced significantly, and damage their cadre assessment credentials. As a result, dissent has been prominent. Opposition to the project reached a head just before the 2005 green GDP report was scheduled to be released around March 2007. Some local officials criticised the 2004 report in public, and some municipalities and provinces have reportedly tried to withdraw from the project (*21 Shiji Jingji Baodao (21<sup>st</sup> Century Business Herald)*, 22 March 2007). In addition, some municipalities and provinces put pressure on the MEP and NBS by writing to them requesting that results not be made public (*Nanfang Zhoumo (Southern Weekend)*, 15 October 2008).<sup>57</sup> A major

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<sup>55</sup> US\$1 = 7.5 Yuan approximately.

<sup>56</sup> For a discussion on some of the problems associated with assigning monetary values to phenomena such as environmental degradation, see Smil (2004: 178-181).

<sup>57</sup> Provinces enjoy the same ranking as central cabinet level ministries, which puts them slightly above SEPA and the NBS in the hierarchy. This made higher level support vital for the green GDP initiative, particularly because SEPA had yet to be promoted to full ministerial status.

cause of contention appears to have been diverging opinions regarding whether or not the provinces and municipalities included in the report should be ranked according to performance. Although ranking was not used in the 2004 report, the MEP was in favour of including ranking in the 2005 report because it would place added pressure on the poorly performing regions to modify their development paths (*Jingji Guancha Wang (The Economic Observer Online)*, 27 March 2007). In contrast, NBS, apparently loathe to cause trouble with provincial and municipal governments, opposed this idea. According to one official involved in the green GDP project, the ranking of provinces and municipalities in this way is particularly unpopular among those situated in China's western region (Ansfield, 2007), where economic growth has lagged behind that of the eastern seaboard and where a lower proportion of government expenditure is invested in environmental protection (Economy, 2004a: 117-8). That poorer provinces have more to lose from green GDP is supported by media reports claiming that the as yet unpublished 2005 report reveals that not only are the three worst-performing jurisdictions all situated in the western region (*Jingji Guancha Wang*, 27 March 2007), but that the calculations would reduce the GDP of western region provinces and municipalities by an average of 3.16 per cent, compared with a reduction of just over 1 per cent for the eastern seaboard (*21 Shiji Jingji Baodao*, 22 March 2007). As a result, many provincial governments have mobilised against the project.

Apart from the bureaucratic wrangling between the MEP and NBS, as well as between the centre and localities, opponents have also been aided by other factors. First, the then pending 17<sup>th</sup> Party Congress reportedly strengthened the bargaining position of provincial governments on this issue *vis à vis* Hu Jintao, who required the backing of provincial officials in order to carry out his desired reshuffle (*South China Morning Post*, 24 July 2007). Second, Vice-President and Jiang Zemin protégé Zeng Qinghong has maintained that per capita GDP is the best way of measuring China's development (Fewsmith, 2004a), suggesting that the leadership is not completely united in support for green GDP, or at best is still somewhat tentative. According to Lieberthal (1992: 17), in China top-level disagreement is likely to reduce the likelihood of lower-level compliance. Finally, the CCP is still sensitive about releasing data that casts it in a negative light. This was

highlighted in 2007 by the way in which Chinese authorities censored a World Bank report that attributed a large number of deaths to air pollution (*The Financial Times*, 2 July 2007). Leaders were reportedly embarrassed by the data included in the 2005 report (*South China Morning Post*, 24 July 2007). Ultimately, NBS sent the 2005 report and the final decision about whether or not to publish it directly to the State Council (*21 Shiji Jingji Baodao*, 22 March 2007). To date, the report has still not been forthcoming.

Despite the difficulties, officials have claimed that work on calculating green GDP will continue. However, as one State Council official revealed, green GDP results will be used for 'internal reference' within the bureaucracy rather than being released to the public (Interview 2, 2008). MEP official Wang Jinnan noted that the likelihood of the government making public another green GDP report in the future was 'very small' (*Nanfang Zhoumo*, 15 October 2008). He also stated that it would not be used as a cadre assessment indicator at present because the conditions are not in place (Ibid.).

### **Environmental Storms**

In between January 2005 and January 2007, the MEP launched three so-called 'environmental storms'. These amounted to a series of high-profile interventions by the MEP in order to suspend projects that had been allowed to go ahead in violation of environmental regulations. The environmental storms, superficially at least, represented an attempt by the MEP to alter how cadres pursue economic growth through taking a tougher stance regarding the enforcement of environmental legislation.

On 18 January 2005, the MEP announced that it had suspended 30 major projects across 13 provinces and municipalities for failing to comply with the 2003 Environmental Impact Assessment (EIA) Law. Although the halting of construction projects by the MEP is not unusual, the size of the projects with a combined investment in excess of 118 billion *Yuan* made this an 'extraordinary and unprecedented move' (Adams, 2005) that was dubbed an 'environmental storm' (*huanjing fengbao*) by the media.<sup>58</sup> The MEP repeated this tactic at the start of 2006 when it targeted a series of chemical and

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<sup>58</sup> This first 'environmental storm' was also referred to as an 'EIA storm' (*huanping fengbao*).

petrochemical plants situated on the banks of rivers. This was seen as a response to the Songhua River disaster that occurred in November 2005 when an explosion at a chemical factory caused pollutants to be discharged into the river, necessitating the temporary suspension of water supplies to the downstream city of Harbin. Then, in January 2007, a third environmental storm was launched, in which the MEP imposed the strictest administrative penalties yet on polluting companies and districts by imposing four regional and industrial bans. This meant that no new projects under the jurisdiction of the four regional governments or the four large companies targeted by the storm would be approved until rectifying measures had been taken. Although the three storms were all spearheaded by the MEP, it became clear that it had received high-level support from other parts of the central government that enabled it to take on powerful economic interests. One explanation for this support is that a central feature of the storms, similar to the green GDP project, was to send out a powerful signal to local governments against careless and unrestrained development.

The 2005 environmental storm was ostensibly carried out in order to enforce the 2003 EIA Law. Large-scale projects frequently submit an EIA report after construction has been completed, in a practice that the MEP refers to as ‘boarding the bus before buying a ticket’ (*xian shang che, hou mai piao*) (Xiong, 2006). Many projects do not carry out an EIA at all.<sup>59</sup> In the month prior to the launching of this initiative, the MEP began to take steps to strengthen the EIA process and ensure that the process was carried out as intended. In December 2004, the MEP released a notice calling for stricter EIA procedures in order to prevent haphazard construction of power stations, and also took action against 68 work units with the authority to conduct EIA for failing to properly carry out their duties (Ibid.).

However, the 2005 environmental storm should also be interpreted as a macroeconomic measure designed to cool down the economy, as well as an attempt by the MEP to align itself with the SDC. 26 out of the 30 projects targeted for failing to complete an EIA were

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<sup>59</sup> According to the MEP, only 30-40 per cent of projects at county level and below in the central and western region carry out an EIA (Xiong, 2006).

in the power sector, which has been developed in an unsystematic fashion as local governments rush to fill the energy shortfall and boost local GDP figures. As one official from the China Academy of Social Sciences stated, 'one aspect of local governments conniving to introduce electric power projects on a large scale is to soften the problem of electricity shortage; another aspect is to increase GDP and increase [cadres'] political achievements' (*21 Shiji Jingji Baodao*, 13 January 2007).

Three of the halted projects were undertaken by the influential and powerful Three Gorges Corporation (TGC) which is the largest hydroelectric company in China and which ranks above the MEP in the bureaucracy. In a move that highlighted the MEP's hitherto lack of bureaucratic power, the TGC initially resisted the MEP's halting order, which led to a standoff between the two. This standoff was revealing, as it soon became apparent that important actors were mobilising behind the scenes in support of the MEP. Premier Wen Jiabao was reported to have supported the storm and subsequently praised the MEP at a meeting of central officials (*Time*, 7 February 2005).

Similar to green GDP project, the 2005 environmental storm also encountered opposition from local officials. However, according to the former head of the Hunan provincial EPB, when some officials strongly opposed the first environmental storm and called for Pan Yue, who had been the most vocal supporter of the initiative, to be disciplined, the central government again showed its support for the MEP by intervening and calming the debate (*Nanfang Zhoumo*, 22 March 2007). In addition, during the standoff with the TGC, the powerful central ministry National Development and Reform Commission (NDRC) jointly issued a notice with the MEP concerning the need to pay attention to environmental protection during the construction of hydropower plants (*Renmin Wang (People's Daily Online)*, 2 February 2005). This support for the MEP represented a significant shift in central government policy. As the head of the Energy Foundation Yang Fuqiang noted, 'in the past, the NDRC would have backed up the power companies... its support is a sign that [China's] leaders want to back SEPA up' (*Time*, 7 February 2005). This high-level support proved decisive; the TGC backed down and received a maximum fine of 200,000 *Yuan* for each of the three projects.

Shortly after the Songhua River disaster, the MEP launched what was described as the second environmental storm (*Nanfang Zhoumo*, 9 February 2006a). The agency suspended the licences of 11 enterprises in nine provinces that were located on the banks of rivers and which posed an environmental threat. It also conducted risk assessments on 127 chemical and petrochemical plants with a combined investment of approximately 450 billion Yuan, and examined 10 illegal projects with a combined investment of 29 billion Yuan (*Ibid.*).

The third environmental storm, launched in January 2007, represented a new phase in this tactic. The MEP identified and halted 82 projects with a combined investment of over 112 billion *Yuan* for failing comply with environmental regulations. However, in contrast to the first two storms that targeted individual projects, the MEP placed ‘regional permit restrictions’ on four cities<sup>60</sup> and ‘trade permit restrictions’ on four of China’s five biggest power corporations.<sup>61</sup> These permit restrictions meant that none of the cities or corporations in question would have any new projects approved<sup>62</sup> until they had complied with environmental regulations. This move represented the toughest administrative penalty ever adopted by the MEP (Yang Lei, 2007). Regional permit restrictions are significant in that they target local governments as opposed to individual enterprises, and are therefore a far stiffer penalty (*21 Shiji Jingji Baodao*, 13 January 2007). As Pan Yue noted, ‘this is a first step for the MEP, which has never before taken such resolute steps in its entire 30 year history’ (*Nanfang Zhoumo*, 23 January 2007).

In the same vein as the 2005 storm, the objectives of the 2007 storm were closely linked to macro-control policy and the SDC. According to Pan, ‘environmental protection is strongly connected with the scientific concept of development and can be seen as an instrument through which to implement macroeconomic policies’ (*Nanfang Zhoumo*, 23 January 2007). In addition, the 2007 storm followed closely on the news that China had

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<sup>60</sup> The cities were Tangshan in Hebei province, Luliang in Shanxi province, Liupanshui in Guizhou province, and Laiwu in Shandong province.

<sup>61</sup> The corporations were Datang International, Huaneng, Huadian, and Guodian.

<sup>62</sup> With the exception of projects related to the ‘circular economy’.

failed to meet its goal in 2006 regarding the reduction of energy consumption per unit of GDP as set out in the 11<sup>th</sup> Five-year Guidelines. It was reported that certain elements of the leadership had ‘lost their tempers’ over this, which could explain support for the strict measures undertaken (*21 Shiji Jingji Baodao*, 13 January 2007). The third environmental storm may have been partly motivated by the desire of the central government to signify that this would not be tolerated.

The environmental storms suggest that the MEP has managed to successfully solicit high-level support by aligning this campaign closely with central government goals consistent with the new development direction. However, there are limits to what it has been able to achieve. First, although the MEP claimed victory in the standoff with the TGC, it could only impose a maximum fine of 200,000 *Yuan* per project, a paltry amount in comparison with the amount of money invested. This shows the extent to which the MEP remains limited in terms of the punishments it can hand out. In addition, it was reported that soon after the 30 projects in the 2005 environmental storm were halted, they were allowed to resume again after completing a ‘make-up’ EIA. This reveals deeper systematic shortcomings related to China’s EIA process, as conducting an EIA after a project has begun undermines the main premise of an EIA, which is to identify potential environmental impact *before* it occurs in order that mitigating steps might be taken. Furthermore, although the environmental storm approach has been successful in generating headlines, and Pan Yue has been christened ‘Whirlwind Pan’ (*Pan Xuanfeng*) by the media, they are by their very nature one-off campaigns. After the storms die down the situation usually reverts to normal (Tang, 2007). Pan Yue has acknowledged the limitations associated with the environmental storm approach, and has argued that a more wide-ranging reform of the system is needed (*Renmin Ribao (People’s Daily)*, 6 February 2007). However, he views measures such as the environmental storms as necessary steps towards this direction, explaining that, ‘to move the system forward, we’re playing a kind of game: we enforce a new environmental law – and the other side retreats a bit, and we advance a bit’ (*Nanfang Zhoumo*, 23 January 2007).

### **Wider Political Motives and the Role of Civil Society**

In what ways has the central leadership's increasing concern for environment and resource issues affected environmental governance in China? The two initiatives examined above show how the MEP has taken advantage of the paradigm shift at the central level in order to pursue policies that it would not have been able to pursue in the absence of significant support from the leadership. On the face of it, both green GDP and environmental storms were designed to encourage, or compel, local officials to change how they pursue economic growth. In this sense, they were very much consistent with the goals of the SDC, which advocates a more balanced development path. However, a closer examination of the two schemes suggests that they were also attempts to improve the MEP's bureaucratic standing by positioning it at the forefront of the central leadership's new development trajectory and attempts to use macro-control as a means of regulating the economy. Both schemes were also designed to bring attention to the severity of China's environmental situation. Even though the MEP could claim a victory in relation to the environmental storms, weaknesses in the EIA Law meant that this was a bureaucratic victory rather than something that could significantly improve the environment. The highly ambitious green GDP initiative, meanwhile, was perhaps unsurprisingly largely unsuccessful due to bureaucratic opposition in a political environment where economic growth is still prioritised.

A major feature of the two initiatives was the way in which MEP officials, and Pan Yue in particular, used the media in order to overcome institutional constraints. Pan, a former journalist, skilfully engaged with the media in order to promote both green GDP and the environmental storms. The green GDP and environmental storm initiatives both generated a large amount of media interest. This media attention was arguably the most fruitful aspect of the two schemes from the MEP's viewpoint. In addition, the MEP's interactions with the media added a layer of transparency to the two initiatives. For example, Pan announced details of the first environmental storm in person to journalists at a press conference. In all three storms, the MEP revealed the names and details of the companies and local governments involved, effectively 'naming and shaming' them in



the media.<sup>63</sup> Moreover, MEP officials such as Pan and Wang Jinnan, who worked on the green GDP project, also fielded numerous interviews in relation to the two initiatives.<sup>64</sup> These interviews enabled them to justify the MEP's position, appeal to public support, and also keep the two schemes, and environmental issues more generally, on the public agenda. The MEP also raised the profile of green GDP through its televised 'Green China Champions' award show, during which one of the statisticians working on the project received an award (*Newsweek International*, 15 January 2007). However, after the NBS sent the 2005 green GDP report to the State Council, Pan was reportedly forced into keeping a low profile, and was therefore unable to offer a public explanation as to why the report was not to be published. Partly as a result of this, media reports on green GDP reduced significantly and the decision making process in relation to the future green GDP was conducted behind closed doors.

*The two initiatives as a plea for more resources*

There is evidence to suggest that Pan Yue and the MEP used the two initiatives in order to make a case for increasing the agency's resources. This was also done in several ways. For example, although ostensibly an attempt to promote environmental indicators in the cadre assessment process, the green GDP initiative was also used to highlight the lack of investment in environmental protection. A news bulletin issued by the MEP highlighted the 2004 report's finding that a one-off investment of 108 billion Yuan, equivalent to 6.8 per cent of GDP, was needed in order to treat point source pollution. In addition, annual investment equivalent to 1.8 per cent of GDP was needed in order to maintain a clean environment. However, the bulletin pointed out that, under the 10<sup>th</sup> Five-Year Plan annual investment in pollution control was only equivalent to 1.18 per cent of GDP (SEPA, 2006b). In media interviews, Pan Yue also used the report's findings to point out the need to increase investment in environmental protection (*Renmin Ribao*, 11 September 2006). As a result, it could be argued that the MEP, in drawing attention to

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<sup>63</sup> Chapter 5 examines the tactic of 'naming and shaming' in more detail.

<sup>64</sup> For an English translation of one such interview, see *Nanfang Zhoumo* (23 January 2007). In the past, Pan has also been interviewed by overseas publications, in which he has emphasised China's environmental plight. See, for example, *Spiegel* (7 March 2005).

both the scale and the clean-up cost of China's environmental degradation, used green GDP partly in order to make the case for more funds.

Likewise, the environmental storms could be seen as a useful way of highlighting the scale of the problem of lax enforcement of environmental legislation, and the MEP's weak position in the bureaucracy. The paltry nature of the fines that the MEP levied on companies in the first environmental storm, as well as the indifference to the agency's regulations displayed by many project coordinators showed how little authority the MEP had in relation to powerful enterprises. The MEP's motives for launching the initiative were also questioned by an environmental expert who works with the agency. Speaking in relation to the first environmental storm, he said, '[the MEP] is just putting on a show to convince the public that it is doing its job... it is diverting attention from the fact that it has failed to clean up the environment' (*South China Morning Post*, 21 March 2005).

#### *NGO involvement*

As well as utilising media support in its pursuit of the two initiatives, the MEP was also supported by Chinese environmental NGOs. For example, after it was announced that publication of the 2005 green GDP report was being postponed indefinitely, Friends of Nature issued a statement in support of green GDP (Friends of Nature, 2007a). In addition, 56 NGOs signed a letter of support for the environmental storms (Friends of Nature et al 2007). Although NGOs appeared to have a negligible effect in both cases, the support given by activists demonstrates the linkages that are developing between the MEP and China's NGO community. Pan's successful courting of the media, and NGO support, facilitated the claim that green GDP and environmental storms were important because they successfully won the attention and support of the media and the public (see, for example, Xiong, 2006).

#### **Conclusion**

This chapter has focused on efforts to hold local officials to a greater degree of accountability to higher levels of government with regards environmental issues. A high level of central leadership concern for environmental issues represents a paradigm shift in

how development is perceived. The SDC shows that environmental issues are more and more forming a central part of China's development strategy and are decreasingly confined to the domain of the environmental protection agency. This in itself is an important development. And yet this chapter has also shown that translating the environmental protection aspects of the SDC into better environmental outcomes is likely to be a long and difficult task.

The green GDP and environmental storm initiatives show how the MEP has been relatively successful in positioning itself at the forefront of a policy window created by the current leadership's new development direction that is, to a greater extent than before, underpinned by environmental and resource concerns. The MEP has also shown that it can be an important actor in the government's macro-control policy. Heightened central leadership support for environmental and resource issues has enabled the MEP to introduce policies that are unprecedented in the PRC, both in terms of the scale of the 'carrot' of green GDP which offers incentives to officials to move away from GDP-centric development, and the 'stick' of the environmental storms whereby the MEP showed a previously lacking determination, backed up by central government support, in taking on illegal projects. Aided by the communication skills of Pan Yue in the role of 'policy entrepreneur' (Kingdon, 2003), these initiatives have facilitated the raising of the MEP's profile, and the profile of environmental issues overall. Ensuring that environmental issues maintain a high profile is important for China's long-term environmental prospects, even considering that public opinion does not have the same influence in China as it does in liberal democracies. Likewise, any strengthening of the environmental agency's position should be welcomed.

However, the two case studies also demonstrate the difficulties that the central government encounters as it attempts to affect more balanced development in the face of powerful vested interests in a highly fragmented political system. Although it has been argued that initiatives such as UEQES and NEMC have had some success in changing the behaviour of local officials (Rock, 2002a, b; Economy, 2006), this chapter has found that the green GDP project has so far largely failed to change incentives. Due to local

government opposition, the MEP was forced to back down from its original position that green GDP data, accompanied by a performance league table, should be made public. Admittedly, the green GDP project as envisioned by the MEP amounts to a far more ambitious scheme than previous attempts to provide incentives for environmental protection. Whereas UEQES and NEMC appeal to local officials because they believe that it might ultimately lead to tangible benefits such as greater inward investment, the green GDP initiative would, if properly implemented, significantly alter the way in which officials pursue growth. Local officials would not be able to sign up for green GDP on a voluntary basis if it did become a performance indicator. Striking the right balance between providing incentives on the one hand, and significantly altering how local officials develop their economies on the other, may prove difficult.

Apart from their short-term impact, the environmental storms merely highlight deeper shortcomings in China's environmental governance regime. Resorting to campaigns to improve officials' behaviour highlights the difficulties involved in promoting greater accountability within a non-democratic political system. The way in which central leaders offered unprecedented support to the MEP in launching the three storms is consistent with policies such as the SDC that suggest something of a paradigm change in terms of the amount of attention paid to environmental issues. And yet, whilst it might be relatively easy for central leaders to lend their support to one-off campaigns in order to send a signal to local cadres, it may be much harder for the leadership to take the tougher steps required in order to effect lasting change, even if they are willing to do so. As noted earlier in relation to green GDP, significantly altering the balance between economic growth and environmental protection appears to still be an area of contention even among the central leadership. Although steps have been taken to increase the emphasis placed on environment and resource issues in the cadre evaluation system, economic growth remains the dominant goal. The prospects for any significant realignment in the relationship between economic growth and environmental and resource issues in China appear unlikely in the short term at least, particularly when in its authoritarian political system largely unaccountable political elites are able to resist such steps.

As this chapter has argued, improving environmental accountability for local officials from within the bureaucracy is a difficult undertaking. However, officials can be encouraged to change as a result of public pressure. Although public participation in environmental protection in the PRC has been limited, some officials are recognising the important role that citizens can play in holding officials to account. The next chapter explores the impact that government policy and civil society activism has had in promoting environmental public participation in China.

## Chapter 4: Creating a Legislative Framework for Environmental Public Participation

The previous chapter examined attempts by the central government to improve the enforcement of environmental legislation by holding local officials more accountable for environmental issues. It showed how the Ministry of Environmental Protection (MEP), backed up by central leadership support, has attempted to change the behaviour of local officials through its green GDP and environmental storm initiatives.<sup>65</sup> However, as Chapter 3 argued, there is strong opposition from many local officials to schemes designed to improve their performance in environmental protection. As a result, this chapter suggested that the MEP should also try to enable the public to play a greater role in environmental protection through improving access to public participation.

This chapter contributes to understandings of how public participation in environmental governance is being promoted in China. Participation has been identified as an important element of ‘good governance’ (Asian Development Bank, 1995; Nanda, 2006). It can improve the design and implementation of projects, including in relation to their environmental impact. Furthermore, through participating in decisions, members of the public can promote official accountability. In this sense, public participation can be advanced in two main ways. First, by participating in environmental governance, the public can ensure that local officials obey policies from higher up levels of government. Second, the public can pressurise officials to respond to citizens’ own wishes. This chapter examines ways in which the Chinese Party-state has promoted environmental public participation. It also considers the extent to which public participation in China can effectively hold officials to account and improve environmental decision-making. It does so through an examination of key policy documents and public participation legislation. This chapter also examines two case studies that have implications in terms of

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<sup>65</sup> Before 2008, the central level environmental protection agency was referred to as the State Environmental Protection Administration (SEPA). This chapter uses ‘MEP’, which SEPA became known as in 2008, throughout.

whether environmental public participation in China can promote greater official accountability.

Low levels of public participation have been cited as a major shortcoming in China's approach to environmental protection (Lotspeich & Chen, 1997; Tang & Lo, 2006; Martens, 2006). As Chapter 2 noted, the Chinese government has historically favoured solutions to environmental problems that are firmly rooted within the state. And yet, confronted by a significant environmental challenge and serious environmental protection implementation deficit, MEP officials have increasingly acknowledged the importance of the public's role in environmental protection. In the early 1990s, the MEP started to pursue an agenda of promoting public participation. Initially, this was centred on measures such as improving environmental awareness, allowing the emergence of environmental NGOs, and establishing an environmental complaints system. Since 2003, the policy of promoting public participation has deepened. The government has strongly advocated environmental public participation and has introduced formal channels whereby the public can play a more proactive role in the planning stage of new projects.

One of the most significant developments in relation to the deepening of Chinese environmental public participation since 2003 centres on the Environmental Impact Assessment (EIA) process. As a result, public participation related to the EIA process is a central consideration of this chapter. The EIA Law, promulgated in 2003, contains clauses that facilitate the incorporation of public opinion into the EIA process. In theory, this enables citizens to present their opinions on large-scale projects before they are approved. As the previous chapter discussed, many construction projects fail to take the EIA Law seriously, and implementation of this law has been problematic. The insertion of channels for public participation in this process might render it more effective from a planning perspective through incorporating the concerns and suggestions of local stakeholders. In addition, it might ensure that local officials are held accountable for projects by members of the public who demand to have their say in the EIA process.

Although several scholars have noted China's attempts to incorporate public opinion into China's EIA process (Zhang et al, 2007; Carter & Mol, 2006; Martens, 2006), very little empirical analysis has been done (Tang et al, 2005; Moore & Warren, 2006). To date, some scholars have expressed cautious optimism regarding public participation in the EIA process. It has been suggested that incorporating public opinion into the EIA process through mechanisms such as public hearings may contribute to a diversification of China's environmental governance approach (Zhang et al, 2007: 664; Carter & Mol, 2006: 336; Martens, 2006). Others argue that, despite these policies, public participation is likely to remain constrained by the Party-state (Tang et al, 2005). In addition, although the impact of public participation legislation on Chinese environmental civil society has been mentioned as an issue in the literature (Lu, 2007; Tang & Zhan, 2008), no detailed studies exist that examine the linkages between the Party-state's public participation agenda and civil society in China. In order to address these gaps in the literature, this chapter introduces original empirical material that helps improve understanding regarding the kind of public participation that is being promoted in China's one-party political system. In addition, this chapter also focuses on how the government's public participation agenda influences civil society, and vice versa.

This chapter is organised as follows. It begins by examining the evolution of the Chinese government's policy regarding environmental public participation. Referring to policy documents and official statements, it argues that official promotion of public participation has gathered pace since 2003. As part of this process, public participation is increasingly being framed in legal terms that emphasise the public's 'right to participate' (*canyuquan*), and 'right to know' (*zhiqingquan*). The Party-state's policy on public participation, however, is not designed to give members of the public unlimited involvement in environmental issues. Rather, the aim is to create a 'public supervision mechanism' (*shehui jiandu jizhi*), whereby members of the public can improve the implementation of environmental legislation.<sup>66</sup> This mechanism aims to promote an orderly and easily controlled form of environmental public participation that does not provide a platform

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<sup>66</sup> The term 'public supervision mechanism' was used in the 2005 'State Council Decision Regarding Implementing the Scientific Development Concept and Strengthening Environmental Protection' (State Council, 2005).



from which members of the public might challenge the central authorities. At the same time, a central aim of this public supervision mechanism is to defuse growing social unrest associated with environmental issues.

As well as focusing on legislative and policy developments relating to public participation emanating from the environmental state, this chapter is concerned with the response of civil society. In particular, it focuses on the involvement of NGOs in two high profile campaigns. First, this chapter examines in detail China's first national level environmental public hearing, which took place in April 2005 at Yuanmingyuan (the Old Summer Palace) in Beijing. This hearing was convened after the park authorities failed to carry out an EIA on a controversial project to line the park's lake beds with plastic sheeting in order to conserve water. Although this hearing has been analysed from a legislative viewpoint (Moore & Warren, 2006), no studies document the role of civil society. This chapter focuses on the role that NGOs played before, during, and after this hearing, and what this incident reveals in terms of the wider implications regarding the role of civil society in environmental governance.

Second, this chapter introduces further original empirical materials in order to consider the ways in which NGOs have attempted to make use of public participation legislation in their campaign against hydropower development in Yunnan Province. During the Nu River campaign, activists cited the government's own policies concerning public participation in order to push, unsuccessfully, for a more consultative decision making process. However, in a separate hydropower project at Ahai in Yunnan, activists were invited to comment on the EIA report and take part in formal meetings with officials. This was the first time that activists had been allowed to formally participate in decisions related to hydropower development in China.

This chapter concludes that public participation mechanisms such as public hearings are still a long way from becoming an institutionalised part of environmental protection in China. Rather than representing the beginning of a more inclusive decision making process as some have tentatively suggested (Zhang et al, 2007: 664; Shi & Zhang, 2006;

Carter & Mol, 2006: 336), public participation mechanisms have failed to promote meaningful public input. The extent to which officials can be held to account via these mechanisms is very limited. Rather than making use of institutional channels to affect government policy, NGOs have been primarily concerned with pioneering these new public participation mechanisms. In doing so, they support the MEP and push for gradual governance reform within the current political system rather than actively engaging with and mobilising the grassroots to make use of their 'right to participate'. Due to the arbitrary way in which public participation requirements are discharged by officials, and because of lingering suspicion of non-state involvement in decision-making processes, it is likely that public participation will continue to be more effective when pursued reactively in relation to environmental grievances, rather than proactively through the MEP's emerging legislative framework.

### **The Evolution of Environmental Public Participation Policy in China**

Public participation can be defined as 'any of several "mechanisms" intentionally instituted to involve the lay public or their representatives in administrative decisionmaking' (Beierle & Cayford, 2002: 6). Various scholars have argued that a lack of public participation in environmental protection is a significant impediment to better environmental outcomes in China (Lo & Tang, 2006), and in authoritarian systems more broadly (Lotspeich & Chen, 1997; Payne, 1995). For example, it has been suggested that in China low levels of public participation contribute to the poor enforcement of environmental legislation (Alford & Shen, 1997; Beyer, 2006), which was identified in Chapter 2 as a major failing in China's environmental protection efforts to date. As a result, commentators have stressed the value that greater citizen involvement in environmental protection could potentially have for China (Martens, 2006; Economy, 2007). Moore and Warren (2006: 4) have argued that public participation could be the best chance for China to improve its system of environmental governance, whilst prominent Chinese environmentalist Ma Jun cites a lack of public participation as China's greatest failing in its environmental and resource management efforts (Ma, 2007a).

MEP officials agree that low public participation levels are seriously impeding China's environmental protection efforts. Officials have cited a lack of channels for public participation as one factor behind low rates of public involvement. As MEP Vice-Minister Pan Yue noted, 'insufficient legal mechanisms for public participation are an important reason why China's environmental protection has laws that are not enforced, as well as having laws that are enforced in a lax manner' (*Zhongguo Huanjing Zaixian*, 1 June 2004). The role of the public in enforcing environmental regulations and exposing egregious examples of official neglect or incompetence is potentially a vital one in terms of increasing the efficacy of the MEP's policies and therefore promoting rule of law and official accountability. Public participation can be a cheap yet highly effective means of promoting environmental protection and overcoming China's environmental protection implementation deficit.

Another factor behind the government's recent enthusiasm towards public participation is that, as noted in Chapters 1 and 2, social unrest triggered by environmental problems has risen sharply in the past few years. This is a cause of great concern for the authorities. It has been claimed that much unrest materialises because the public is often unable to seek redress for environmental problems through official channels (*Lü Ye*, 2006a: 16). Unrest can also occur when the public is not consulted in the planning stage of projects that have a negative environmental impact. Officials have recognised that incorporating the views of citizens into decision-making processes can reduce discord between officials and the public. Speaking in favour of greater environmental public participation, Pan Yue stated that, 'we would rather have an argumentative policy making process and a harmonious result, as opposed to a 'unanimous' policy making process and a chaotic result' (*Xin Jing Bao*, 27 April 2007).

#### *The Beginnings of Environmental Public Participation in China*

Since the early 1990s, the central government has slowly started to put in place some of the necessary conditions and channels in order to encourage public participation in environmental protection. As Chapter 2 noted, the creation of a limited space for environmental NGOs to operate in was an important step. Not long after the country's

first environmental NGO Friends of Nature (FON) was established in 1994, NGOs and members of the public demonstrated the role they could play as environmental ‘watchdogs’ and ‘whistleblowers’ (see Chapter 2).

Around the same time that FON and other organisations began appearing, the central government articulated its support for public participation in environmental protection through the 1996 ‘State Council Decision Regarding Certain Environmental Protection Problems’ (hereinafter the 1996 Decision). This has been described as a turning point as far as the encouragement of public participation in environmental protection in China is concerned (OECD, 2006: 44). The 1996 Decision called on government officials to encourage public participation and to give NGOs a more prominent role. It also urged citizens and the media to expose illegal activities that are harmful to the environment (State Council, 1996). As Chapter 5 discusses in detail, this contributed to the growth in environmental information made available to the public by the media and, to a lesser extent, by government officials, throughout the 1990s.

The 1996 Decision failed to specifically set out how greater public participation should be achieved (Ibid.). One important policy to increase public participation did, however, emerge during the 1990s, namely establishment of a system for collecting environmental complaints. It has been suggested that this policy has achieved some success, with regulators tending to respond positively to complaints (Dasgupta & Wheeler, 1996). Anna Brettell (2008) has found that the number of recorded environmental complaints has risen significantly, with 5.59 people per 1000 lodging a complaint in 2004 compared with 1.23 people per 1000 in 1990. Meanwhile, Shi and Zhang (2006: 288) quote official statistics that show an almost tenfold increase in written complaints to EPBs between 1996 and 2004. This increase can be explained in part by worsening pollution as well as increased environmental awareness by members of the public. It is also indicative of an improving institutional system for managing environmental complaints (Brettell, 2008). By the end of 2005, almost 70 per cent of administrative divisions had established a pollution hotline through which members of the public can register complaints (Ibid.). In addition, citizens also have the opportunity to seek redress through the ‘letters and visits’

(*xinfang*) system, and are also allowed, at least in theory, to take their complaints to the next administrative level (*shangfang*). However, as Mol and Carter (2006: 161) argue, reactive complaints represent a ‘poor’ form of participation.

With the 2003 promulgation of the EIA Law, the central government has stepped up its efforts to encourage environmental public participation to the extent that some analysts claim they have officially ‘embraced’ the concept (Moore & Warren, 2006: 3). Rather than promoting a ‘free for all’, however, the MEP would like to ensure that public involvement is limited to ‘reasonable’ (*heli*) and ‘legal’ (*hefa*) officially created channels such as commenting on draft legislation and through the EIA process. By pursuing these policies, the MEP is continuing to try and extend governance to non-state actors through tightly controlled, systematic channels that form part of a ‘public supervision mechanism’.<sup>67</sup> Another aspect of this framework, information disclosure, is examined in Chapter 5.

Since the EIA Law was promulgated, there has been greater emphasis on channels for incorporating public opinion into projects and policies at the planning stage. The 2005 ‘State Council Decision Regarding Implementing the Scientific Development Concept and Strengthening Environmental Protection’ (hereinafter the 2005 Decision) called on officials to convene public hearings (*tingzheng hui*) and listen to the public’s suggestions about development plans and construction projects that affect public interest (State Council, 2005). This represents a continuation in the departure from limiting public participation to reactive action, and mirrors a wider trend whereby public participation is seen as enhancing the legitimacy and enforceability of legislation in the PRC in general (Paler, 2005). In the environmental sphere, Ferris Jr. and Zhang (2005) have noted that there are increasing opportunities for people to comment on draft legislation, although there is a lack of manpower dedicated to analysing these opinions (see also Alford & Liebman, 2001). In addition, the government solicited and received a large number of public comments at the drafting stage of the 11<sup>th</sup> Five-Year Guidelines. Members of the

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<sup>67</sup> The need to ‘systemise’ (*zhiduhua*) environmental public participation is frequently put forward by officials and the official media (see, for example, State Council, 2005).

public have also been invited to submit comments in relation to draft legislation, including the revised Water Law.<sup>68</sup>

### *Public participation in EIA*

As noted above, the policy of extending governance to non-state actors through official mechanisms has been most prominent in the field of Environmental Impact Assessment (EIA). As a result, this forms the main focus of this chapter. The history of EIA in the PRC dates back to as early as 1973 when it was introduced at the First National Conference on Environmental Protection (Wang et al, 2003: 545). It then formed an important part of the 1979 Environmental Protection Law (For Trial Implementation) and the 1989 Environmental Protection Law. Unlike the EIA process in western countries which encourages and facilitates public participation, EIA in China was designed as a top-down instrument through which to control pollution (Ibid.: 563). However the 1998 'Regulation on the Environmental Protection Management of Construction Projects' did include national-level provisions for public participation in the EIA process (Tang et al, 2005: 12). And before this, the Shanghai and Guangzhou municipal governments had adopted measures, in 1994 and 1995 respectively, that required projects to consider public opinion during the EIA process (Ibid.). However, overall public participation in China's EIA process was very limited, representing a significant weakness in this process (Ibid.: 8, 14).

In October 2002 a new, stand-alone EIA law was promulgated, coming into effect in 2003 (see People's Republic of China Executive Order No. 77, 2002). The EIA Law makes provisions for public involvement in the EIA process and also makes local government plans and programmes subject to strategic environmental assessments.<sup>69</sup> In general terms, Article 5 of the law states that the government 'encourages' (*guli*) relevant units, experts and the public to participate in EIAs. According to Article 11, local

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<sup>68</sup> According to an article from the People's Daily, the soliciting of public opinion regarding the Water Law was the first example of 'genuine' public input into an environmental law (*Renmin Ribao*, 3 September 2007).

<sup>69</sup> Early drafts of the law included provisions that would have made government policies subject to EIA procedures. However, these provisions were excluded from the final version after objections from government departments. See Wang et al (2003: 550).

government planning departments overseeing plans and programmes that could create unfavourable environmental impact directly affecting the public interest should solicit public opinions through discussion meetings (*lunzheng hui*), hearings (*tingzheng hui*), or ‘other channels’. Furthermore, local governments should include an attachment with the EIA report stating the reasons why these opinions have either been accepted or rejected. Article 21 makes similar provisions for private sector construction projects (*Ibid.*).

In order to clarify the role that the public should play in the EIA process, in 2004 the MEP promulgated the ‘Temporary Measures for Environmental Protection Administrative Licensing Hearings’ (hereinafter ‘ALL Measures’), pursuant to the Administrative Licensing and EIA laws (SEPA, 2004). The ALL Measures made provisions for public hearings in relation to EIAs for the environmental administrative licensing of projects and plans (Moore & Warren, 2006: 6).<sup>70</sup> In 2006, the MEP followed this up by promulgating the ‘Temporary Measures on Public Participation in Environmental Impact Assessment’ (hereinafter ‘EIA Measures’), which was pursuant to the EIA Law. The EIA Measures identify five different ways in which the public can participate in the EIA process, namely opinion surveys, consultations, seminars, debates, and hearings (SEPA, 2006c).

This emerging body of legislation underscores the MEP’s apparent growing commitment to public participation based on legal rights and responsibilities (Moore & Warren, 2006). Officials have spoken at length about the need to promote public participation based on citizens’ rights, which is a relatively novel concept in the PRC. In an essay written in 2004 entitled ‘The Environment Needs Public Participation’ Pan Yue argued that, ‘we must understand clearly that public participation is the right and interest of the people endowed by law. The government has the obligation to respond to and protect this right’ (Pan, 2006[2004c]).

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<sup>70</sup> Two types of projects and 10 types of plans are referred to in the legislation. Projects include those large and medium scale projects that are likely to have a large environmental impact, and small scale projects likely to cause pollution to the detriment of local people’s quality of life. Plans include those related to industry, agriculture, herding, energy, water resources, transport, forestry, urban construction, tourism, and development of natural resources, which are likely to have a negative environmental impact on people’s lives (SEPA, 2004).

The changing legislative environment is potentially significant for China's green NGOs. As well as suffering from difficult registration procedures and a lack of human and financial resources, NGOs have also been limited by a lack of channels through which to participate. NGOs have watched these legislative developments with interest. Indeed, some organisations contributed to the drafting of the EIA Measures, and a meeting of over 40 NGO representatives to discuss the significance of the EIA Measures was convened two days after they were promulgated (Lü Ye, 2006b: 21; Buckley, 2006). However, ensuring that this legislation is enforced throughout the country will be a significant challenge. There are also problems with specific aspects of the legislation. For example, the EIA Law and the EIA Measures both grant exemption to projects deemed 'state secrets'. This could be used as an excuse by the authorities to block public participation (Lü Ye, 2006b: 21). Furthermore, it has been argued that the EIA Measures do not go far enough regarding information disclosure, and that participation takes place too late in the decision making process (Wang & Li, 2005: 2).

#### *Public Participation Limitations*

Despite the enthusiasm with which public participation is being pursued by the MEP and others in the central government, there are various obstacles that need to be overcome before public involvement in environmental protection becomes the norm rather than the exception. The trend towards legislating for environmental public participation in China is not necessarily a linear process. There is opposition within the parts of the bureaucracy to public participation. A case in point is the Strategic Environmental Impact Assessment (SEIA) Law that in 2008 was in the process of being drafted. When a draft version of this law was made available for public comments, it was criticised for not containing enough channels for public participation (*Renmin Wang Huanbao Pindao (People's Daily Online Environment Channel)*, 3 September 2008; *Fazhi Ribao*, 24 April 2008). According to Wang Jin, a professor from Peking University who had been involved in the drafting process, MEP officials significantly watered down public participation requirements contained in the original draft in order to appease other government departments that opposed public involvement. As a result, one journalist claimed that officials had used



public participation as a ‘bargaining chip’ (*Meiri Jingji Xinwen (National Business Daily)*, 21 April 2008). It was suggested that, by conceding ground in relation to public participation, the MEP won concessions in other areas of this draft law (*Ibid.*).

A lack of governmental capacity is another factor holding back public participation through official mechanisms. One interviewee noted that, although the government has strongly advocated public participation, there is a huge gap between rhetoric and actually implementing this policy around the country (Interview 3, 2006). A lack of knowledge on behalf of EPBs regarding how to facilitate public participation is considered a major limiting factor (*Ibid.*).

Overcoming scepticism and/or sheer resistance from local officials trying to safeguard economic growth is another barrier to effective public participation. According to MEP official Mu Guangsheng, ‘many local officials and enterprises still think public attention may hamper economic development’ (*South China Morning Post*, 3 February 2005). In addition, many officials still regard public participation with a degree of trepidation and worry that it might lead to the opening of a Pandora’s box of grievances and unrest. Even though, as already noted, public participation has the potential to contribute to social stability and improve environmental outcomes, this is balanced by the desire of the CCP to maintain a monopoly on political power. Ironically, there is a fear that too much participation could also be destabilising if it resulted in higher levels of unemployment due to enterprises being shut down for failing to reach environmental standards.

All of these factors impact on how the concept of public participation is defined and played out in the Chinese context. First, the central authorities have tended to emphasise the role of the public in enforcing decisions that have already been made, as opposed to trying to generate serious debate regarding the direction in which environmental policy should take (Kim & Jones, 2006: 99). To the extent that public participation is carried out at all in China, it is often viewed as a mere formality.

Another factor limiting public intervention relates to the weak rule of law in China. Public participation can frequently represent a risky undertaking, especially where such intervention threatens to damage the image or goals of local officials. In a widely reported case, environmentalist Wu Lihong was jailed in 2007, on what many claimed were trumped-up charges, as a result of his campaign to raise awareness about pollution on Wuxi's Tai Lake. Wu had attempted to raise awareness of the plight of the heavily polluted Tai Lake by sending reports to central government officials (*South China Morning Post*, 4 June 2007) whilst simultaneously criticising local officials for inaction. Despite the fact that Wu's actions apparently fit well with the MEP's rhetoric in support of increased public participation, and despite the fact that central officials were made aware of this case, Wu's conviction has been allowed to stand.

Partly as a result of these factors, public participation in environmental issues remains limited. For example, in 2006, the GONGO China Environmental Culture Promotion Association published a detailed statistical report on public participation in China entitled the 'National Environmental Protection People's Livelihood Index' (China Environmental Culture Promotion Association, 2006). This report defined public participation very broadly, including activities such as water conservation by individual households. And yet it still came to the conclusion that, although large numbers of Chinese are aware of and concerned about environmental problems, public participation was weak. The report noted that many Chinese do not know how to participate or do not know which form of participation is the most appropriate or indeed legal. This can partially be explained by a lack of mechanisms, as well as a lack of knowledge about existing mechanisms. For example, the report found that only 16 per cent of respondents were aware of the "12369" free telephone hotline that can be used by citizens to report environmental problems. Clearly the raising of public awareness is an important issue. Cultural factors can also be a barrier. Many Chinese view tasks such as environmental protection as solely belonging to the government's domain. In addition, one of the most serious limiting factors has been the lack of information upon which the public can act. Finally, a lack of channels for public participation has been identified as a major factor limiting public involvement in environmental protection (*Lü Ye*, 2006a: 16).

### **Public participation in the EIA process: The Yuanmingyuan Public Hearing**

In order to examine how public participation through the MEP's emerging legislative framework plays out in practice, this section draws on documentary evidence to examine the case of China's first ever national level public hearing, held in 2005 at Yuanmingyuan in Beijing.

#### *Background*

Yuanmingyuan, situated in a northern suburb of Beijing, was built in 1709 as an imperial retreat consisting of a series of gardens, palaces and lakes. It was infamously burned down in 1860 by French and British soldiers and was destroyed a second time in 1900 by the allied army of eight foreign countries. As a result, as well as being a popular tourist attraction, the park is highly evocative of China's humiliation at the hands of western countries during the 19<sup>th</sup> Century.

Plans to renovate Yuanmingyuan were drawn up by park authorities and some local government agencies in 2003. Officially, this renovation work included repairing lake and river banks, protecting the Yuanmingyuan ruins, and cleaning the lakes. Officials also cited the need to conserve water, a lack of which meant the park's water features ran dry for seven months every year (*Xinhua Tongxun She*, 28 July 2005). However, renovation was also unofficially motivated by the desire of park officials to introduce commercial activities, such as boating, to the site. The renovation project started in October 2003, having been authorised by the Yuanmingyuan Management Department, the Water Resources Research Institute of the Beijing municipal government, and the Water Resources Bureau of the Haidian district government (Zhou et al (eds.), 2005: 29). Yuanmingyuan authorities claimed that the 'Regulations on the Sustainable Usage of Yuanmingyuan's Water Resources', drafted by the three departments, officially mandated the renovation work (Ibid.).

Controversy regarding the project surfaced on 22 March 2005 when a professor of life science from Lanzhou University, Zhang Zhengchun, visited the site whilst in Beijing on

business. Zhang was shocked when he discovered dozens of workers who were in the process of laying white plastic sheeting on the site's lake and river beds in a bid to prevent water from seeping away into the ground. Zhang immediately realised the potential damage that such a project could cause to the park's ecosystem and, by extension, to the authenticity of one of the country's most prized and evocative historical relics. In order to raise public awareness, he brought news of this 'leak prevention project' (*fangshen gongcheng*), carried out as part of the wider renovation work, to the attention of both local and national media. This set in motion a chain of events culminating in the PRC's first ever national level public hearing on an environmental issue.

The media played a key role in bringing the story to the attention of the public, and the issue generated a large amount of public interest. After receiving a telephone call from Zhang on 24 March, the People's Daily investigated and ran the story on 28 March (Zhao, 2006). Other parts of the national press, including major newspapers such as Southern Weekend and China Youth Daily carried the story the next day. Some reports were very critical of the project and the way in which the park authorities had conducted themselves. The leak prevention part of the project, costing about 30 million RMB, had started in September 2004, and by the time that Zhang helped expose it to the authorities and wider public, it was almost complete.

One of the main points of contention in the debates that followed centred on what the purpose of the park should be. Opponents charged that the leak prevention work was being carried out for financial and commercial reasons, and that Yuanmingyuan should be treated as a cultural and historical relic rather than an amusement park. In contrast, the Yuanmingyuan management maintained that the project was required due to severe water shortages (*Xin Jing Bao*, 4 April 2005). However, public suspicion of the authorities' motives heightened when it later emerged in May that plans were afoot to rent out one of Yuanmingyuan's islands to private tenants. And, several days later, it was reported in the media that plans existed to build villas within the site. After these plans were exposed, the park authorities backed down under pressure and cancelled these projects.

The official response followed soon after the story came out in the media. The Beijing EPB visited the Old Summer Palace to carry out its own investigation on 29 March (Zhou et al (eds.), 2005). Then, on 31 March, the MEP stepped in and issued an order for the leak prevention work to be halted. The justification for this stemmed from the fact that no EIA had been carried out for the work in question. Based on this, the MEP invoked article 31 of the 2003 EIA Law and ordered the park authorities to carry out and submit to them a ‘make-up’ (*buban*) EIA.<sup>71</sup> Indeed, as well as violating the EIA law, the renovation work was also contrary to the Heritage Law and the Heritage Bureau of the Beijing municipal government had apparently not been informed of the work (Ibid.: 30). At the same time, the MEP announced that a public hearing, as legislated for in the ALL Measures, would be held concerning the Leak Prevention Project on 13 April before the submission of the EIA (Ibid: 32). The reason given by the MEP for holding a public hearing in this case was ‘based on the project’s environmental sensitivity and because there exists a large divergence of opinion’ (SEPA, 2005).

#### *Yuanmingyuan Public Hearing*<sup>72</sup>

In one sense, the Yuanmingyuan hearing was an example of how grassroots pressure, combined with public participation mechanisms, can result in a governance process in China that involves actors beyond the state. However, the MEP also viewed it as a good opportunity to promote its public participation agenda through convening a public hearing that attracted much public and media interest.

The hearing was attended by over 70 people who had been selected from over 200 applicants (Moore & Warren, 2006). They included representatives from eight administrative bodies and over 40 news units. Attendees also included approximately 10 representatives from NGOs FON, Global Village Beijing (GVB), Green Earth Volunteers (GEV) and the Earthview Environmental Education Centre (EEEC). High-level MEP

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<sup>71</sup> Constructors who fail to carry out an EIA are allowed to do a ‘make up’ EIA after construction is underway. This is seen as a major weakness in the EIA process, as it effectively undermines the whole logic behind the EIA process.

<sup>72</sup> Unless otherwise indicated, information related to the Yuanmingyuan public hearing is based on the official hearing transcript (see *Renmin Wang*, 13 April 2005).

officials including Minister Xie Zhenhua and Pan Yue were also present (Zhao, 2006). This demonstrated a high-level of agency support given to the hearing, and public participation by extension. Among the 29 speakers were three NGO members, namely FON General Director Xue Ye, EEEEC Chairperson Li Hao, and GVB Chairwoman Liao Xiaoyi. The fact that NGO representatives were invited to participate in the hearing also represented a first for China. As Liao Xiaoyi subsequently noted, 'The Yuanmingyuan leak prevention public hearing is a beginning, it is the first time that environmental NGOs have been invited to participate and put forth our voices. I think this is the start of a new era' (Ma, 2005: 10).

The hearing started with a short statement from Pan Yue. He said that among the reasons for holding the hearing were in order to expand and standardise public participation and to help push forward a more democratic decision-making process. In a show of openness and transparency, the hearing was broadcast live on the websites of Xinhua and the People's Daily. Participants took it in turns to put forward their cases, alternating between those against and those in favour. At times, the debate became rather heated, and towards the end of the hearing a representative from the Yuanmingyuan Management Bureau stormed out after the participant summing up for the project's opponents called for those responsible for the project to be held to account. One MEP official stated after the hearing that participants had not used enough statistics to back up their positions and had not reasoned enough (Yi, 2005). Nevertheless, the hearing took place and featured a plurality of opinions, even if the final decision firmly rested with the government.

After the hearing, the next task was for the EIA report to be drafted. Initially, it proved difficult to find a willing agency to take on the responsibility in such a highly publicised case. However, Qinghua University finally agreed to undertake the task, and the report was published on 5 July. In another show of openness, it was available on the MEP's website. Within 10 hours of appearing online, it had received 17,000 hits, causing the website to crash for three hours (*Nanfang Zhoumo*, 22 July 2005). The EIA report concluded that the project was illegal, had resulted in a negative impact on the ecological environment, and should be remedied (Zhao, 2006: 73). However, this was only a hollow

victory for those opposed to the project. The approximately 90 per cent of the project that had already been completed by the time that the MEP issued its halting order was not dismantled and remained largely untouched, leading to speculation that the MEP had made a political decision (Moore & Warren, 2006: 17). The hearing was also criticised because the MEP did not strictly adhere to procedure as set out in the legislation. It was pointed out that in China hearings should take place after the EIA report is completed. However, in this case the hearing took place before the public had had a chance to view the EIA report (Ibid.).

#### *NGO Involvement in the Yuanmingyuan Incident*

How does the government's promotion of public participation through official mechanisms affect Chinese civil society? The role that NGOs played in the Yuanmingyuan incident reveals something about how civil society is affected by the government's policy of promoting public participation. Beijing-based NGOs, and FON in particular, had taken an interest in Yuanmingyuan well before the leak prevention project was exposed. FON had a bird watching group that had been meeting and conducting ecological surveys at the park since 2002. Around that time, the group discovered that some projects being carried out at the park were threatening its biodiversity, and in February 2003 sent a report to the Beijing Municipal Government. The 'Protect Yuanmingyuan's Wild Biodiversity Report' was passed on to the Yuanmingyuan Management Bureau by Beijing Vice-Mayor Liu Jingmin. Finally, in August 2003 the Yuanmingyuan Management Bureau responded, assuring FON that they took the problem seriously and would take steps to protect the park's ecology (Yi, 2005). However, as FON's Xue Ye subsequently noted, 'the pity was that [the] Yuanmingyuan [management] went back on its own word' (*Xin Jing Bao*, 14 April 2005). In 2004 the bird watching group also witnessed the park's experiments that preceded the leak prevention project, but apparently did not realise the significance of this and failed to report it to the authorities (Ibid.). It is interesting to note that FON activist and member of the 12<sup>th</sup> Beijing Municipal National People's Congress Li Xiaoxi said that after witnessing some of the early renovation work, 'we resolutely opposed [the renovation project], we even invited the MEP minister to come over, but we were unable to stop

them'.<sup>73</sup> Opposition to what was going on in the park was ineffective and the work continued.

There are arguably two key factors behind the attention that the lead prevention project attracted in 2005. First, the involvement of the national media brought the issue into the open, creating pressure for the issue to be resolved amenable. Second, the Yuanmingyuan incident presented the MEP with an opportunity to hold a public hearing and showcase its emerging public participation agenda.

Once the Yuanmingyuan issue had been widely publicised by the media, several Chinese environmental NGOs decided to become involved. Only a few days after the story was broken by the press, FON teamed up with Internet blog site 'China Blog' (*Boke Zhongguo*) and hurriedly convened a 'people's hearing' (*minjian tingzheng hui*) on 1 April (Yi, 2005).<sup>74</sup> Over 50 people, including academics, environmental activists and members of the public, attended. Government officials from the MEP, the Haidian District Government, and the Yuanmingyuan Management Bureau also participated in the meeting, as did over 20 members of the mainstream media, including the People's Daily and Xinhua.

The people's hearing performed several functions. First, the strong media presence ensured that journalists continued to cover the Yuanmingyuan incident, therefore maintaining public interest. Exposure was boosted further by virtue of the event being broadcast live on the Internet. Second, this 'people's' hearing was ostensibly an attempt by NGOs to reach out to ordinary members of the public. This added to the sense that NGOs were in a position to represent wider public opinion in the official public hearing. Third, the people's hearing was useful in providing technical information to NGOs about the impact of the renovation work (Yi, 2005). Academics played an important role in this regard in providing meeting participants with information about aspects of the case that they were unclear about, such as whether or not plastic sheeting was damaging for the

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<sup>73</sup> See *Sina.com*, 2005.

<sup>74</sup> Unless otherwise indicated, information related to the NGOs' 'people's hearing' is based on the official hearing transcript (see *Sina.com*, 2005).



environment. Academics also provided written reports to bolster the NGOs' position (see, for example, Liu, 2005). This type of information enabled NGOs to pursue the issue on a stronger footing.

From the outset, Xue Ye made it clear that those NGOs involved were supportive of the central government and that their motivation for wanting to take action over Yuanmingyuan came from a desire to ensure that the EIA law was effectively implemented. This support also manifested itself in other ways. For example, on the day of the people's hearing, several NGOs including FON, GVB, and GEV produced a document they had jointly authored entitled 'Announcement in Support of the Government Convening a Public Hearing with Regards the Laying of Leak Prevention Material at Yuanmingyuan Incident' (hereinafter 'The Announcement') (Friends of Nature, 2005a). The Announcement pointed out that the authorities in charge of the project had broken national law by failing to carry out any EIA procedures. It also called for a public hearing to be held.<sup>75</sup> At the same time, NGOs expressed the wish to take part in the hearing should one be convened. The Announcement was sent to the Beijing Environmental Protection Bureau (EPB) and the Haidian District Government, as well as being copied to the MEP, the Beijing bureaus concerned with forestry, heritage and water resources, and to the Yuanmingyuan Management Bureau.

In the run-up to the public hearing, NGOs continued to be active. On the day before the official public hearing, a group of seven NGOs, again including FON and GVB, issued their 'Five Suggestions to Push Forward Resolution of the Yuanmingyuan Problem' (Friends of Nature, 2005b). These suggestions were that the plastic sheeting be removed; the Yuanmingyuan renovation plan should be rewritten and that Yuanmingyuan should be defined as a heritage park; if the Yuanmingyuan management can not afford to purchase extra water, they should receive support from local government and/or raise the price of entry tickets; and finally, those responsible should be held to account. It was also suggested that the management of Yuanmingyuan should henceforth be entrusted to a

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<sup>75</sup> According to interviews with environmental activists, the NGOs were already aware of the MEP's decision to hold a public hearing at this stage. Calling for a public hearing to be held was therefore an attempt to indicate solidarity with the government (Interview 5, 2007).

body made up of a variety of government departments as well as relevant experts, citizens, and NGOs.

During the public hearing itself, NGOs were seen as representing public opinion (Zhao, 2006: 77), and the NGO presence added legitimacy to the process. Moore and Warren (2006: 9) argued that ‘in part due to national NGO participation, the Yuanmingyuan hearing involved greater attention to the public’s procedural participation rights and implementation through hearing rules, as well as greater national publicity, and increased attention to the [EIA] report’s conclusions’. At the hearing, NGO activists were given a chance to contribute their views. FON’s Xue Ye presented a report based on the findings of the bird-watching group, as well as showing photographs. This factual evidence was praised by some sections of the media, although FON also had to contend with claims that their photos were fake (Yi, 2005). After the hearing, FON continued to pursue the issue through the media. Two days later, it gave the Shanghai Morning Post newspaper more details about the damage to the park that their bird watching group had discovered, arguing that the area of the park subject to experiments with plastic sheeting had experienced a decrease in plant and bird life (*Xinwen Chenbao (Shanghai Morning Post)*, 16 April 2005).

On 14 July 2005, three months after the public hearing took place and a week after the publication of the EIA report, GEV, FON and Blog King convened a second meeting, to follow on from the people’s hearing and official public hearing, in order to review and take stock of the events surrounding the Yuanmingyuan incident. Participants at this, the ‘Second Yuanmingyuan Ecology and Heritage Protection Meeting’ (hereinafter ‘second people’s hearing’) seemed united in the view that, although the hearing was a one-off and there was still a long way to go before such a process became institutionalised, it nonetheless represented an important step forward in terms of promoting environmental public participation through official channels (‘2005 Nian 7 Yue 14 Ri “Yuanmingyuan Shengtai Yu Yizhi Baohu Di Er Ci Huiyi” Fayan Jilu’, 2005).

The impact of NGOs on the actual outcome of this case appears to have been negligible. The NGOs' five suggestions were not taken up, and the plastic sheeting was allowed to remain. Nevertheless, NGO involvement in the Yuanmingyuan incident suggests that activists can play an important role in promoting new, more participatory, governance mechanisms. Cases such as the Yuanmingyuan public hearing are important in raising awareness about new governance mechanisms and ultimately ensuring a more participatory and transparent style of governance. Arguably the main feature of NGO activity in this case was the way in which they supported the government in its effort to promote the public hearing process in China. By cooperating with the media, activists helped ensure that the issue remained in the public eye. In addition, NGO involvement lent legitimacy to the public hearing itself.

### **Hydropower development in Yunnan**

The case of hydropower development in Yunnan also highlights how legislative developments have altered the approach of NGOs. This case also suggests that, whilst the government officially supports public participation, it wishes to introduce this policy on its own terms.

#### *The Nu River Campaign*

In April 2004 it was reported in the media that Premier Wen Jiabao had stepped in to temporarily halt a proposal to build a set of 13 dams on Yunnan's Nu River. Although the existence of a 'high level of social concern' was cited as the reason for the project's suspension, there were also disagreements within the central government and pressure emanating from downstream countries such as Thailand and Myanmar (Litzinger, 2007). The decision to halt the project was seen as a major victory for the coalition of public interest campaigners, including both Chinese and international NGOs, elements of the media, academics, and some environmental protection officials, that had mobilised against the project.

This opposition centred on the Nu River's immense ecological value. Nu River is part of the Three Parallel Rivers that in 2003 was designated a World Heritage Site by

UNESCO, and is one of only two rivers in China that have not been dammed. Although the decision by the central leadership to suspend the Nu River project was seen as a significant victory for campaigners, it did not mark the end of the issue. Relevant departments had been ordered to carry out and resubmit an EIA as part of Premier Wen's request that careful research be carried out and that the decision-making process be conducted in a rational manner based on science. Much has been written about the Nu River campaign (see, for example, Büsgen, 2006; Litzinger, 2007; Mertha, 2008) and this chapter does not seek to cover the whole campaign in detail. Rather, the purpose of this section is to focus on one aspect of the campaign, namely the way in which, following the suspension of the project, NGOs have encouraged central government officials to bring the decision-making process out into the open through calling on the government to enforce its own laws relating to public participation.

Although the activists' campaign started off by focusing on environmental issues, some participants also started to take an interest in the impact on local people (Büsgen, 2006). In doing so, some activists decided to empower local residents from the Nu River area, who are due to be resettled if and when the dams are constructed, in order that they might have a say in the decision-making process. This approach proved controversial and risky. The Yunnan NGO Green Watershed, which views the establishment of good governance mechanisms as key to overcoming poverty and water crises (Hu & Yu, 2005: 138), took 14 villagers from Nu River County to visit the nearby Manwan Dam in May 2004 in order to see firsthand how its construction had affected the lives of local people (Li, 2004). The poverty in which the latter were living apparently shocked the villagers. Green Watershed also facilitated the participation of Nu River village representatives in the 2004 UN Dam and Development Symposium in Beijing (Hu & Yu, 2005). These tactics fell foul of local officials, who tried, albeit unsuccessfully, to close down the NGO for engaging in activities that went beyond its charter (China Development Brief, 2005). In addition, Green Watershed founder Yu Xiaogang was subsequently prevented from travelling overseas.

Given the risks involved with directly mobilising ordinary people, activists opposed to hydropower development have placed greater emphasis on promoting public participation according to law. Beginning in 2005, as well as continuing to raise public awareness of the issue, activists started to pay more attention to the formal decision-making process. They attempted to compel the government to hold a public hearing on the project as mandated by the EIA Law and the EIA Measures. As Wang Yongchen, founder of the NGO GEV and a prominent figure in the campaign stated,

We are not blindly opposed to dams... We want to let the public know the environmental pros and cons of such projects. What green organisations demand is a fair decision-making process. Has the environmental assessment been done? Will there be a public hearing? How will the interests of those affected be protected? (*South China Morning Post*, 21 January 2006)

Through this approach, activists have essentially adopted procedural correctness as their bottom line; if dams are to be built, at least the process should conform to law. By doing so, NGO activists are using their voices to attempt to push forward new governance processes that have been made possible by developments in the environmental state.

After the Nu River project was halted, the way in which central government departments handled the issue remained perhaps deliberately opaque, with discussions taking place behind the scenes and without any input from members of the public. For example, in November 2004 it was reported in the media, after the event, that a meeting of experts had already been convened in Beijing in order to discuss the new EIA. Apparently, participants had only been given the relevant materials just before the meeting, and were prevented from taking these documents with them when the meeting ended. In response, various NGOs and other activists argued that, by conducting the decision-making process in a closed manner, officials were going against provisions contained in environmental legislation that were designed to facilitate public participation.

In a bid to put pressure on the government to make the whole process more transparent, in August 2005 a group of over 90 NGOs, academics, and over 450 individuals signed an

open letter to the central government entitled 'Request for the Nu River Hydropower EIA Report to be Made Public in Accordance with Law' (2005). It noted that the EIA had not been made public, and there had been no public hearing to enable those directly affected to voice their opinions. As one activist was quoted as saying, 'this is the case to set a precedent... for the first time, there is a legal basis for public participation. If it happens, it would be a major step forward' (*New York Times*, 26 December 2005). However, no official response from the government was forthcoming, although government sympathisers claimed that the EIA report would not be released due to it being considered a 'state secret'.<sup>76</sup>

In early 2008, reports suggested that construction on the first dam to be built on Nu River was either imminent or already underway (*Zhong An Zaixian (Anhui News)*, 15 January 2008). This development prompted the same group of NGOs to re-state their request for a transparent decision-making process, in this case through a second open letter. It stated that, 'we once again request that information relevant to the Nu River strategic EIA report is made public, and to allow members of the public under the precondition of full knowledge of the situation to go through open comment through a mechanism such as a public hearing'. However, once again these calls went unheeded and the public has not been given the opportunity to participate in the formal decision-making process.

#### *Dam Construction at Ahai*

In 2007, there were signs that calls for a more open decision-making process were finally being considered, albeit not in the case of Nu River. The Jinsha River is, along with the Nu River, one of the Three Parallel Rivers. Plans are afoot to construct a series of eight hydroelectric dams on the river. One of the eight dams is to be located at a place called Ahai, in Yunnan Province.

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<sup>76</sup> Under the EIA Law, projects deemed to be state secrets are not required to accommodate public participation. The Nu River is an international river, which may explain why the EIA in this case was classed a state secret. However, given the absence of a definition in the EIA Law as to what exactly constitutes a state secret, it could be easily exploited as a loophole.

The Ahai case is significant because officials and constructors presiding over the dam-building project complied with participatory requirements related to the EIA Law. In October 2007, an abridged version of the project's EIA report was released for public comment.<sup>77</sup> This was the first time that such a report had been made public for a dam project. Although they criticised the abridged EIA for omitting the opinions of experts who opposed the project, and for being too short,<sup>78</sup> environmental activists including Wang Yongchen and Ma Jun welcomed the opportunity to work within the system. As Ma said,

We had been planning to draft an open letter calling for water resource development projects on the Yangtze River to strictly adhere to relevant laws and regulations... However, the subsequent release of the Ahai EIA report made us feel gratified and also changed our direction of work. We are willing to carry out our responsibilities as citizens within the framework (*Zhongguo Jingji Shibao*, 29 November 2007).

Ma and Wang convened a group of 18 individuals, including academics, officials from the National Forestry Bureau, and environmental activists, which submitted written comments on the EIA in November 2007.

Environmental activists were given another chance to take part in the formal decision-making process at the end of 2008. NGO representatives were invited to take part in the 'Technical Assessment Meeting for the Jinsha River Middle-reaches Ahai Hydroelectric Plant Environmental Impact Assessment Report' that was convened from 29-30 December (*Di Yi Caijing Ribao (First Financial Daily)*, 6 January 2009). This was the first time that NGOs had been invited to take part in such a meeting, which consisted of a discussion regarding the technical basis of the Ahai project. Activists Yang Yong and Ma Jun attended the meeting, and expressed their views about the project. In addition, they submitted written comments, which were later included in the official meeting minutes (*Zhongguo Jingji Shibao*, 1 January 2009).

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<sup>77</sup> According to Article 11 of the 'Measures on Public Participation in EIA', only an abridged version (*jianben*) of the EIA report need be released to the public.

<sup>78</sup> There are no limits in the 'Measures on Public Participation in EIA' governing to what extent the public version of the EIA is to be shortened.

According to newspaper reports, most environmental activists were generally satisfied with the procedural element in relation to the Ahai project (Ibid.). There were problems, however. Environmental activist Wang Yongchen expressed disappointment regarding the fact that hundreds of millions of Yuan had already been spent on the initial stages of the Ahai project before the technical assessment meeting took place. Hence, it is unlikely that any opponents of the project would be successful in preventing it from going ahead, or even modifying it significantly by going through official public participation channels.

It is unclear whether or not the Ahai case is in any way related to calls for the EIA Law to be upheld in the Nu River case, although activists have suggested that the two are linked (personal correspondence on file with author; see also *Sanxia Tansuo (Three Gorges Probe)*, 31 December 2008). At the same time, following NGO participation in the technical assessment meeting, MEP officials claimed that they had played a key role in enabling activists to participate in this event. One official was quoted as saying,

The participation of NGO representatives in the [Ahai] hydroelectric plant EIA report technical assessment meeting was the result of the combined efforts of the MEP and hydropower departments... the disclosure of EIA information for a large scale project and promotion of public participation is very important for the decision-making process's scientific basis and degree of transparency (*Di Yi Caijing Ribao*, 6 January 2009).

In any case, it remains to be seen whether or not the Ahai case represents a one-off or the beginning of a more inclusive decision-making process for hydropower projects, to the extent that current legislation with its various shortcomings allows for diverse voices to be heard. What does appear clear however is that, whilst the institutionalisation of meaningful public participation in hydropower projects appears a very long way away in China, environmental activists do aim to make use of every opportunity to engage with the decision-making process in the hope that this will ultimately lead to a more participatory style of governance. By pioneering new governance policies through calling on them to be upheld and participating through formal decision-making channels, even if



participation is tokenistic, activists are attempting to promote governance reform from within the system.

## **Conclusion**

The aim of this chapter has been to examine how public participation is being promoted in Chinese environmental governance. It has also examined the extent to which increased support for participation can improve official accountability and decrease China's environmental protection implementation deficit. This chapter has shown that since 2003 the central government has deepened its policy of promoting environmental public participation. It has taken steps to create a 'public supervision mechanism' that provides channels for formal public participation mandated by legislation. In theory, members of the public can draw on their 'right to participate' in order to take part in decisions and subject local officials to a greater level of accountability. However, despite these developments within the environmental state, this chapter has found that the extent to which the public can meaningfully participate and hold local officials to account through official channels is very limited.

One issue relates to the fact that the development of public participation mechanisms such as public hearings is clearly still at an early, experimental stage in China. Referring to the Yuanmingyuan public hearing, Pan Yue said that,

*In reality, we just want to do an exploration.* The government establishes an open platform and allows all kinds of opinions to collect and be exchanged. Through a kind of transparent and open form, [we can] open up to society all of the relevant links in the government's decision-making, publicise decision-making content towards society in a timely manner, and make the government's administrative behaviour subject to public opinion and supervision. This is consistent with an administrative method of democratic decision-making, scientific decision-making, and is beneficial towards the building of a harmonious society (*Xinhua Tongxun She*, 18 July 2005, *emphasis added*).

Pan's statement also suggests that the Yuanmingyuan public hearing was regarded as an example of democratic, and transparent decision-making, at least by Chinese standards. The hearing itself was carried out in a transparent manner. And yet at the same time, the Yuanmingyuan case also highlighted significant shortcomings in formal public participation. On the one hand, members of the public were given a chance to express their dissatisfaction with park officials over their handling of the incident. In this sense, the former was presented with an opportunity to hold the latter to account. At the same time, however, park officials ultimately escaped without official sanction, and the plastic sheeting that had already been laid was allowed to remain. Furthermore, the final decision reached by the MEP appears to have been based on political considerations, suggesting that public involvement was only tokenistic. As a result, the Yuanmingyuan public hearing did not submit officials to meaningful public supervision.

Another shortcoming related to formal public participation in China is that the decision to involve the public in a decision-making process is often an arbitrary one. In the absence of strong rule of law, officials can decide whether or not to open up channels for public participation. The same officials who are often strong supporters of development projects are also largely responsible for ensuring that public participation legislation is upheld. This creates a conflict of interest, which limits the extent to which participation, and greater official accountability, can be advanced via this legislation. The case of hydropower development in Yunnan highlighted this. The Nu River case demonstrates that, in the face of large-scale projects that have significant vested interests, mechanisms such as public hearings can be ignored. And yet the huge environmental and societal impact that hydropower development on the Nu River will have, as well as the fact that a significance divergence of opinions about the project exist, suggests that this is precisely the type of project that would benefit from a more inclusive decision-making process.

The lack of formal public participation in the Nu River case also highlights the weak position of the MEP. Given the size of the Nu River project and the multitude of vested interests, it is likely that, even had the MEP wanted to convene a public hearing in this case, more powerful actors within the central government would have overturned its

decision. Convening a public hearing at Yuanmingyuan did not bring the MEP into conflict with government departments more powerful than itself. Although enabling members of the public to hold powerful interests to account might be a positive step for environmental protection in China, this is unlikely to happen in the short to mid term.

This chapter did find that authorities in the Ahai case allowed activists to express their opinions through commenting on the EIA report and taking part in an experts' meeting. Although activists welcomed this as progress, it still represented an unsatisfactory level of participation. The fact that the project was already underway shows that even if the public is invited to take part in the decision-making process, it is limited in the extent to which it can hold officials to account.

#### *Implications for Civil Society*

This chapter also examined how NGOs have been affected by the government's public participation agenda. Chinese environmentalists generally view the creation of a more inclusive decision-making process as a positive development. Despite acknowledging various problems associated with public participation legislation, NGO activists have broadly welcomed and supported it. One question concerns whether NGOs can turn this legislation to their advantage and become more involved in environmental governance. As one NGO activist remarked, 'ten years ago we couldn't even talk about public participation... now we have [public participation legislation], we can take the position that 'now we have a law, where do we go?'' (Interview 4, 2007).

Despite the shortcomings of the Yuanmingyuan public hearing, it still arguably represented significant progress in terms of facilitating a greater role for non-state actors in decision-making processes. Only four years previously it was considered a significant breakthrough when, in 2001, high-level officials including Beijing's Vice-Mayor Wang Guangtao and officials from the Beijing Water Conservation Bureau agreed to meet with representatives from three NGOs. This meeting was convened in order to discuss the latter's opposition to plans to line the bed of a stretch of canal transporting water from the Miyun Reservoir to Beijing with cement (China Development Brief, 2001). Yet after the

meeting concluded, Wang Guangtao informed the journalists present that their reports should be authorised before being published. The media subsequently received a circular banning altogether any reporting of the meeting (Ibid.). NGOs had originally hoped to convene a hearing regarding the Miyun issue, but were told that only the government could do this, and in the end no hearing took place (Friends of Nature, 2006). At the second people's hearing that followed the Yuanmingyuan hearing, some participants noted favourably the way in which the Yuanmingyuan incident was handled in comparison with the Miyun case, and saw the difference as a sign of progress. Speaking at this hearing, Wang Yongchen reminisced about the Miyun case. She said that, 'at that time, [the Miyun project] was a matter that we all very much hoped to participate in, however, it was dead on the floor. Only three years later and our participation [in the Yuanmingyuan incident] has already reached *this* level... in our country this is an extremely big step forward' (Ibid.).

However, rather than mark the beginning of regular NGO involvement in official channels such as public hearings as some activists might have hoped, this has not materialised. Initial optimism amongst NGOs that this type of participation might become more common has been tempered somewhat. In 2007 Wang Yongchen commented that, 'it has already been three years since the EIA Law formally came into effect in September 2003. However, regarding national level public hearings, there has only been one, for Yuanmingyuan' (Yongchen Wang, 2007).

Nevertheless, this chapter has shown how NGOs are increasingly cooperating with the MEP in pushing forward its new governance agenda. They have helped pioneer new legislation by working with the government in the Yuanmingyuan case, and by demanding that this legislation be upheld in relation to hydropower development in Yunnan. NGOs worked hard in order to maximise the benefits from the Yuanmingyuan public hearing. They attracted media attention and also added legitimacy to the process by claiming to represent the grassroots. In calling on officials to discharge their public participation duties in the Nu River case, NGOs at least succeeded in drawing attention to the fact that the decision-making process was proceeding without public involvement.

This strategy appears to have borne fruit in the case of Ahai, which broke new ground in China. This suggests that new governance norms might develop slowly based on the government's public participation legislative framework.

One of the prerequisites for public participation is access to information. The next chapter examines ways in which the government has taken steps towards improving public access to environmental information, and what impact this has on civil society and for environmental governance.

## Chapter 5: Environmental Information Disclosure in China

As the previous chapter discussed, the Ministry of Environmental Protection's (MEP) has begun construction of a legislative framework for public participation in environmental protection.<sup>79</sup> It has promulgated legislation that, in theory, gives members of the public the right to participate in certain aspects of environmental protection. This has been most notable in relation to the environmental impact assessment (EIA) process. As a result of this legislation, NGOs and citizens have been given an opportunity to play a role in environmental governance through mechanisms such as public hearings and providing comments on draft legislation. Chapter 4 also discussed how NGOs have been active in attempting to promote the government's public participation agenda. At the same time, Chapter 4 argued that at present China's EIA process does not facilitate effective public involvement and has been largely insignificant in terms of holding officials to account.

This chapter examines Chinese environmental governance reform by focusing primarily on the issue of transparency, which has been identified as one of four pillars of 'good governance' (World Bank, 1992). A key indicator of transparent governance is the extent to which information is accessible to the public via, for example, a free media or through government legislation that compels the public disclosure of information (Asian Development Bank, 1995: 11). This chapter shows how transparency is increasingly being promoted in China's system of environmental governance. It draws on official documents and legislation in order to examine how environmental information disclosure policy has evolved in China from the late 1980s until the present. It finds that promotion of environmental information disclosure has gathered pace in the past few years. This is especially the case since 2008 when new legislation came into effect specifying the disclosure responsibilities of firms and local officials.

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<sup>79</sup> Before 2008, the MEP was referred to as the State Environmental Protection Administration (SEPA). For clarity, this chapter uses the term 'MEP' when referring to the central level environmental protection agency both before and after this bureaucratic reorganisation.

This chapter also contributes to understandings of how greater participation and accountability are being advanced in Chinese environmental governance. Greater transparency can promote public participation. Only if the public has access to information can it act in relation to environmental issues. According to an editorial from the Xinhua News Agency, it is a lack of environmental information, rather than poor environmental awareness, that constitutes the main barrier to public participation in environmental protection in China (*Xinhua Tongxun She*, 3 May 2007). Hence, promoting ‘information disclosure’, such as pollutant levels and the names and locations of polluting enterprises, is a vital part of the central government’s strategy of increasing environmental public participation. By participating in environmental governance, non-state actors can also subject officials to a higher degree of accountability. This chapter considers the extent to which increasing transparency in environmental governance can stimulate participation and accountability by examining the response of NGOs. In doing so, it examines the Institute of Public and Environmental Affairs (IPE). Founded in 2006, IPE is an NGO that maintains two online interactive pollution databases made up of pollution data. This chapter also looks in detail at two NGO campaigns that are largely predicated on publicly disclosed information.

This chapter finds that the disclosure of environmental information in China is still seriously deficient. And yet the MEP has stepped up its policy of promoting transparency in environmental governance in the past few years in order that the public can ‘supervise’ (*jiandu*), or hold to account, polluting enterprises and local governments. There has also been a shift in emphasis in the use of environmental information. Throughout the 1990s, information disclosure was promoted by requiring cities to reveal information about pollution levels. Since the turn of the century however, it has increasingly been used in order to ‘name and shame’ enterprises in order to improve compliance and reduce China’s implementation deficit. The amount of publicly disclosed environmental information, although still low, has increased significantly.

This chapter also finds that the strategy of information disclosure has provided new, albeit limited, opportunities for NGOs to hold officials and enterprises to account. The government's official policy of promoting information disclosure has enabled NGOs to use information in order to hold polluters to account. In other words, government promotion of information disclosure has made this a legitimate avenue for NGO activism. Furthermore, the increase in the amount of environmental information in the public domain has enabled NGO activists to target polluting companies. However, this chapter finds that NGOs have been limited in the extent to which they can promote greater accountability as a result of having better access to information. The channels that activists in liberal democracies can use to take action against polluters, such as litigation, protests, and organising consumer boycotts, are often not viable options to Chinese NGOs. Instead, the latter must rely on patient, non-confrontational tactics. This in turn seriously restricts the extent to which these NGOs can use 'informational regulation' to hold polluters to account in China.

### **Environmental Information Disclosure**

Since the late 1980s governments around the world have increasingly turned to environmental information disclosure strategies, or 'informational regulation'. This can be defined as 'regulation which provides to affected stakeholders information on the operations of regulated entities, usually with the expectation that such stakeholders will then exert pressure on those entities to comply with regulations in a manner which serves the interests of stakeholders' (Kleindorfer & Orts, 1996 cited in Gunningham & Sinclair, 2002: 122). In other words, environmental information disclosure involves the voluntary and/or compulsory release of environmental information by firms or public agencies that would otherwise remain outside of the public domain (Stephan, 2002).

According to Tom Tietenberg (1998), environmental information disclosure strategies belong to the 'third phase' of pollution control after regulation and market-based approaches. As well as facilitating improved outcomes compared with these first and second wave approaches through adding a 'mechanism of enforcement' (Kleindorfer &



Orts, 1998: 157), information disclosure can be a useful pollution reduction strategy in its own right (García et al, 2007: 740; Tietenberg, 1998: 600; Stephan, 2002: 191).

The initial driving force behind environmental information disclosure was based on the principle that the public has a 'right to know' about issues such as the discharge of pollutants in a certain area, and the content of environmental regulations (Fiorino, 2004; Sarokin & Schulkin, 1991). However, it was quickly discovered that disclosure strategies could alter the behaviour of enterprises in a way that was beneficial to environmental outcomes (Fiorino, 2004). This is largely because, once environmental information is released into the public domain, consumers, investors, and pressure groups are in a position to punish poor performers whilst simultaneously rewarding those companies whose environmental protection records they view more favourably (Kleindorfer & Orts, 1998). Firms fear the impact of a public backlash on their profits and reputation, and therefore take steps to improve their environmental performance (Fiorino, 2004; Stephan, 2002). Information disclosure is effective therefore because it can open up the traditional two-way relationship between regulators and regulated entities (Kleindorfer & Orts, 1998) through correcting the informational asymmetry that exists between these actors and ordinary citizens (García et al, 2007). In so doing, it can fundamentally alter the relationship between government, industry, and the public (Sarokin & Schulkin, 1991). The government changes from a coercive force to a facilitator (Stephan, 2002; Tietenberg, 1998).

There is evidence to suggest that the mere threat of releasing information can compel corporations to improve their environmental performance (World Bank, 2000: 65-6). In other cases, however, the information must be acted on by citizens or other concerned parties.<sup>80</sup> Mark Stephan (2002: 191-2) has identified three main ways in which pressure can be exerted on polluters. First, non-state actors can negotiate change through using the tools of government, such as lawsuits and public policy pressure. Second, the market can be used to pressurise polluters through means such as consumer and investor pressure

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<sup>80</sup> According to Stephan (2002: 192), other political actors such as the media, state officials, and interest groups, can act as 'stand-ins' for citizens in this regard.

and/or boycotts. Finally, civil society pressure including media and political protests can be exerted on companies. Civil society also has an important role to play in presenting information in an accessible form to citizens, including information that has long been in the public domain, in order that they can take action (Ibid.: 195).

There is a range of empirical evidence to suggest that, in many cases, informational regulation can have positive results. One of the most successful and notable examples was established in 1986, when the United States Congress introduced the Toxics Release Inventory (TRI). The TRI publishes data on approximately 650 toxic substances (<http://www.epa.gov/tri>). This includes the names, locations, and toxic emissions of plants employing at least 10 people and which use at least 10,000 pounds of any substance on the list (World Bank, 2000). The TRI has been highly successful, and has been credited with reducing total releases of toxic substances into the environment by over 44 per cent (Tietenberg, 1998: 593; Fung & O'Rourke, 2000). According to Archon Fung and Dara O'Rourke (2000: 116), 'the TRI has dramatically outperformed all other [United States Environmental Protection Agency] regulations over the last ten years in terms of toxics reductions and it has done so at a fraction of the cost of those other programmes'.

Information disclosure has also been used successfully by developing countries. The most prominent example is Indonesia's Programme for Pollution Control, Evaluation and Rating (PROPER). Under a pilot version of this scheme, 187 medium and large-scale polluters were given a colour-coded rating based on their compliance with water pollution standards.<sup>81</sup> Companies that failed to reach these standards were coded black or red; companies that met the minimum standards were given a blue rating; and those that exceeded standards were awarded a green or gold rating. Initially, those firms that were rated green or gold were publicly rewarded. Firms belonging to the other categories were told of their ratings and given six months to improve before all ratings were disclosed to the public (World Bank, 2000). In this way, PROPER rewarded compliance with

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<sup>81</sup> PROPER was suspended in 1998 due to the Asian Financial Crisis. However, it has since been revived on a larger scale (García et al, 2007).

environmental standards whilst shaming those companies that failed to comply into improving their performance (Rock, 2002b: 71). Companies that initially performed badly subsequently reduced pollution by an average of 32 per cent (García et al, 2007: 754). PROPER helped improve compliance with environmental standards, which in turn improved the credibility of Indonesia's environmental protection bureaucracy amongst industry, NGOs and citizens, enabling it to better fulfil its functions (World Bank, 2000).

### **The Evolution of Environmental Information Disclosure in China**

As Chapter 2 discussed, China's initial approach to environmental governance was based almost exclusively on regulatory measures. It has only been very recently that information disclosure has been adopted as an environmental policy instrument. However, it is poorly understood. Only a very limited number of studies examine information disclosure in China. Scholars have identified a trend towards greater availability of environmental information in the public domain, albeit with significant regional variations (Lo & Leung, 2000; Lo & Fryxell, 2005; Wang et al, 2004; Li et al, 2008). These studies take a top-down approach. No studies exist on the impact of information disclosure on civil society. In addition, important recent legislative developments have not been analysed. This chapter attempts to address these gaps through charting the development of environmental information disclosure in China up to and including the promulgation of 'Measures on Environmental Information Disclosure (Trial Version)' that were promulgated by the MEP in May 2007. This chapter also makes an original contribution by examining the ways in which NGOs have responded to the government's information disclosure policies.

#### *The Beginnings of Environmental Information Disclosure in China*

In China's authoritarian one-party state, the Chinese Communist Party (CCP) is not accountable to the public through the ballot box, and the Chinese government does not face the same pressures to release information that governments in liberal democracies do. In China, information is often tightly controlled within the Party-state, to the extent that even government officials must follow a grading system that determines access to information according to criteria such as department and rank (Saich, 2004). Since the

establishment of China's modern environmental protection framework, environmental information has also been subject to close censure both within the Party-state and between the Party-state and the public. Local officials, worried that environmental 'bad news' might reflect badly on their own performances, are frequently accused of withholding environmental information from higher levels to the extent that the latter may be oblivious to the severity of pollution in some areas (US Embassy, 1998). And, information on a whole range of criteria relating to environmental protection, including basic data on the environment and serious environmental incidents, has often been withheld from the public (OECD, 2006).

Since the late 1980s, however, steps have been taken to increase the amount of information made available to the public by environmental protection departments. Clause 11 of the 1989 Environmental Protection Law (EPL) states that environmental protection departments at all levels 'should publish reports on the state of the environment at regular intervals' (National People's Congress, 1989). Following on from this, the MEP issued the first of its annual 'State of the Environment' reports in 1990 (OECD, 2005). However, due to concerns about social unrest and embarrassment regarding levels of environmental degradation, information disclosure as mandated by the EPL met with strong opposition from local officials. It was not until 1997 that local governments followed the MEP's lead, when 27 cities started issuing weekly air pollution reports (US Embassy, 1998). Also in 1997, it was decided that weekly reports on urban ambient air quality in 46 major cities should be published (OECD, 2006), and in 1999 42 key cities started publishing daily air quality reports (OECD, 2005). In addition, provincial and municipal-level governments currently issue their own annual environmental reports (Ibid.). At present, daily air pollution reports are released to the public in 180 cities, 90 of which also provide forecasts of air quality (Li et al, 2008). According to the World Bank (2001: 110), China's daily air quality reports represent 'a radical change' that 'may have been one of the most effective public education exercises yet undertaken in the environmental field'.

Legislation was also passed in the 1990s requiring enterprises to disclose environmental information. For example, the Management Provision on Reporting and Registration on Pollutant Emissions (1992) stated that enterprises must report details of pollutants including substances, amounts used, density, discharge, and management (Guo, 2005). The 1998 Environmental Management Provision for Construction included the requirement that, if the design of a construction project changed significantly, enterprises must report this fact to the government (Ibid.). However, under these pieces of legislation companies were only required to provide information to government officials; there was no need to place the information in the public arena.

The media plays an important role in promoting transparency (Asian Development Bank, 1995: 11). Since the early 1990s, greater freedom has been given to the Chinese media in reporting on environmental issues (Wen, 1998). This represents another important development in improving public access to environmental information. The 1996 'State Council Decision Regarding Certain Environmental Protection Problems' (hereinafter 'the 1996 Decision') stated that the media should report on and praise good practice in environmental protection (State Council, 1996). At the same time, reporting of environmental 'bad news' was also encouraged. The 1996 Decision stated that the media should 'publicly expose and criticise illegal behaviour relating to pollution and degradation of the ecological environment'. It went on to note that work should be done to, 'expose work units and individuals that cause severe pollution and damage the ecological environment, and bring into play the supervisory function of the news media'. The media represents a vital part of China's social supervision mechanism, especially when enforcement of regulations remains poor. It has been suggested that high-level officials rely to an extent on media reports in order to gain information on the environmental situation, and, according to former NEPA head Qu Geping, the media is the main tool in order to encourage local officials to comply with environmental legislation (US Embassy, 1998).

In the 1990s, China was also influenced by the successes of information disclosure strategies in other East Asian countries such as Indonesia and the Philippines (OECD,

2006). In order to promote public participation and improve the flow of environmental information to central government officials, between 1999 and 2001 the MEP piloted the World Bank's GreenWatch programme in the city of Zhenjiang in Jiangsu Province, and Hohhot in Inner Mongolia (Wang et al, 2004). GreenWatch was developed from Indonesia's PROPER. Under this scheme, enterprises are given a colour-coded grade that reflects their impact on the environment. These range from black for the worst polluters through to red, yellow, blue, and finally green for the most environmentally friendly companies. Under the MEP's pilot scheme, the environmental performance of 91 firms in Zhenjiang representing 65 per cent of economic output, and 56 industrial enterprises in Hohhot, was evaluated. Before colour-coded grades were disclosed to the public, these enterprises were given about one year in order to improve their ratings. The result was a 10 per cent increase in compliance in Zhenjiang from an already high compliance rate of 75 per cent, and a 39 per cent increase in compliance in Hohhot (Ibid.). Although some of this improvement could be attributed to other factors, the scheme was judged a success, so much so that the MEP announced at the end of 2005 that GreenWatch would be extended nationwide by 2010 (World Bank, 2006).

#### *Improving Access to Environmental Information*

In recent years, central government promotion of environmental information disclosure has intensified. In its 2005 'State Council Decision Regarding Implementing the Scientific Development Concept and Strengthening Environmental Protection', the Chinese government made its hitherto strongest statement on environmental information disclosure (State Council, 2005). It listed a range of criteria under which provincial governments must provide regular information. These included city air quality, city noise levels, drinking water source quality, river and coastal water quality, and reports and assessments concerning the ecological environment. It also stated that names of cities failing to meet environmental quality standards should be made public, and that enterprises 'must disclose environmental information' (Ibid.). This was all intended to 'create the conditions for public participation' and 'strengthen social supervision' (Ibid.).

This policy of increasing the amount of environmental information, as well as the way in which it is used, is being driven by three main phenomena. First, it can be seen as part of a broader campaign by the central government to try and improve official transparency. In a bid to improve governance, in 2004 the State Council published its 'Outline on the Comprehensive Promotion of Administration According to Law' (State Council, 2004). This called on all levels of government to improve governance through promoting rule of law, transparency, and establishing a 'public service' oriented administration approach. It also called on officials to respect the public's 'right to know' (*zhiqingquan*). Then, in 2007 the State Council promulgated the 'People's Republic of China Government Information Disclosure Ordinance' (hereinafter referred to as the State Council's 'Information Disclosure Ordinance') (State Council, 2007). This ordinance, which in theory grants the public access to a range of governmental information, represents another step towards transforming the government into an entity designed to serve the public. Efforts to ensure greater official transparency are also reflected in the implementation of an official 'spokesperson scheme'. And, in 1999 the central government launched its 'government online' project. To date, approximately 80 per cent of national and local agencies have established websites (Lollar, 2006: 31).

The MEP has taken its own steps to improve transparency. In 2007, the MEP published its 'Opinions on Strengthening the Work of Open Government Administration in the National Environmental Protection System' (MEP, 2007). This document called for increasing public consultation, for example through public hearings, and also listed types of information that should be released to the public. Also in 2007, the MEP published the Measures on Environmental Information Disclosure (Trial Version), which it promulgated one day after the State Council's Information Disclosure Ordinance was passed. The fact that these Measures, which are discussed in more detail below, were the first piece of departmental legislation pursuant to the State Council's Information Disclosure Ordinance, suggests that MEP is at the forefront of attempts to improve transparency and information disclosure in the Chinese bureaucracy.

Second, ensuring that more environmental information is available in the public domain is an important part of the MEP's strategy of shifting accountability mechanisms to the public (Shi & Zhang, 2006) and improving environmental governance. According to MEP official Yang Chaofei, information disclosure is urgently needed in order to enable the public to perform a supervisory function over local officials and enterprises. He said that, 'environmental information disclosure... is beneficial for public supervision, and provides beneficial conditions for strengthening the enforcement of environmental legislation and overcoming local protectionism' (*Zhongguo Huanjing Bao*, 26 April 2007). He also noted that the government lacks the capacity to enforce environmental legislation, and therefore needs the support of the public (Ibid.). In addition, officials have also argued that improving access to environmental information can reduce conflict and promote social stability. For example, Pan Yue stated that,

The public obtaining more environmental information will not lead to an increase in conflict, in fact it will rapidly alleviate conflict and resolve contradictions. The more that information is not disclosed, the greater the chances for collusion by special interests, the greater the public's mistrust towards the government, the bigger the marketplace for rumours, and the greater the elements of destabilisation (*Xin Jing Bao*, 27 April 2007).

Third, there is an increasing demand for better environmental information disclosure from the public and market. For example, investors and financial institutions are demanding access to information concerning environmental risks (Guo, 2005). The percentage of listed companies in China disclosing some form of environmental information increased from 34 per cent in 2002 to 37 per cent in 2003 (Ibid.: 23). In addition, as is discussed below, NGOs have attempted to pressurise companies into releasing environmental information.

The central government's growing enthusiasm towards the promotion of official transparency has been increasingly reflected in environmental protection legislation. Information disclosure has been legislated for in the EIA process through the 2003 EIA Law and the 'Temporary Measures on Public Participation in EIA'. The latter lists various types of relevant information that should be disclosed to the public, such as the



main content of the EIA, as well as how this should be done (SEPA, 2006c). Furthermore, other environmental laws such as the Air Pollution Prevention and Control Law (2000), Maritime Environment Protection Law (2001), and the Cleaner Production Law (2002) also include clauses that require information disclosure. The latter includes a clause that enables EPBs to publish the names of polluting companies in the mass media (Guo, 2005). This is also a requirement related to information disclosure in the MEP (2003) 'Notice Regarding the Carrying Out of Environmental Protection Checks by Companies Applying to be Listed and by Listed Companies Applying for Refinancing' (hereinafter referred to as the '2003 Notice'). Hence, environmental information concerning polluting enterprises is not merely being distributed within the government bureaucracy, it is also increasingly being placed in the public domain.

#### *Measures on Environmental Information Disclosure*

In April 2007, the MEP announced that it had formulated and approved the 'Measures on Environmental Information Disclosure (Trial Version)' (MEID). The MEID, which came into effect on 1 May 2008, was promulgated shortly after the State Council's Information Disclosure Ordinance. The MEID was made possible by this piece of legislation, and the MEP was the first government department to issue its own measures pursuant to the Information Disclosure Ordinance (SEPA, 2007).

Although previous legislation had included information disclosure requirements, the MEID should still be seen as a significant piece of legislation. As Pan Yue said, 'in the past, in one sense information disclosure was not standardised enough, and in another sense it caused miscomprehension and suspicion in lots of government departments, regions, and enterprises' (*Xin Jing Bao*, 24 May 2007). The MEID represents an attempt to synthesise in a single document the various pieces of legislation pertaining to environmental information disclosure in China. The MEID also aims to fill some legislative gaps, for example by setting out the types of information that should be released and to whom; how information should be released; and what steps can be taken in case information is withheld illegally.

The MEID is aimed at two types of actor, namely environmental protection government officials and polluting enterprises. As a result, it goes beyond the State Council's Information Disclosure Ordinance that only applied to Party-state officials. The MEID stipulates that environmental protection departments must release 17 types of environmental information. These include environmental protection laws, regulations, and plans; environmental quality reports; information pertaining to the issuance of pollution permits; fines levied and collected, and reasons for reducing fines; information on administrative punishments and lawsuits; and, lists of enterprises that exceed national or local pollution standards (SEPA, 2007).

The MEID also targets the worst polluters. According to Clause 20, enterprises that have been 'named and shamed' on EPB lists 'should' (*yingdang*) release four types of information. These are the name, address, and legal representative of the company; the names of the main pollutants released, how these are discharged, the concentration and overall amount of pollutants that are discharged, and the circumstances surrounding the company's exceeding of pollutant load and concentration standards; information about the installation and running of environmental protection equipment; and finally, emergency accident action plans. This information must be released to the public through the mainstream local media within 30 days of an enterprise being publicly named. In addition, polluting enterprises that are not listed by environmental protection departments are 'encouraged' (*guli*) to release various types of information to the public.

The MEID also stipulates that members of the public can apply for environmental information from the government. Clause 5 states that, 'citizens, legal persons, and other groups can apply to environmental protection departments in order to obtain governmental environmental information' (SEPA 2007). Governments in turn must respond to requests within 15 working days. This in itself has been seen as a significant development in governmental transparency, although doubts remain regarding the extent to which this is enforceable.

In targeting government officials and enterprises, the MEID endeavours to improve governmental transparency and raise public awareness of polluting companies. According to one MEP official, improved access to environmental information should enable citizens to exercise their ‘right to know’ (*zhiqingquan*), ‘right to participate’ (*canyuquan*), and ‘right to supervise’ (*jianduquan*) (Huang, 2007). In Clause 1, the MEID explicitly states that it is designed to promote public participation. As such, the MEID fits well with legislation described in the previous chapter, such as the EIA Law and Measure on Public Participation in EIA, that forms part of the MEP’s system of public participation.

### *Obstacles to Information Disclosure*

Proponents of environmental information disclosure face many obstacles. These include opposition from some local officials. Although some local governments, most notably in Shenyang and Shanghai, have promoted information disclosure, many officials oppose it. As Chapter 3 discussed, the decision to publish a list of provinces’ performance on green GDP met with such strong opposition that this idea was shelved. There was also opposition to public disclosure under the GreenWatch scheme from some local officials who were unwilling to disclose the environmental performances of some large companies that were major sources of fiscal revenue and employment (OECD, 2006: 33). In the short time since the State Council’s Information Disclosure Ordinance were released, there have already been reports of citizens struggling in vain to make officials discharge their duties (*Fazhi Ribao*, 2 July 2008). For example, in one case, two citizens in Beijing appealed to the EPB to release information concerning several EIA reports. When this request was refused, they attempted to obtain the information through legal channels. However, the court refused to accept the case because the plaintiffs were deemed not to have a direct interest at stake (*Ibid.*).<sup>82</sup>

The MEID also contains significant loopholes. For example, in April 2008, Greenpeace activist Liu Lican applied to the Shanghai municipal government for environmental information relating to German multi-national corporation (MNC) BASF. However, in May 2008, by which time the MEID had already gone into effect, Liu received a reply

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<sup>82</sup> At present, public interest litigation is not allowed in China.

refusing his request for information on the grounds that it constituted a ‘trade secret’ (*Beijing Keji Bao (Beijing Science and Technology News)*, 9 July 2008). Clause 12 of the MEID states that local officials are entitled to decline requests for information disclosure if they are believed to impinge on trade secrets. The MEID fails to define what constitutes a trade secret, thus providing a significant loophole in the legislation (*Zhongguo Xinwen Zhoukan (China News Weekly)*, 9 July 2008).

Finally, there are still significant regional variations in the amount of information released to the public, and public access to environmental information remains predominantly confined to urban areas (Li et al, 2008). In the words of Pan Yue, ‘frankly speaking, the public’s right to know is still extremely lacking’ (*Xin Jing Bao*, 27 April 2007). Improving government transparency will require a major change in administrative culture, and may require stronger political reform initiatives such as improving the judicial system in order that citizens can press for officials to release information in accordance with transparency legislation.

### **Information Disclosure and Environmental NGOs**

It has been widely accepted that a lack of access to environmental information has been a constraining factor on environmental activism in China (OECD, 2005: 31). As noted earlier, access to information is a vital prerequisite to public participation. This section examines the extent to which the Chinese government’s recent policy of increasing environmental information disclosure is facilitating greater involvement of Chinese NGOs in environmental governance.

#### *Institute of Public and Environmental Affairs*

Until very recently, information disclosure remained an untouched area of environmental activism in China. This changed in May 2006 when prominent environmental campaigner Ma Jun<sup>83</sup> founded the Institute of Public and Environmental Affairs (IPE), an NGO

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<sup>83</sup> Ma Jun is a well-known member of the Chinese environmental protection community. He first rose to prominence when he published the book ‘China’s Water Crisis’ in 1999. This book highlighted the perilous situation that China was in regarding water pollution and has been hailed as a call to arms in a similar vein

dedicated to the dissemination of environmental information in relation to air and water pollution.

The main aim of IPE is to take environmental information from the public domain and present it in an accessible form on its own website. By doing so, it hopes to facilitate public participation.<sup>84</sup> In September 2006, IPE launched its ‘water pollution map’. The logic behind this map is very simple. The water pollution map is an online, interactive map of China that the public can use to access a variety of data on water pollution that is input and maintained by IPE staff. In doing so, citizens can learn about, monitor, and possibly take action over, the situation with regards water pollution across various locations, including the place that they live. Information included on the map includes water quality, discharge information, and information regarding sources of pollutants that are discharged into river systems. It also features an ‘environmental information disclosure index’ that enables users to compare the disclosure levels between different local governments.

Since it was founded, IPE has further expanded its operations. In 2007, it launched an ‘air pollution map’, based on the same principles as the water pollution map (*Zhongguo Qingnian Bao*, 13 December 2007).<sup>85</sup> Initially, the air pollution map only contained data from 15 provinces in southern China, although IPE aims to expand it to include nationwide data (Ibid.). In addition, according to online NGO directory [www.greengo.cn](http://www.greengo.cn), IPE plans to create an interactive biodiversity map of China.

IPE’s water and air pollution maps have been made possible by the government’s policy of promoting environmental information disclosure. Although some information contained in the water and air pollution maps comes from media reports, IPE staff collect the vast majority from government websites (*21 Shiji Jingji Baodao*, 25 August 2007). In that sense, IPE is heavily reliant on officially disclosed pollution statistics and owes its

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to Rachel Carson’s ‘Silent Spring’. In 2006, Ma was included in Time Magazine’s list of the 100 most influential people in the world.

<sup>84</sup> Information in this paragraph is taken from IPE’s website. See <http://www.ipe.org.cn>.

<sup>85</sup> See <http://air.ipe.com.cn>.

existence to the greater quantity of environmental data available in the public domain. Clearly, if this data were not available, IPE would be unable to function in its current form. Furthermore, the central government's promotion of transparency and information disclosure has legitimised IPE and opened up political space for its novel form of activism. Without this governmental approval, it is unlikely that an organisation such as IPE could function smoothly in China. As Ma Jun said, 'the only reason we could come up with such a database is because the government has made an effort to create the legal basis for such action to be taken and have (sic) disclosed more information in recent years' (*South China Morning Post*, 8 March 2007). The MEP has expressed support for IPE's work. One official said that,

In the 11<sup>th</sup> Five-Year Plan, the government expressed the desire to increase capacity building in terms of strengthening pollution prevention. Ma Jun's water pollution map is precisely [an example of] cooperation with the government... I fully admire it! (*Kexue Shibao (Science Times)*, 27 August 2007).

In a further show of official approval, Ma Jun was named as one of China's 'green heroes' for the year 2006. This award is administered by the MEP. Speaking in praise of Ma Jun, one official stated that, 'his innovative work in relation to the information disclosure system has created a new model for public participation in environmental protection' (*Zhongguo Zhengquan Bao (China Bond News)*, 24 April 2007).

#### *Putting pressure on polluting enterprises*

In addition to maintaining its air and water pollution maps, IPE has attempted to put pressure on polluting companies. It has done so individually through its website, and in cooperation with other NGOs through the 'Green Choice' campaign discussed below. Chinese environmental NGOs have supported efforts to target problem companies in the past, most notably Indonesian paper giant Asia Pulp and Paper Company Limited's (APP) operations in China.<sup>86</sup> Yet, since their inception, Chinese environmental groups have tended to focus on environmental education and, particularly since 2003, promoting

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<sup>86</sup> For details of the NGO campaign against APP, see Chang (2005).

public participation. The increased amount of environmental information in the public sphere has enabled NGOs to pressurise polluting enterprises and attempt to hold them to account. This is a new and potentially important area of NGO activism.

IPE has attempted to pressurise polluting companies through placing on its website the names of companies that have been 'named and shamed', either by local government departments or the media. This data has been made possible by the recent trend of disclosing the names of firms that violate environmental protection laws and regulations. This disclosure typically takes place either through the media or via the publication of 'blacklists' on local government websites. Typical violations that warrant inclusion on a blacklist include failing to conduct an EIA, exceeding pollution standards, and being suspended from operating pending investigation (*guapai duban*). As noted earlier, the tactic of naming and shaming polluting enterprises has become more common in recent years. For example, in December 2007, six enterprises in Zhejiang province were ordered to publish a letter of apology in the local press due to excessive pollution (*Xinhua News Agency*, 27 December 2007). The head of the Zhejiang provincial EPB Dai Beijun subsequently announced that this tactic would be implemented across the whole of the province (*Ibid.*). This strategy was also employed in relation to 10 companies in Shenzhen (*Guangdong Zaixian (Guangdong Online)*, 4 September 2007). Meanwhile, Jiangxi province revealed plans to publish blacklists of administrative areas and polluting companies, and also intends to publish environmental performance rankings of cities and counties in 11 regions (*Xinhua Wang (Xinhua Online)*, 14 July 2008). In the past few years, many other EPBs have started to maintain online lists of companies that have failed to adhere to environmental protection legislation.

Although information concerning problem enterprises is already scattered about in the public domain, IPE has been able to attract a significant amount of media interest by coalescing it into a single list. This media interest has enabled IPE to hold certain enterprises to account. This media interest started in October 2006, when reports revealed that IPE had listed approximately 2,700 companies on its website for violating environmental protection legislation (*Nanfang Zhoumo*, 26 October 2006). A second

wave of media reports was published in August 2007. These reports revealed that the number of companies listed by IPE had grown to approximately 7,000 (*Nanfang Zhoumo*, 23 August 2007).

However, despite the fact that the vast majority of enterprises listed by IPE were Chinese, journalists were predominantly interested in the appearance of several well-known MNCs on the lists (see, for example, *Nanfang Zhoumo*, 23 August 2007). For example, 33 MNCs appeared on the 2006 list, and over 100 were listed by IPE in 2007. Some of the MNCs listed were household names, including Pepsi, Panasonic, DuPont, and Nestle. Their apparent disregard for Chinese environmental regulations caused something of a minor backlash in the Chinese media. Several stories about the environmental performance of MNCs in China appeared in the media, including an editorial in the *Renmin Ribao* (24 August 2007) entitled, ‘Where has the “environmental responsibility” of multinational corporations gone?’. Although it was acknowledged that Chinese enterprises represented the vast majority of companies on the list, journalists chose to focus on the MNC aspect of the story. IPE continues to maintain its list of enterprises that have been named and shamed. As of 7 January 2009, IPE listed on its website a total of 29,347 and 11,929 enterprises for violations in relation to water and air pollution, respectively (<http://www.ipe.org.cn>).

#### *The ‘Green Choice’ Campaign*

In many ways, the development of the ‘Green Choice’ (*Lüse Xuanze*) campaign since its establishment in 2005 highlights the impact on NGOs of greater access to environmental information that has occurred in China in recent years. This campaign was set up by several NGOs in 2005 with the aim of educating citizens about green consumption. In 2006, these NGOs launched a website with information aimed at consumers designed to enable them to consume in a more environmentally friendly manner.<sup>87</sup> And, NGOs involved in the campaign published a ‘green choice’ handbook that advises consumers about a range of things such as green food, green tourism, and the importance of conserving electricity and water (Friends of Nature, 2008).

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<sup>87</sup> <http://www.greenchoice.cn>.



In the space of a couple of years, the campaign has moved from advising consumers about green lifestyles to targeting polluting enterprises. In January 2008, a second campaign website was launched.<sup>88</sup> It features a database through which Internet users can search for enterprises by name and then, should they wish, avoid those enterprises that have poor environmental records when purchasing goods. This development in the campaign appears to have been strongly influenced by IPE, which has become involved and has brought its tactics and expertise to the campaign.

On World Water Day in March 2007, a group of 21 NGOs involved in the Green Choice campaign, including IPE, issued a 'Green Choice Proposal' (*Lüse Xuanze Changyi Shu*) (Friends of Nature, 2007b). In a similar vein to other elements in the campaign, this proposal urged the public to avoid purchasing the products of enterprises that contravened environmental legislation (Ibid.). However, this campaign differed from previous activities in that this time the NGOs issued a list of 25 corporations that had been listed on local government websites for contravening environmental protection regulations (*Zhongguo Zhengquan Bao*, 24 April 2007).<sup>89</sup> This was closely linked to the disclosure work of IPE. The list included the names of well-known MNCs and domestic companies, including Pepsi and Qingdao Beer (*Di Yi Caijing Ribao*, 22 March 2007). It also detailed the reasons why these companies had been listed by environmental protection departments. Again, this type of disclosure attracted a large amount of media attention, although once more the Chinese media focused on the MNCs that had been listed in the campaign.

Rather than merely publishing lists of companies in violation of environmental regulations, the Green Choice campaign, and IPE in particular, has emphasised the importance of entering into communication with polluting enterprises. This is motivated by the belief that, in the words of Ma Jun (2007b),

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<sup>88</sup> See <http://www.green-choice.org>.

<sup>89</sup> The work that IPE does in maintaining its website and the public disclosure elements of the Green Choice campaign appear to be interlinked, reflecting the close nature of the NGO community in Beijing. Rather than treating them as two separate projects, it is easier, and more accurate, to view them as part of the same project.

In a modern society, enterprises must communicate with surrounding communities. They must introduce the potential environmental dangers of their production activities to communities, and explain how they can avoid danger in emergency situations. At the same time, they should listen to the requests and aspirations that communities hold towards enterprises.

Both before and after the list of enterprises was published, NGOs involved in the Green Choice campaign either contacted or were contacted by over 20 of the companies in question (Ibid.). In addition, other companies have been in contact with IPE after having been listed on its website. From the point of view of Chinese NGOs, communicating with enterprises is based on the hope that the latter will take steps to improve their environmental performance and hence be removed from the IPE list. In order to have their name removed from the list, firms must follow a three-step procedure.<sup>90</sup> First, they should explain to IPE why they violated environmental regulations. Second, they should provide data to IPE from subsequent government inspections. Materials from the first and second steps are to be placed on the IPE website. Finally, for the third, and most important step, enterprises must accept a third-party inspection, to be verified by NGOs, to prove that they have improved their environmental performance (*21 Shiji Jingji Baodao*, 25 August 2007). All of the NGOs involved in the campaign must reach unanimous agreement before a firm can be removed from the list.

The majority of the 20 or so firms listed in the Green Choice campaign provided materials in relation to the first two steps. Six firms, all of them MNCs, agreed to third-party (Ma, 2007b). The first company to follow all three steps listed above, and therefore be removed from the list, was a Panasonic factory in Shanghai (see IPE, 2007). On 8 March 2007, a delegation from Panasonic, including the general manager of the plant in question, visited IPE's offices in Beijing in order to explain why they had been listed by the Shanghai EPB and what steps they had since taken to improve. After the meeting, on 20 March Panasonic provided a written explanation that was uploaded onto IPE's website. Afterwards, on 2 April, Panasonic was inspected by a team from the Shanghai

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<sup>90</sup> This three step process also applies to firms listed on the IPE website that wish to be removed from the list.

City Environmental Science Research Institute. Their report found that Panasonic's pollution control equipment was in good working order and that polluted water was being treated in accordance with environmental standards. Then, on 29 June Ma Jun and the head of a Shanghai-based NGO visited the company in order to verify the results. According to the IPE website, the number of firms that have complied with the three step procedure and been removed from the Green Choice and/or the IPE list as of 7 January 2009 totals 15. Of these, the vast majority are MNCs (see <http://www.ipe.org.cn>).

Another goal of the Green Choice campaign has been to promote and uphold the MEID. Since the MEID was promulgated, NGOs involved in the Green Choice campaign have attempted to ensure that polluting companies fulfil their information disclosure responsibilities and abide by environmental legislation. To date, this has been achieved through sending 'reminder' letters to companies in violation of the MEID for failing to disclose environmental information. In this way, NGOs are making use of the MEID to hold enterprises to account, and, in the process, are attempting to help improve its enforcement. According to the IPE website, as of 7 January 2009, 32 reminder letters had been sent. A typical example concerns a letter sent to the Wuxi Xielian Knitting Company.<sup>91</sup> On 5 June 2008 the Wuxi EPB conducted a night-time inspection of polluting companies across the city and disclosed the results through the media. On 12 June 2008 the Wuxi Daily reported that an inspection had revealed that the Wuxi Xielian Knitting Company was in serious violation of discharge standards. In their reminder letter to the company, NGOs pointed out that, according to the MEID, it should release information including the names of pollutants, method of discharge, and pollutant concentration of discharge, within 30 days. The letter stated that the company had not complied with this requirement, and asked it to do so. An appendix was included citing the relevant clauses of the MEID, as well as a blank 'corporate disclosure data form' into which the company was asked to input data regarding its pollutant emissions.

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<sup>91</sup> Available at <http://www.ipe.org.cn/uploadFiles/2008-07/1217232357925.doc>.

Reminder letters as well as company responses to these letters are placed on the IPE website. However, to date only one company has responded.<sup>92</sup> The others, including the Wuxi Xielian Knitting Company, have ignored these letters (<http://www.ipe.org.cn>).

It could be argued that elements of the Green Choice campaign, as well as IPE's disclosure of problem enterprises, have been fairly successful. IPE has liaised with a number of firms and managed to persuade several of them to accept third party inspections in order to ensure that their names can be removed from the list of polluting firms. Although this only represents a fraction of the number of firms listed, it shows that this tactic can be effective in some cases in China. NGOs have also appealed successfully to the media, which has clearly played an important part in holding polluting companies to account. In addition to the flurry of media reports that detailed the rising number of problem companies listed by IPE and the Green Choice campaign, some journalists contacted the companies directly in order to question them (*Nanfang Zhoumo*, 26 October 2006; *Guoji Xianqu Daobao (International Herald Guide)*, 29 August 2007). China Central Television (CCTV) also aired a programme about a company belonging to Carlsberg Beer in Gansu Province that had appeared on the list for exceeding pollution standards and starting production without having carried out the necessary EIA (*21 Shiji Jingji Baodao*, 25 August 2007). As a result of NGO activity, some enterprises have been held to account to a greater extent than they would otherwise have been.

However, this success has been almost entirely confined to dealings with MNCs. Some MNCs have come under pressure from the media in their home countries for using materials in their products that are manufactured by serial polluters (*Wall Street Journal*, 22 August 2007). And, it was reported that some embassies in Beijing, including the British and Danish embassies, contacted IPE promising to try to ensure that companies from their countries improve their environmental performance (*Zhongguo Qingnian Bao*, 13 December 2007). In addition, it was reported that some companies had suffered from reduced orders and came under pressure from upstream and downstream enterprises (*Zhongguo Zhengquan Bao*, 24 April 2007). MNCs are particularly vulnerable to

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<sup>92</sup> This company was Chongqing ABB. See [http://www.ipe.org.cn/news/news\\_view.jsp?BH=84](http://www.ipe.org.cn/news/news_view.jsp?BH=84).

informational regulation and civil society due to their reputations and the amount of interest they generate in the media, both in China and abroad. These MNCs are also liable to be held to account for their actions overseas by consumers in their home countries. This is particularly the case where MNCs promote a green image at home but are exposed for pollution overseas. There is a fear held by some companies that environmental issues could spawn a movement akin to the anti-sweatshop campaign (*Wall Street Journal*, 22 August 2007). Furthermore, the issue of MNCs' pollution is becoming increasingly politicised. For example, when China is criticised for exporting unsafe products, it is increasingly responding by highlighting the damage that MNCs and their suppliers are causing to the Chinese environment (*Ibid*).<sup>93</sup> Finally, MNCs are potentially vulnerable to Chinese nationalist sentiment. The exposure of polluting MNCs in the Chinese media did not appear to influence Chinese consumers' attitudes towards these enterprises. Nevertheless, the boycotting of French supermarket Carrefour across China in response to French protests that met the Olympic torch relay in Paris shows that Chinese consumers are capable of taking action against foreign firms in order to protect national interest.

#### *NGOs' campaign against Gold East Paper*

Better environmental information disclosure and transparency have also facilitated an NGO campaign against the application by the Gold East Paper Company (GEP) to list its 'A' shares on the Shanghai Stock Exchange. GEP was set up in China in 1997 by Indonesian paper giant APP, which is the largest pulp manufacturer in Asia. APP has courted controversy both in China and overseas due to its allegedly woeful environmental record, to the extent that some major retailers such as Staples and Woolworths have severed business ties with it. The company has also been accused of environmental degradation in China. In November 2004, Greenpeace China accused APP of conducting large-scale deforestation in Yunnan Province.<sup>94</sup> In doing so, they were supported by the Zhejiang Hotels Association, which called on members to boycott APP products. In

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<sup>93</sup> According to one estimate, production of manufacturing goods that are then exported accounts for 20-30 per cent of China's water pollution (*Wall Street Journal*, 22 August 2007).

<sup>94</sup> For information about the Greenpeace campaign, see <http://www.greenpeace.org/china/en/campaigns/forests/app-illegal-logging-in-yunnan/greenpeace-china-exposes-app-s>. For a discussion (in Chinese) about the campaign, see Chang (2005).

addition, domestic environmental NGOs including Friends of Nature expressed support with Greenpeace.<sup>95</sup>

On 5 August 2008, GEP and six subsidiary companies applied for permission to conduct an initial public offering (IPO) on the Shanghai Stock Exchange.<sup>96</sup> The Chinese government has since 2003 stepped up environmental and disclosure requirements for companies applying for IPOs in what is labelled its ‘green securities’ (*lüse zhengquan*) policy. According to the 2003 Notice (as referred to earlier in this chapter), any company wishing to be listed on the stock market must first obtain approval from the MEP based on the company’s environmental record before applying to the China Securities Regulatory Commission for listing (SEPA, 2003). Companies are required to provide environmental information to the MEP covering the 36-month period prior to their IPO application. Under the 2003 Notice, companies that violate environmental legislation, for example by exceeding pollution standards, are prevented from conducting an IPO.<sup>97</sup>

From 5-14 August 2008, the MEP placed a public notice (*gongshi*) on its website announcing the application (MEP, 2008). According to this public notice, the seven companies ‘basically met’ the necessary environmental conditions required in order to become listed on the stock exchange. Nevertheless, the public was invited to contact the MEP with comments and suggestions in relation to the application during the public notice period (Ibid.). This type of public notice inviting feedback is becoming increasingly common as the MEP attempts to improve public participation and government transparency.

Once the public notice was published, several Chinese NGOs became aware of the intention of GEP and its subsidiaries to become public companies (*Zhongguo Zhiye Wang* (*Chinapaper.net.*), 28 August 2008). A group of six NGOs, namely Friends of Nature,

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<sup>95</sup> The 2004 campaign is separate from the one examined in this chapter.

<sup>96</sup> The six subsidiary companies were Jinhua Sheng Zhiye; Ningbo Asia Pulp; Ningbo China Paper; Hainan Jinhai Pulp; Shenyang Jinxin Pulp; and Guangxi Jin’gui Pulp (for details see MEP 2008).

<sup>97</sup> In a further sign that China wants more openness from public companies regarding their environmental records, in December 2007 an official revealed that the MEP was in the process of drafting legislation that would require the compulsory disclosure of environmental information from those firms already listed (*China Daily*, 31 December 2007).

Global Village Beijing, Green Earth Volunteers, Green Watershed, Green SOS, and the Beijing branch of Greenpeace, joined forces to try and block the IPO. They did so on the grounds of what they claimed was a woeful environmental record on behalf of APP China and its associate companies.<sup>98</sup> The six organisations also framed their campaign as an attempt to promote the transparency aspect of the government's 'green securities' policy by attempting to ensure that GEP and its subsidiaries release information about their environmental performance. It is worth noting that throughout 2007, initial requests for listing on the stock exchange by 10 other companies had been refused by the MEP on environmental grounds.<sup>99</sup> However, the case involving GEP and its subsidiaries was the first in which NGOs had tried to block an IPO (*Di Yi Caijing Ribao*, 13 August 2008).

The NGO campaign was based upon writing letters to the MEP and GEP, as well as trying to generate media interest. The first step taken by the six NGOs was to write a letter to the MEP, which was also distributed to journalists (Friends of Nature et al, 2008a). This letter was written in response to the MEP's call for suggestions and comments in its public notice. In this letter, sent on 12 August, the NGOs claimed that GEP had violated clauses 2.1.1, 2.1.3, and 2.1.8 of the 2003 Notice. These clauses state that companies wishing to conduct IPOs must not exceed pollution limits, must accord with domestic and industry advanced levels, and that the products and production processes of companies must not contain any products that are banned in China (SEPA, 2003). The NGOs' letter also included a detailed list of all of the environmental violations listed on local government websites that had been committed by the seven companies. The NGOs also pointed out that GEP had been accused of destroying virgin forests in China. Finally, citing the MEID, the NGOs noted that the companies had failed to release any information to the public in relation to their IPO application. The letter urged the MEP to 'carefully handle' the GEP application and to consider suspending approval allowing the companies to go public.

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<sup>98</sup> GEP and its subsidiaries have been cited on IPE's disclosure list ten times for various violations of environmental regulations.

<sup>99</sup> All 10 companies were subsequently allowed to go public after taking rectifying measures (*Di Yi Caijing Ribao*, 13 August 2008).

On 12 August, the NGOs also wrote to APP China (Friends of Nature et al, 2008b). The purpose of this letter was to request that APP China release environmental information to the public, including information relevant to its subsidiaries' IPO applications, by the end of the public notice period. In their letter, NGOs provided evidence to show that APP China subsidiaries had repeatedly been accused of violating environmental legislation by EPBs. NGOs were aware of these violations because EPBs had placed this information in the public sphere. The letter pointed out that, according to the MEID (and as noted above), any company that is 'named and shamed' by the authorities should release various types of environmental information within 30 days. However, the companies in question had not done so. As a result, the NGOs requested that this information be released and that the companies comply with the MEID. APP China did not respond directly to the NGOs' letter. However, the next day it did issue a statement in which it defended its environmental record and pointed out its contribution to the Chinese economy (APP China, 2008). A few days later, the NGOs maintained the pressure by writing a second letter to APP China, expressing disappointment that it had not addressed their concerns in its publicly issued statement, and reiterating their request that the company disclose information about its environmental record according to law (Friends of Nature et al, 2008c).

Following on from this, and presumably because the NGO campaign had attracted some media interest, APP China launched a counter-campaign in which it published articles in the media questioning the accuracy of the NGOs' claims. For example, part of an article that appeared in the China Environment News apparently criticising APP China was quoted by NGOs in their first letter to APP as an example of its poor environmental practice (*Renmin Wang Jingji Pindao (People's Daily Online Economics Channel)*, 3 September 2008). However, APP revealed that the article had in fact gone on to praise the company for subsequently improving its environmental performance. This part was not included by the NGOs. Based on this, APP was quoted in the press as saying, 'we hope that environmental groups can carry out investigations in earnest, and not only rely on quotes taken out of context or use media reports in a one-sided way, thus misleading the public into a false understanding of APP China' (Ibid.). NGOs were also criticised for



citing the environmental violations of a firm that was no longer associated with APP at the time that it contravened environmental regulations. Interestingly, NGOs involved in the campaign against APP circulated an internal (*neibu*) document entitled ‘frequently asked media questions and answers’. This document contained examples of questions that journalists might ask in relation to the campaign, as well as information on how to answer these questions (NGO internal document, on file with author). This case suggests that, while the media can be extremely important in amplifying NGOs’ messages, it can also serve as a double-edged sword.

On 2 September, the NGOs sent a second letter to the MEP (Friends of Nature et al, 2008d). In this letter they provided more details into the environmental record of Hainan Jinhai Pulp, one of the six GEP subsidiary companies applying to conduct an IPO. The letter included the details of 26 separate environmental violations that the company was alleged to have committed in the 36 months prior to its listing application. In addition, the NGOs for the first time brought the public into the debate. Activists visited the area around Hainan Jinhai Pulp from 28-31 August, and interviewed local people. The NGOs claimed that Hainan Jinhai Pulp had polluted drinking water and negatively impacted on fish supplies, damaging people’s livelihoods. Furthermore, they found that people’s health had been affected by the company’s pollution (Ibid.).<sup>100</sup>

During the campaign against APP China, NGOs made good use of information in the public domain in order to argue their case more authoritatively. Their correspondence with the MEP and APP China included a large amount of data detailing the latter’s environmental transgressions. All of this was taken from government or media sources that were available as a result of greater environmental information disclosure in recent years. In addition, NGOs showed that they are very much aware of the content of environmental legislation, and were able therefore to use legislation such as the MEID and 2003 Notice to support their position. However, the campaign also shows the importance to NGOs of double-checking data before using it. Their failure to do so with

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<sup>100</sup> In their letter, NGOs claimed that they were in the process of compiling a DVD based on filming in the area. This DVD was to be sent to the MEP in due course.

all of the data they published in relation to this campaign provided APP with ammunition that they used in an attempt to discredit NGOs in the media.

The campaign against APP China shows how environmental information disclosure in China can add an extra layer of accountability in environmental governance. The two-way relationship between regulators and regulated entities has been opened, if only slightly. What was previously a closed door has now, in some cases at least, been thrown ajar. Through publishing its public notice inviting comments on GEP's IPO application, the MEP opened up the process to outside actors and enabled NGOs to provide input. However, this has only provided a very limited level of transparency, and the actual decision-making process has been conducted behind closed doors.

An important aspect of the NGO campaign was based on writing letters to the MEP and APP China. In the case of the former, no public reply was forthcoming. However, the NGOs claimed that the MEP had reassured them it had acted on their concerns and requested relevant provinces to carry out investigations into APP China's subsidiary companies (Friends of Nature et al, 2008d). As a result, NGOs managed to add a level of accountability to this process. In addition, rather than being given a 'free ride', GEP was pressurised into responding to the NGOs' criticisms. It did so by publicly issuing statements in defence of its environmental record. In doing so, it had to justify its position to the Chinese public, even if it refused to engage with all of the accusations levelled at it. At the same time, the NGOs also held the MEP to account, again albeit to a limited degree. NGOs were able to question the MEP's initial decision to give a green light to GEP's listing application. Regardless of the final result, these are positive developments in environmental governance in China. Yet there is clearly a long way to go before transparency and disclosure become the norm, and as a result government officials and companies such as APP will continue to escape real public accountability.

## **Conclusion**

Informational regulation in environmental protection is a relatively recent phenomenon in China. Although disclosure of some environmental information has been required since

the late 1980s, this was limited in scope and weakly implemented. Since the turn of the century, however, the central government has demanded greater public disclosure of environmental information. This is in order to improve accountability of polluting enterprises and local officials and therefore reduce the implementation deficit.

In the past few years the MEP has increasingly legislated for better information disclosure. The MEID, which came into effect in 2008, is an important piece of legislation in this regard. It demonstrates an unprecedented commitment on behalf of the environmental protection authorities to improve local government and enterprise transparency and accountability. In passing information disclosure legislation, the MEP has moved to safeguard the public's 'right to know'. It has given citizens added legal rights that they can theoretically use to obtain information and play a role in environmental supervision. In this respect, parallels can be drawn with governments in OECD countries that have also passed legislation designed to preserve the right to know (Sarokin & Schulkin, 1991).

However, it is important to recognise that the development of information disclosure and the concept of right to know differ in a Chinese context. This in turn influences the efficacy of informational regulation as a policy tool. Information disclosure is a recent policy direction in China. And yet this chapter has found evidence to suggest that, unlike other countries such as the US, it has not 'fundamentally altered the relationship between government, industry and the general public' (Sarokin & Schulkin, 1991: 184). Despite the promulgation of legislation, access to environmental information is still haphazard. Part of the problem lies in the difficulties associated with monitoring industrial activity in a huge country with limited resources. At the same time, many officials remain sceptical about, or even downright opposed to, providing the public with information that was until very recently considered secret. This is exacerbated by weak rule of law and a lack of mechanisms that can hold officials to account. In many cases, the officials that legislation such as the MEID aims to hold to account are the same people with the power to decide whether or not to enforce this legislation. As a result, officials can still be very selective

in the type of environmental information they decide to place in the public sphere. Transparency is still very much lacking in China's system of environmental governance.

#### *Information Disclosure and Environmental NGOs*

Despite the limitations associated with information disclosure in China, there is evidence to suggest that the government's promotion of this policy in the environmental sphere may have important implications for Chinese environmental civil society. For a start, it has opened up a new area of activism for NGOs. Prior to the founding of IPE no Chinese NGOs were involved in information disclosure activism. Increased attention to this issue from the government, including legislative developments in the environmental state, has expanded the space for environmental activism in China. 'Policy pioneers' including IPE and other NGOs have started to colonise this space. They have mounted campaigns against companies that are household names in China, for example through the Green Choice campaign. In addition, NGOs launched a focused campaign against a giant of the paper-manufacturing industry, APP China. The work of IPE both independently and as part of the Green Choice campaign highlights the important role that NGOs in China can play in processing information from diverse sources into an accessible form for public consumption (Stephan, 2002).

To date, however, Chinese NGOs have been limited in their ability to use information to hold polluters to account. This is a major shortcoming of informational regulation in China, and highlights the limitations of public interest activism. The small amount of political space bestowed upon NGOs defines how they are able to use information. For example, the emphasis on patiently communicating with enterprises in order to persuade them to improve environmentally is consistent with the non-confrontational attitude that NGOs operating in China have had to adopt under the current political system. Global Village Beijing founder Liao Xiaoyi was paraphrased by the *Zhongguo Huanjing Bao* (26 March 2007) as saying, in relation to the Green Choice campaign, that

In the process of contacting enterprises, environmental NGOs have not used a method of conflict to solve the problem, rather they have used the

information disclosure strategy and entered into communication and liaison with enterprises through dialogue and negotiation.

This non-confrontational approach is also in evidence via the way in which NGOs involved in the campaign wrote letters to companies that had failed to disclose information in line with the MEID. This tactic was also central in the campaign against GEP's IPO application.

Adopting a non-confrontational approach is part of a wider strategy on behalf of many NGOs to be loyal to the government. Ma Jun said that, 'the role that we hope to play is as a beneficial supplement to the government's environmental supervision, to promote positive interaction between the government, enterprises, and the public' (*Ban Yue Tan (Half Monthly Discussion)*, 3 February 2008). This correlates with the government's view that NGOs should support the work of the government. This tactic has enabled NGOs to hold to account a number of companies that would otherwise probably have escaped public pressure. And yet this was only the case in relation to a small number of MNCs. Almost without exception, domestic companies have not been affected. Due to their size, high profile, and importance with which they view their reputations, it is possible that positive developments in relation to MNCs might spread to domestic companies. Yet it is also possible that Chinese NGOs under their current approach will only be able to alter the behaviour of a few companies that represent the lowest hanging fruit.

One of the main reasons why Chinese NGOs have been unable to effectively hold polluters to account is due to a lack of effective channels. Chinese activists operate in a much more restrictive political environment compared with their western counterparts. For example, despite some important successes in environmental court cases, most notably by the Beijing NGO Centre of Legal Assistance for Pollution Victims (CLAPV), the judicial system is still very much subservient to the Party-state. In addition, due to political constraints, the NGOs examined in this chapter have largely been unable to forge links with citizens who have a direct personal stake in cleaning up their local environment. One exception was the way in which NGOs involved some citizens in the campaign against APP China. Yet in doing so, the NGOs had to proceed cautiously.

Mobilising the public to any great degree would be a highly dangerous strategy for Chinese NGOs. As a result, NGOs involved in the Green Choice and APP campaigns, have been forced to maintain their position of advocating change in a patient and non-confrontational manner. As a result, this chapter has found that public interest activists remain limited in the extent to which they can hold polluters to account.

The previous two chapters have focused on public interest activism. The next chapter turns to examine a different facet of Chinese environmental civil society identified by this thesis, namely private interest activism.

## Chapter 6: Private Interest Activism

Chapters 4 and 5 focused on ways in which the central government has attempted to extend governance to non-state actors through developments in the environmental state designed to increase public participation and information disclosure in environmental protection. Part of the rationale for doing so is to stimulate greater participation, accountability, and transparency in relation to environmental issues. Chapters 4 and 5 argued that policies designed to extend governance beyond the bureaucracy have created new opportunities for public interest activists to engage in environmental governance. However, these chapters also found that these activists remain limited regarding the extent to which they promote 'good governance'. Although NGOs and other public interest activists can play an important role in promoting public participation and information disclosure legislation, Chapters 4 and 5 found that these organisations have not been able to significantly affect environmental outcomes through these emerging mechanisms and policies. To a large extent this is due to the political constraints under which these activists operate.

This chapter continues to examine ways in which the environmental state and civil society interact in China. Unlike the previous two chapters that focused on public interest activism, this chapter identifies and examines the concept of Chinese environmental 'private interest activism'.<sup>101</sup> Whereas NGOs and other 'public interest activists',<sup>102</sup> tend to pursue long-term causes for the greater public interest, private interest activists are primarily motivated by short-term localised issues that relate to their own private interests. The private interest activism examined in this chapter is distinct from NIMBY (not in my back yard) -ism. Unlike the latter, the term 'private interest activism' is not intended to be used pejoratively.

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<sup>101</sup> This term is borrowed from Benjamin Read (2007: 172) in his study of private homeowner associations in China. He distinguishes homeowner groups, which are primarily committed to the private interest, from NGOs, which are oriented towards public interest issues.

<sup>102</sup> Throughout this thesis the term 'public interest activism' refers to NGOs and/or individual citizens who campaign on environmental issues primarily based on what they see as being the public good.

This chapter examines how, and to what extent, environmental private interest activism can promote ‘good governance’ in China. In order to do this, it examines private interest activism in relation to large-scale development projects in the cities of Xiamen, Shanghai, Beijing, and Chengdu between 2007 and 2008. In each case, citizens mobilised in opposition to the projects. They conducted peaceful demonstrations and attempted to ensure that officials respect the public’s right to participate in decisions as set out in the public participation legislation examined in Chapter 4. These four cases have been chosen due to their high-profile nature. This guarantees that there is a large amount of documentary evidence to draw on. Furthermore, the fact that these cases generated a large amount of interest also suggests their perceived importance to Chinese environmental governance by officials, journalists, and scholars alike.

This chapter has implications for understanding good governance in the environmental sphere in China. First, it contributes to understandings of official accountability. The peaceful protests organised by private interest activists were attempts to hold Party-state officials to account for their decisions. Second, in calling on officials to carry out their public participation responsibilities, private interest activists attempted to promote formal public participation. In doing so, they also advocated stronger rule of law. Finally, this chapter shows how private interest activists can promote transparency. In some cases, activists overcame local media blackouts regarding the controversial projects by using the Internet to spread information. Furthermore, in some of the cases, activists’ pressure on the local authorities ensured a more transparent and participatory decision-making process. As a result, this chapter argues that private interest activists can be an important force in promoting rule of law, participation, transparency, and accountability. This chapter also compares the role of public and private interest activists, as well as the extent to which they form links with each other.

### **Contentious Politics and Social Movements**

Before conducting an empirical examination into China’s private interest activism, it is necessary to briefly outline the main features of contentious politics and social movements as set out by the wider political science literature, and in relation to China.



As Snow et al (2004: 5) note, during the twentieth century there was a significant increase in contentious politics to the extent that it became ‘a routinized avenue for expressing public collective grievances’. According to Sidney Tarrow (1998: 2), ‘contentious politics occurs when ordinary people, often in league with more influential citizens, join forces in confrontations with elites, authorities, and opponents’. Social movements are formed when an episode of contentious politics is sustained over a period of time, and sometimes across more than one location (Ibid.). Social movements can be defined as, ‘*a sustained campaign of claim making, using repeated performances that advertise the claim, based on organisations, networks, traditions, and solidarities that sustain these activities*’ (Tilly & Tarrow, 2007: 8, *emphasis added*).

Three interactive factors have been identified as key to the analysis of social movements, and contentious politics more broadly. These are political opportunities, mobilising structures, and framing processes (McAdam et al, 1996). Contentious politics can emerge as a result of changes in political opportunities or constraints (Tarrow, 1998). Mobilising structures refers to ways in which citizens gather together and engage in collective action (McAdam et al, 1996). Framing processes concern ways in which grievances are defined in a movement’s discourse.

Scholars have also discussed the impact of contention on the wider political landscape. Contentious politics can create ‘cycles of contention’ whereby successful action by one group of actors encourages other groups elsewhere to adopt the same tactics in pressing for demands and to ‘test the limits of social control’ (Tarrow, 1998: 24, 142). However, contention does not only create opportunities for society’s aggrieved. It can also be used by political elites to carry out political reform, repression, or both (Ibid: 24). For example, oppositional elites may respond by calling for change in areas that previously appeared ‘foolhardy’ (Tarrow, 1998). As a result, it has also been argued that contention can be absorbed into and transform the state (Ibid.).

Since the onset of the reform era, space has opened up in China for the expression of local interests as well as the checking of arbitrary abuses of power (Perry & Selden, 2003). Contentious politics has grown to the extent that a ‘polyphony of conflict and contention’ has emerged (Ibid.: 8). In other words, contention has increasingly become part of the political landscape in the PRC, although it remains, for the most part, localised and single-issue based (Ibid.; Perry & Selden eds., 2003). Although the Chinese political system does allow for some expression of localised grievances, any protests or movements that form national linkages are likely to be strongly repressed, particularly when they are perceived as threatening towards the Party-state. Arguably the best known case relates to the *Falun Gong* movement that was subject to a severe clampdown in the late 1990s due in part to its geographically and socially wide membership base (Ostergaard, 2004).

Despite the restrictions that remain, reform era dynamics have created political opportunity structures that influence collective action. For example, an improving legal system has increasingly led to people mobilising in order to defend their rights. This has led some scholars to look at contention as being ‘rightful’. As Kevin O’Brien and Lianjiang Li (2006) have shown, people with grievances against officials in rural areas are increasingly becoming aware of, and using, the rights bestowed upon them through official legislation, policies, and rhetoric. In doing so, villagers use the regime’s own vocabulary as a weapon in resisting unruly local officials (Ibid: 5). They do not oppose the state’s policies; rather they highlight cases where local officials fail to implement these policies. This ‘rightful resistance’ takes place between the boundaries of institutional and non-institutional politics, and is reliant on cleavages in the state that villagers can exploit (Ibid: 25, 52).<sup>103</sup>

Although rightful resistance was initially conceived of in relation to rural areas, changes in urban dynamics have seen the spread of these tactics to towns and cities. To date, one of the most prominent examples of this can be found in so-called ‘homeowner

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<sup>103</sup> It has been argued that the divisions of power between local and central levels in China have been vital in limiting the effect of civil unrest. China’s multiple-layered system helps protect the centre’s image as it frequently falls on local officials to carry out repressive actions (Cai, 2008).

movements', in which urban residents engage in contentious action in order to preserve their economic (especially property) interests, or quality of life.<sup>104</sup> In many of the documented cases, homeowners pursue issues that are related to, or are at least framed in terms of, environmental concerns (see, for example, Zhu & Wang, 2007-8; Zhu & Ho, 2008). For example, homeowners in a Shanghai neighbourhood cited environmental legislation in a bid to prevent the construction of a facility for old cadres in a park adjacent to their properties (Zhu & Ho, 2008).

Although scholars have conducted case studies of instances whereby homeowner groups frame their resistance to unpopular development projects in environmental terms, the impact that this type of resistance has on environmental governance and the Ministry of Environmental Protection's (MEP) policies in relation to extending governance has not been addressed.<sup>105</sup> Furthermore, the tactics used by opponents to controversial development projects continue to evolve and are becoming more sophisticated. Existing studies have not analysed the effect that new technology such as the Internet and mobile phones are having on these movements. In addition, the ways in which other civil society actors interact with these movements has not been examined by the current literature. And finally, no scholarly studies exist that examine the cases of public opposition to the development projects in Xiamen, Chengdu, Beijing, or Shanghai, despite much media interest in these cases. This chapter attempts to address these gaps in the literature.

### **Environmental Private Interest Activism in China**

This section examines in detail private interest activism in Xiamen, Shanghai, Beijing, and Chengdu. First, it provides detailed information of these four case studies. It then considers the significance of these cases, looking at the impact of new technology and the

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<sup>104</sup> The reform era has seen a trend away from publicly provided accommodation by work units (*danwei*) and an increase in private home ownership, particularly since the mid- to late 1990s (Read, 2007). Many urban dwellers have been given the chance to purchase the homes supplied to them by their work units at below market prices. In addition, a large number of people have been resettled where old housing has been demolished and replaced with new high-rise buildings (Ibid.).

<sup>105</sup> Before 2008, the MEP was referred to as the State Environmental Protection Administration (SEPA). For clarity, this chapter uses the term 'MEP' when referring to the central level environmental protection agency both before and after this bureaucratic reorganisation.

emergence of new forms of activism. It also considers the impact of private interest activism on environmental governance processes.

### *Xiamen PX Plant*

Xiamen is a coastal city located in Fujian Province with a population of approximately 1.5 million people who take much pride in the city's clean environment. Since the mid-1990s the Xiamen city government has been developing the petrochemical industry as one of three pillar industries in Haicang, a national-level economic and technological development zone on the outskirts of the city (*China Daily*, 16 May 2005). At the same time, Haicang has also been designated as an area for the development of non-industrial sectors such as housing, tourism, and education (*Ibid.*).

Plans by the Taiwanese Xianglu Group to construct a huge chemical plant in Haicang producing 800,000 tonnes annually of paraxylene (PX), a chemical used in the manufacturing of plastics, polyester and cleaning products, were approved by the State Council in February 2004 and by the National Development and Reform Commission (NDRC) in July 2006. It was estimated that the PX plant would add 80 billion Yuan to Xiamen's annual GDP of 110 billion Yuan, representing a significant level of investment (*South China Morning Post*, 7 June 2007). However, opposition was expressed, initially from senior academics, to the proposed location of the PX plant, which was to be only seven kilometres from the city centre and even closer to recently developed residential areas in Haicang. This issue was brought into the realm of public debate in March 2007 after six Chinese Academy of Sciences (CAS) academics and 105 members of the Chinese People's Political Consultative Committee (CPPCC) introduced a proposal at the annual CPPCC meeting calling for the PX plant to be relocated further away from the city due to health concerns. In response to this, the Xiamen government, which had not indicated to the public that PX is a potentially harmful substance, stood firm, remaining in favour of the plant's construction (*Nanfang Dushi Bao (Southern Metropolitan News)*, 31 May 2007).

After news of the potentially damaging health effects of PX started to emerge, many citizens became worried. Another cause for concern for homeowners in the Haicang area was the resulting drop in property prices that accompanied the news about the plant's location (*BBC News*, 22 January 2008). The role of the media, and in particular the 'new media' which in this case refers to information disseminated by individuals through the Internet and mobile phones, was vital in raising awareness, as well as mobilising opposition against the project. The CPPCC proposal was reported by the traditional media, which prompted concerned citizens to engage in debate and awareness-raising regarding the possible dangers associated with PX via the Internet. Despite the fact that information in Xiamen about the PX project was tightly controlled by officials, many local people obtained information via channels such as email or through Internet blogs and bulletin boards. Due to the difficulties of censoring information disseminated through these channels, individuals were able to challenge the monopoly on information held by local officials, filling a vacuum created by a lack of reporting in the traditional media.

'Cyber' activists such as Lian Yue were instrumental in disseminating information about the PX project. From late March, Lian used his blog in order to urge citizens to publicise and oppose the plans to build the PX plant, as well as warning that it would damage people's health and the local economy.<sup>106</sup> Hence online discussions moved from talking about what the dangers of PX were, to discussing what could be done to prevent the project from going ahead. In another demonstration of the importance of how technology can bypass Party-state censorship, a mobile phone text message was sent in late May which warned people that construction of the PX plant would be akin to exploding an atomic bomb over Xiamen (*Sichuan Xinwen Wang (Sichuan News Net)*, 29 May 2007).<sup>107</sup> This message urged citizens to take part in a 'stroll' (*sanbu*) to the city government on 1 June in order to register their displeasure with the project (*Zhejiang Zaixian (Zhejiang Online)*, 25 December 2007).<sup>108</sup> Recipients of the message were urged to forward it to friends and family, and it reportedly reached almost all of the city's 1.5 million

<sup>106</sup> See, for example, <http://lianyeah.blog.com/1647122/>.

<sup>107</sup> It is not known from whom this message originated.

<sup>108</sup> It is illegal for citizens to organise a demonstration without government approval, which is rarely granted. Going for a stroll is, however, perfectly legal. Therefore, organising a mass 'stroll' represented an innovative way around this problem.

population (*Los Angeles Times*, 1 June 2007). Others learned about the march from the Internet and word of mouth.

News of the planned protest stroll appears to have spurred officials into action, and the Xiamen government announced at a press conference on 30 May that the PX project was to be suspended pending further investigation.<sup>109</sup> This process would include carrying out a strategic environmental impact assessment (SEIA) (*Xinhua Tongxun She*, 13 June 2007).<sup>110</sup> Despite this announcement however, the stroll went ahead, with an estimated 7,000 people taking part on 1 June and a further 2,000 people marching on 2 June. During the strolls, participants called for the Xiamen Communist Party Secretary to resign and for the PX plant to be abandoned rather than merely suspended. In a further illustration of the importance of new media channels, a real-time blog was maintained by an activist who received updates from protestors via SMS messages, therefore enabling him to compile a running commentary that could be followed by anyone with access to the Internet (*South China Morning Post*, 3 June 2007). Another notable feature of these strolls, and one that distinguished them from the thousands of protests occurring primarily in rural areas, was that they were organised in advance and made use of new media channels. In addition, the majority of participants were middle-class and well educated, and also included a number of government employees.

The strolls were condemned by local officials, with the city mayor Liu Cigui criticising participants for not voicing their grievances through ‘official channels’ (*South China Morning Post*, 7 June 2007). Part of the problem, however, is the lack of effective channels for participation, as well as the weak implementation of existing public participation mechanisms. Although an EIA for the project had been approved by the MEP in July 2005, no provisions had been made to allow for public participation, despite

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<sup>109</sup> There was a suggestion that this decision was taken by the Fujian provincial government (see *Xinhua Tongxun She*, 13 June 2007).

<sup>110</sup> In China, unlike an EIA, which considers projects in isolation, an SEIA considers proposed projects in the context of their likely impact on the surrounding area.

the existence of provisions in the 2003 EIA Law for the solicitation of public comments (see Chapter 4).<sup>111</sup>

After the strolls, however, there was a marked change in the Xiamen authorities' hitherto secretive and aloof attitude towards the public with regards the PX project. Between 7-8 June 250,000 copies of a leaflet entitled 'How much do you know about PX?' were distributed to citizens. Around the same time, officials agreed to consider public complaints and comments via various channels including emails, letters and telephone calls (*Nanfang Zhoumo*, 19 December 2007). Another significant development related to the fact that the SEIA was conducted in a manner largely consistent with MEP's policies regarding public participation in EIAs.<sup>112</sup> After the SEIA was finished in late November, an abridged version of the report was made available for public comment on 5 December. The public comment period lasted for 10 days. It attracted a significant response, with 691 phone calls and 1,250 emails received by the authorities within the first 24 hours (Xiamen City Government, 2007).

Local officials made another significant concession to members of the public. A two-day public hearing, broadcast live on the Internet, was held on 13-14 December at which approximately 100 citizens were invited to express their opinions. This was the most prominent public hearing since the Yuanmingyuan hearing held over two and a half years previously (see Chapter 4). Unsurprisingly, the vast majority of participants opposed the project.<sup>113</sup> Finally, in March 2008, officials announced that the project would not go ahead in Xiamen. Instead, it was relocated to the city of Zhangzhou, also in Fujian Province (*Nanfang Zhoumo*, 19 December 2007).

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<sup>111</sup> The MEP subsequently claimed that although the PX project viewed in isolation was worthy of passing the EIA, it became problematic because local officials allowed residential areas to be constructed within close proximity to the industrial zone in which the plant was to be located. In theory, the SEIA process should overcome this type of issue.

<sup>112</sup> The SEIA Law was in the process of being drafted at this time. The exceptional circumstances of the Xiamen case enabled the MEP to conduct an SEIA before this legislation had been passed.

<sup>113</sup> For details, see the following article on Lian Yue's blog: <http://www.lianyue.net/blogs/rosu/archives/118196.aspx>.

The Xiamen case represents a successful mobilisation of aggrieved members of the public against an unpopular development project. As well as achieving their aims by ensuring construction of the PX plant did not go ahead in Xiamen, activists also influenced the manner in which government officials interacted with the public. Before the public outcry, local officials attempted to hide the project from the public. However, due to public pressure, officials subsequently discharged their public participation requirements in a way that was unprecedented in modern China.

The decision by officials to open up the project's SEIA process to public participation as a direct result of opposition from netizens and private interest activists represents an improvement in environmental governance. Not only were members of the public invited to submit comments on the SEIA, they also took part in a relatively transparent public hearing. In this sense, parallels can be drawn between the Xiamen government's handling of the SEIA process and the Yuanmingyuan public hearing in Beijing (see Chapter 4). As Chapter 4 noted, the 2005 Yuanmingyuan hearing was seen in part as an experiment designed to promote provisions contained in the 2003 EIA Law that allowed for a more participatory approach to environmental governance through the mechanism of public hearings. Through mirroring this process, the Xiamen government abided by what represents Chinese 'best practice' regarding public participation in a project's EIA. Although it was not their primary goal, private interest activists in Xiamen ensured that formal channels for public participation were opened up.

However, the extent to which the public participation channels opened up by the Xiamen government facilitated meaningful input into the decision-making process unclear. It has been suggested that the decision to relocate the PX plant had been taken *before* the public hearings took place (*International Herald Tribune*, 21 February 2008), which would render the participatory aspect of the SEIA irrelevant. The decision by the Xiamen government to embrace public participation in this case appears to have been based more on appeasing the public and salvaging its own image rather than any significant attempt to improve transparency and public participation in environmental governance. Indeed, by December officials were putting a positive spin on the event by stressing the positive



way in which they changed their approach by listening to public opinion, implying that they had handled the situation well and advanced the governance process at the same time. As the city's CCP Deputy Secretary-General Zhu Zilu said, 'from June's "PX disturbance" to December's "public participation", the Xiamen masses became more rational by the day, and the government's administrative capability improved' (*Nanfang Zhoumo*, 28 May 2007). On the other hand, it could be argued that the Xiamen case highlighted the need for official channels for public participation in order to ensure that unrest is internalised as much as possible within the system. This arguably strengthens the position of the MEP as it attempts to promote public participation by highlighting the necessity of instruments such as public hearings.

#### *Shanghai Maglev Protests*<sup>114</sup>

At around the same time that the Xiamen PX plant incident was playing out, citizens in Shanghai were also opposing a new project. The source of dissatisfaction amongst many Shanghai residents was centred on the Shanghai municipal government's plans to extend the city's Maglev line by 34 kilometres to the city's Hongqiao Airport.<sup>115</sup> Shanghai has the world's only commercial Maglev service, which opened in 2003 and runs between the suburbs and Pudong Airport.

From the beginning, Shanghai officials were more transparent about the project than Xiamen officials had been in relation to the PX plant. Plans for the project were revealed to residents in January 2007 via a public notice (*gongshi*). According to the public notice, the proposed extension to the Maglev line meant it would run close to 40 residential neighbourhoods (*xiaoqu*). In some places, the Maglev line would be less than 25 metres from people's homes. As a result, many residents opposed the project due to fears about noise pollution and electromagnetic radiation, whilst also questioning the extent to which it would benefit the economy. Similar to events in Xiamen, another factor stoking opposition was the negative effect of the project on house prices.

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<sup>114</sup> Unless indicated otherwise, the factual information in this section is based on *Xin Jing Bao*, 22 January 2008.

<sup>115</sup> Magnetic levitation, or 'Maglev', is an extremely fast train transportation system, whereby trains glide above a track, supported by magnetic repulsion and powered by a linear motor.

After the plans were revealed, many residents, particularly homeowners, began the process of appealing (*shangfang*) to local authorities, as well as protesting on a small scale. Citizens also displayed banners from their windows calling for environmental protection and for officials to adhere to the central leadership's 'harmonious society' rhetoric. In May, government officials announced that the project was being put on hold, and two months later it emerged that the plans for the extension were to be improved. Following this, a planning report and an EIA were made public on the Internet on 29 December 2007 and 2 January 2008, respectively. Members of the public were given three weeks to comment on the former, and two weeks for the latter. The planning report did contain some apparent concessions to residents. It revealed that the line was to be shortened to 31.8 kilometres and that some sections in densely populated areas would be constructed underground. The EIA had given the project a clean bill of health.

Despite this, however, citizens remained sceptical. Rather than accepting the planning report's findings, some residents, especially those with scientific backgrounds, argued for more research to be undertaken into the dangers of electromagnetic radiation. In addition, citizen opposition to the Maglev extension revealed some apparent discrepancies in the planning process. Although the proximity of the Maglev line to residential blocks was consistent with the Shanghai EPB's advice that the line should not be closer than 22.5 metres, opponents pointed out that the original line in Pudong had a safety zone extending to 50 metres, which itself was far short of the 500 metre safety zone maintained in Germany, which had developed the Maglev technology. Despite reassurances from the authorities that 30 metres was a sufficient buffer zone, residents remained unsatisfied. A recent media report had stated that residents living close to the existing Maglev line in Pudong had complained that it had affected their health, sleep, and even television signals (*Nanfang Zhoumo*, 13 January 2008).

Opponents to the project displayed a relatively high level of organisation in arguing their case, and showed familiarity with environmental laws and regulations. On 7 January 2008 a group of about ten representatives from affected residential communities met with

some relevant Minxing district leaders in order to express their opposition to the project in terms of its implications regarding the environment, economy, effect on society and safety. In addition, the representatives criticised the way in which the planning report and EIA had been made available only through the Internet. They argued that details about the project should be made known to everyone affected. The following evening, a ‘communication meeting’ was held between residential committee representatives, Maglev experts, and local officials from the planning and environmental protection departments. Residential representatives used the meeting to issue a set of requests, which primarily concerned with achieving greater governmental transparency. For example, representatives called for notices concerning public notification of relevant information to be displayed at residential areas, offices, and schools, and via the mainstream media. They also argued that the EIA should be published in the media, that the time for comments be extended until 5 March, and that residents should be able to see the full version of the EIA rather than the abridged version.<sup>116</sup> In addition, they also asked to be shown scientific data about the health effects from electromagnetic radiation. Finally, the representatives suggested that, in accordance with the law, a public hearing should be convened. These requests support the argument that citizens are becoming increasingly aware of their rights to participate and are seeking to ensure that these rights are upheld.

As well as submitting comments through official channels and arguing their case with officials, residents also took to the streets. Borrowing the terminology applied in the Xiamen case, residents were described as taking part in a series of ‘strolls’. These strolls took place in January 2008, during the public comment period, which suggests that residents considered the government channels for public participation insufficient. Residents were unhappy about the length of the three week public comment period, which they considered too short, as well as the fact that it had not been well publicised. According to reports, thousands of people converged at the city’s People’s Square in the hope of persuading authorities to locate the line extension further away from their homes.

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<sup>116</sup> As Chapter 4 noted, according to Article 11 of the 2006 Measures on Public Participation in EIA, only an abridged version of a project’s EIA need be released to the public.

Authorities had, as they did in Xiamen, urged citizens to express their views in a 'legal and rational' manner. However, Shanghai residents also took the view that only through gathering in such a way did they stand a chance at influencing the decision. As one newspaper editorial put it, 'today, only through going to the square for a stroll can people bump into a mayor that can be persuaded' (*Nanfang Dushi Bao*, 13 January 2008). In other words, only through going out onto the street in numbers can citizens hope to engage with, and put their case to, officials. To date, opposition appears to have been successful. The Maglev extension was not included in the city's list of major construction projects for 2008 (*Reuters*, 6 March 2008). However, the decision to suspend the project may have been made easier by the arrest of disgraced mayor Chen Liangyu on corruption charges, with whom the Maglev extension project was closely associated.

The way in which Shanghai residents opposed the Maglev project naturally drew comparisons with the Xiamen PX incident. Citizens who strongly opposed the project did win some concessions from the authorities. As in Xiamen, officials were forced to engage with them to a greater degree than they would otherwise have done. After the initial opposition from residents and the temporary suspension of the project, officials increased channels for the public to comment on the plans and EIA, and stressed the importance of public input. However, this was only forthcoming after strong opposition from citizens, who organised a delegation of representatives to meet with officials and argue their case. In addition, these representatives called on officials to discharge their public participation duties. In doing so, residents actively sought to protect their own rights, about which they were aware, and hold the government to account. Indeed throughout the whole process, activists were distrusting of the government and questioned it on a number of issues, including the accuracy of the EIA report. Although Shanghai officials did not hold a public hearing, as was the case in Xiamen, they released both the planning report and EIA to the public. However, although this enabled citizens to submit comments, the procedure was criticised by some for lacking in ease of use and transparency. Similar with Xiamen, there is no way of knowing the extent to which public comments through official channels influenced the final decision. However, it appears likely that, in both cases, the main factor driving change was the large-scale protests.

Finally, technology also played an important role in the Shanghai case. Opposition to the Maglev extension appears to have been organised primarily through the personal networks of homeowners in the affected neighbourhoods. Nevertheless, participants made use of the Internet. Opposition may have been heightened after participants learned of a protest march involving 13,000 people in Munich based on their opposition to plans to construct a Maglev line. In addition, residents also used the Googleearth programme on the Internet in order to overcome a lack of detail in the information released by the government, and verify exactly which residential areas were to be affected by the Maglev extension. Participants also uploaded videos of their strolls onto Youtube in order to provide a record of these activities.

#### *Opposition to the Liulitun Waste Incineration Plant in Beijing*

The third case of private interest activism examined by this chapter focuses on opposition against the construction of a waste incineration plant in the Haidian district of Beijing. In 1995, the Beijing municipal EPB expressed concern regarding plans to construct a landfill site in Haidian district's Liulitun. Despite this, the EPB eventually caved in to pressure and agreed to the project. At the same time, the EPB suggested that no housing should be built within 500 metres of the site, and that residents already living in the area should be relocated (*Sichuan Zaixian (Sichuan Online)*, 8 June 2007). However, this suggestion was ignored, and the surrounding area continued to be developed for residential purposes.

After the first phase of the project's construction was completed in 1999, residents in Liulitun started to complain about the stench from the landfill site that filled the air. Furthermore, it was claimed that the site was contaminating groundwater and had led to health problems among local residents, including increasing cases of cancer (Liu, 2007c). Partly in response to these complaints, and also because the landfill was set to be filled by 2012, in 2005 the Beijing municipal government announced plans to build a waste incineration plant next to the Liulitun landfill. This plant, with an investment of approximately 750 million Renminbi, would be able to incinerate 1,200 tonnes of rubbish

per day. The Beijing EPB approved the project's EIA in November 2005, and the authorities planned to begin construction of the plant in March 2007, ensuring that it would be completed before the start of the 2008 Beijing Olympic Games.

The decision to construct the waste incineration plant was greeted with strong opposition from local residents, who were fearful about the environmental and health implications of the project.<sup>117</sup> The Beijing and Haidian EPBs, on the other hand, supported the project. The former compiled a report defending the project's EIA (*Xinjing Bao*, 10 May 2007). It also claimed that there would be no environmental impact from the project, and that residents' health would also be unaffected (*Ziyou Yazhou Diantai (Radio Free Asia)*, 8 February 2007). Despite this, there remained strong opposition to the plant from residents who previously had been reassured that the landfill site would have no negative impact. Residents and local businesses petitioned the government and wrote letters of complaint to central level officials. Opposition to the project led to interest from the print media, and China Central Television (CCTV) aired several reports (see, for example, *CCTV*, 2007). In January 2007, officials from the Haidian district government met with several concerned residents. However, according to residents, officials displayed an aloof attitude, and the former's concerns were dismissed out of hand (*Nanfang Zhoumo*, 11 July 2007).<sup>118</sup>

Local residents were unhappy with the local government's lack of transparency in relation to the project. On 23 November 2006, they convened a meeting and decided to request that the Beijing EPB release the project's EIA report (*Di Yi Caijing Ribao*, 14 June 2007). The Beijing EPB acquiesced, and released the report in January 2007. However, residents found fault with the report. Moreover, residents were supported by experts, including CPPCC delegate Zhou Yinfeng, who, in a similar vein to Zhao Yufen, submitted a report to the CPPCC in which he argued against the waste incineration project (*Renmin Zhengxie Wang (People's CPPCC Net)*, 25 June 2007). In February and

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<sup>117</sup> Many people had moved to the area due to its relatively good environmental conditions. In addition, residents were concerned about the health implications, especially those related to the emission of carcinogenic dioxin from the plant.

<sup>118</sup> According to the *Nanfang Zhoumo* (11 July 2007), when one expert present at the meeting dismissed residents' concerns as 'rubbish' (*xiashuo*), residents grabbed him by the collar.

March 2007, several residents applied to the MEP for an administrative review of the Beijing municipal EPB's decision in November 2005 to approve the EIA for the Liulitun incineration plant (*Renmin Ribao*, 13 June 2007c). The application for administrative review was submitted based on two main premises. First, it claimed that, for various reasons, the proposed site for the plant was not suitable. And second, the applicants argued that the EIA process had violated the 2003 EIA Law by virtue of lacking sufficient public participation (*Ibid.*). The applicants threatened to sue the authorities if their request for a review was turned down (*Ziyou Yazhou Diantai*, 8 February 2007).

In relation to the second point, in 2005 the Beijing EPB had included public participation in the EIA process. Yet this was extremely limited. It consisted of convening an experts' meeting and distributing 100 questionnaires to local residents. Of these questionnaires, the EPB claimed that 85 were returned, with 71 per cent of respondents indicating approval (*Nanfang Zhoumo*, 11 July 2007). In addition, the Haidian district government selected several people from businesses in the area and took them to examine a waste incineration plant in Shanghai. However, according to one participant, officials used the visit to extol the virtues of waste incineration, and participants found the content of the visit too technical (*Ibid.*).

The affected residents clearly felt this level of public participation was insufficient and that they had been unable to express their views in a fair manner. They received support from experts, one of whom was quoted on CCTV as saying that, in relation to the questionnaires, '100 people is too few, it's totally possible [for the constructors] to get people they know or people with no connection to the project to fill in the questionnaire, it has no meaning' (*CCTV*, 15 April 2007). In their administrative review application, residents revealed that they had, in cooperation with environmental experts and lawyers, distributed 400 copies of their own survey regarding the project (SEPA, 2007b). In contrast with the official questionnaire, of the 358 completed surveys that were returned, 97.5 per cent stated that proposed pollution control measures were unreliable; 96.9 per cent expressed the belief that the plant would create severe pollution that would exceed the carrying capacity of the surrounding area; and, 93.2 per cent and 94.9 per cent of

completed surveys stated that the project would be detrimental to the local economy and people's living standards, respectively (Ibid.).

The MEP accepted the administrative review application and published its decision on 12 June (SEPA, 2007b). However, it is unclear whether or not the decision to carry out the administrative review was prompted by a peaceful protest by residents.<sup>119</sup> On 5 June, World Environment Day, approximately 1,000 Liulitun residents surrounded the MEP's headquarters in Beijing in order to express opposition to the waste incineration plant. This prompted official action. On the same day, four residents were invited to discuss the issue with the vice-head of the Haidian district. They met for two hours, and this time the residents' concerns were carefully listened to (*Sichuan Zaixian*, 8 June 2007). The MEP also took action. Two days after this protest, the MEP issued a statement on its website calling on Beijing municipal government officials to suspend the project pending further investigation and greater levels of public participation (SEPA, 2007c).<sup>120</sup> In the same statement, Pan Yue was quoted as saying that, 'we hope that all levels of government will provide a platform to enable the public to enjoy sufficient right to know, right to supervise, and right to participate in large-scale environmental affairs' (Ibid.).

One week after the protest, the MEP publicly issued its administrative review decision (see SEPA, 2007b).<sup>121</sup> It found that the plants location was in violation of the NDRC's 2006 'Decision Regarding Strengthening the Management Work of Environmental Impact Assessments for Organic Electricity Generation'. However, since the project's EIA had been carried out in 2005, before this decision was promulgated, this legislation was deemed irrelevant. In addition, the MEP found that the level of public participation in the EIA had been sufficient, because the 2006 'Measures on Public Participation in Environmental Impact Assessment' that provided clear guidance regarding public involvement in the EIA process (see Chapter 4) had not been in force at the time. As a

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<sup>119</sup> The results of the administrative review were published one week after the protest, which suggests that it might have been a reactionary move by the MEP.

<sup>120</sup> As a non-cabinet level ministry, SEPA ranked half a notch below the Beijing municipal government, and was therefore unable to impose binding orders on it. This statement was therefore a suggestion, not an order.

<sup>121</sup> Given SEPA's rank, this administrative review decision was also not binding in relation to the Beijing municipal government.



result, the administrative review decision cleared the Beijing EPB of any wrongdoing in relation to the two charges levied at it by the administrative review applicants. Rather, it blamed Beijing municipal government officials for ignoring the EPB's advice that it gave in 1995 regarding the unsuitability of locating a landfill site so close to residences.

Although it exonerated the Beijing EPB, the MEP also attempted to perform a delicate balancing act. It used the administrative review decision to reiterate its view that the incineration plant should be suspended pending greater deliberation. It claimed that, in between the project's EIA in 2005 and the start of construction in 2007, many people had moved to Liulitun. The MEP cited the fact that these new residents had not been consulted about the project, as well as the significant amount of opposition expressed through tactics such as petitions and the 5 June protest, as reasons why public consultation should be reopened (SEPA, 2007b). In response to this, one resident was quoted as saying, 'apparently another assessment will be organised, which will include public participation. We are waiting for this public participation opportunity' (Feng, 2007). The Beijing government decided to suspend the project pending further investigation. In October 2008 it was reported that the site for the waste incineration plant had been chosen, and preliminary work on the EIA had been completed (*Beijing Wanbao* (*Beijing Evening Post*), 10 October 2008). In addition, the report stated that a wider range of public opinions would be solicited (Ibid.).

#### *Chengdu Citizens Oppose Ethylene Plant and Oil Refinery in Pengzhou*

The city of Pengzhou is located approximately 35 kilometres north of Chengdu, the provincial capital of Sichuan Province. In the early 1990s, Pengzhou was identified as being a potential site for an oil refinery. Subsequently, in the 'Chengdu City Overall Plan (1995-2020)', Pengzhou was designated as a petrochemical base. In 2005, plans to construct an ethylene plant with an output of 800,000 tonnes per year were approved by the MEP and the NDRC, and approval to build an oil refinery with an annual output of 10 million tonnes was granted in 2008 (*Nanfang Dushi Bao*, 7 May 2008).

Public opposition to these two projects started, initially slowly, on the Internet, and culminated in a stroll on 4 May 2008. In many ways, events in Chengdu mirrored the events in Xiamen. Starting in 2006, several Chengdu residents used the Internet in order to learn about, and spread news of, the proposed projects. They warned about the potential health and pollution consequences that could affect the area. Chengdu is situated in a basin and is therefore particularly susceptible to air pollution. Internet posts warned of potential health repercussions, including leukaemia and deformed fetuses (*Nanfang Dushi Bao*, 7 May 2008). However, opposition remained low-key and many residents remained either in the dark about the project, or somewhat apathetic (Ibid.).

One of the key protagonists in online discussions was the well-known outspoken local writer and blogger Ran Yunfei. Initially too busy to dedicate much time to the subject, Ran subsequently took a greater interest after several friends and other concerned parties had contacted him about the projects. Worried by the projects, which he saw as the latest in a long line of developments detrimental to the city and region, Ran registered his opposition in blog articles published on 26 October (Ran, 2007a) and 22 November 2007.<sup>122</sup> In doing so, Ran made the link between what was happening in Chengdu and the earlier successful intervention of Xiamen residents opposed to the PX plant. He wrote, ‘the harm from an 800,000 tonne ethylene project can be placed on a par with the Xiamen PX project. The people of Xiamen including intellectuals such as Lian Yue can stand up and oppose, even not hesitate to take a stroll. Can it be that we the people of Chengdu are so easily bullied?’ (Ran, 2007a).

Indeed, in the run-up to the stroll, discussion became livelier. As well as using the Internet to disseminate information, opponents also distributed text messages in late April 2008 (*Nanfang Dushi Bao*, 7 May 2008). One message compared the danger to Chengdu with the dropping of an atomic bomb, just as SMS messages had in Xiamen. Throughout the campaign, Ran Yunfei played a similar role to Lian Yue. In a subsequent and widely read blog posting entitled ‘Stand Up Those People of Chengdu Who Have Bravery’, he warned that Chengdu could become a waste city, or even a dead city, if the two projects

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<sup>122</sup> This second article is referred to in another blog (see Ran, 2008a).

were allowed to proceed (Ran, 2008a). However, in attempting to encourage Chengdu residents to stand up in defence of their interests, Ran recognised that, unlike the Xiamen case when well-connected and influential experts such as Zhao Yufen became involved, no experts from Chengdu had stepped forward to question the Pengzhou projects. He therefore used his blog and personal connections to urge experts to join in the debate in order to lend greater credibility to the campaign to prevent the construction of the two projects. He also called upon journalists, both domestic and overseas, to report the story. In addition, Ran suggested ways in which ordinary citizens could take action. He urged people to disseminate information about damage done to Chengdu's environment in the recent past, and suggested that people share this information with the foreign and domestic media. Ran also suggested that people formulate petitions and 'even take part in a stroll' (Ran, 2008a). He reiterated this sentiment in a later posting when he once again called on people to take part in a 'peaceful and reasonable' stroll (Ran, 2008b).

Following this, a stroll was indeed organised, although the precise details regarding how it came about are unclear. In another similarity to Xiamen, text messages were distributed in order to organise the stroll. The text read as follows:

Chengdu, I breathe for you! We have the right to choose, we have a peaceful and reasoned means of expression: on 4 May afternoon between 15:00 and 17:00 there will be a stroll between Jiuyan Bridge and Wangjiang Building. No banners, no slogans, no rally, no demonstration...<sup>123</sup>

The stroll took place as planned, albeit on a much smaller scale than the Xiamen stroll. One participant put the number of people at 500 at the stroll's peak<sup>124</sup>, although Chinese media sources quoted a figure of just below 200 (*Xin Jing Bao*, 6 May 2008). Participants went to great lengths to avoid appearing confrontational, at times with almost comic effects. For example, at one point when being told to move on by police, participants

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<sup>123</sup> See <http://www.happycalgary.com/cached/39/n-47439.html>.

<sup>124</sup> See <http://www.blogoutdoor.com/user1/1203/archives/2008/39489.html>.

gathered by a bus stop and pretended to wait for a bus. A couple of participants provided live updates of the stroll to bloggers via text message.<sup>125</sup>

Following the stroll, Ran uploaded a blog entry expressing his support (Ran, 2008c). He also called on officials to open up the decision-making process by organising a forum whereby supporters and opponents of the projects could have a debate (Ran, 2008d). Ran urged officials to abide by the 'People's Republic of China Government Information Disclosure Ordinance' promulgated by the State Council in 2007 and release relevant information. It was claimed by officials that members of the public had already been offered the chance to submit their comments on the two projects through the EIA process (*Nanfang Dushi Bao*, 7 May 2008). However, if this was indeed the case it appears to have not been noticed by the vast majority of people. A representative from the Beijing NGO Centre for Legal Assistance to Pollution Victims (CLAPV) suggested in one media report that citizens use the MEP's 'Measures on Environmental Information Disclosure' in order to compel officials to release the EIA reports for the two projects in order to verify whether or not public comments had been collected in the process (Ibid.). It is not clear whether or not any official requests for information were made in this fashion.

Although the tactics of the Chengdu campaign mirrored those that were used in Xiamen, the result was different. The local government response to the opponents of the Pengzhou projects differed from those of officials involved in the the Xiamen, Shanghai, and Beijing cases. Even after this opposition culminated in a stroll, Chengdu government officials did not interact with citizens or show any outward signs that they were willing to grant concessions.<sup>126</sup> Indeed, the government in Chengdu may have been influenced by and learned from the Xiamen incident that in many ways closely mirrored events in Chengdu. They preferred instead to ignore the protestors and use oppressive tactics. Officials moved quickly to try and counteract the opponents. Several blogs were blocked, including Ran Yunfei's, and indeed remain so at time of writing (*Nanfang Dushi Bao*, 7 May 2008). Steps were also taken to control the content of SMS messages. One journalist

<sup>125</sup> See 'Report of the Chengdu 4 May Stroll', at <http://www.happycalgary.com/cached/39/n-47439.html>.

<sup>126</sup> The construction company did, however, issue a notice designed to allay fears about the projects' safety (*Nanfang Dushi Bao*, 7 May 2008).

interviewed a woman who had been unable to send text messages designed to raise awareness of the projects from her mobile phone. When she called her phone server to ask why this had happened she was told that her text contained sensitive words, and that her phone would be out of use for the next 24 hours (Ibid.). In addition, several people were arrested, most of whom were netizens (*Sichuan Zaixian*, 11 May 2008). For example, one blogger spent ten days in prison for ‘spreading rumours’ and ‘causing trouble’ (*nao shi*). It was also reported that blogger Chen Yunfei was arrested, imprisoned and beaten for urging people to organise a second stroll (*Aboluo Xinwen* (*Aboluo News*), 23 May 2008). Perhaps fearing an escalation of tension between officials and citizens, especially in the run-up to the 2008 Beijing Olympics, Ran posted an article online urging people not to organise a second stroll (Ran, 2008d).

In the end, the Chengdu campaign does not appear to have been successful in suspending the two projects. However, the projects have been temporarily suspended pending further enquiry due to the tragic 2008 Sichuan earthquake. Pengzhou was seriously affected by the earthquake and, despite claims that the projects are safe, officials admitted that this may not be so in the case of natural disaster. It is unclear to what extent the activists involved in opposing the projects influenced this decision in any way, if at all. The earthquake may have presented officials with a face-saving way of cancelling the projects. However, officials did not come under the same amount of pressure as those in Xiamen, where much larger numbers of people expressed opposition. This might be due to difficulties in mobilising people who did not have a direct financial stake in opposing the projects. It also reflects the fact that local officials were successful in containing the issue at a local level. Although the public opposition was reported in the national media, it only received a fraction of the coverage given to other incidences of private interest activism examined in this chapter, and was largely dealt with at the local level.

One interesting feature of the Chengdu campaign was that, unlike in Shanghai, Beijing and Xiamen, it was not primarily organised by homeowners. Activists acted purely out of a concern for Chengdu’s environment. Admittedly, the campaign was based a personal interest in living in a clean city rather than a concern for environmental issues more

broadly. And yet this is a significant departure from previous campaigns. It challenges the claim made by Benjamin Read (2007: 172) in relation to private interest activists that, ‘their purposes are first and foremost economic’. The Chengdu case, and indeed the Xiamen, Beijing, and Shanghai cases, suggest that citizens are increasingly placing value on a clean environment and are willing to oppose projects that threaten this whether or not there are financial implications. In this sense, a wider environmental movement might develop out of homeowner movements.

### **Significance of Private Interest Activism**

This section considers the significance of private interest activism and the linkages, or lack thereof, between public and private interest activists.

#### *Influence on governance outcomes and processes*

The four cases examined in this chapter share various similarities. In all four cases public consultation in the projects’ planning stages was either minimal or non-existent. Despite the existence of legislation that requires public participation in the EIA process, weak rule of law and a lack of accountability meant that this legislation was either ignored, as was the case in Xiamen, or public participation was included as something of a token gesture, which appears to have been the case in Beijing and Shanghai. However, in all of the cases examined above, Party-state officials came under pressure from private interest activists who partly framed their grievances as stemming from the lack of procedural correctness in terms of public participation and transparency.

As a result of pressure from private interest activists, officials in Xiamen, Shanghai, and Beijing took steps to address public grievances. On one level, this led to the Xiamen PX plant being relocated, and the Shanghai Maglev and Liulitun waste incineration plant projects being suspended. On another level, addressing public grievances led to changes in the way in which the decision-making process was handled, at least in the public sphere. In all three cases, local officials responded to public pressure by adhering much more closely to public participation elements of environmental planning legislation. It was only after public demands for greater involvement that the officials in Xiamen,

Beijing, and Shanghai took steps to solicit public opinion. In Xiamen, officials provided channels through which citizens could express their opinions regarding the PX project, including a two-day public hearing that mimicked the ‘best practice’ example set by the Yuanmingyuan hearing as described in Chapter 4. Officials in Shanghai and Liulitun engaged with the public through holding discussions with residents. Also in Shanghai, the second EIA report was made available for public comment. In Beijing, private interest activists’ pressure led to the MEP’s administrative review. It should also ensure that the public will be consulted far more widely before a decision is made regarding the final location of the waste incineration plant.

In the Chengdu case, however, private interest activists were not successful in changing the way in which local officials handled the project’s decision-making process. Rather than offering concessions to citizens by carrying out their public participation responsibilities, the local Party-state suppressed the activists instead. Security services appear to have successfully nipped dissent in the bud through arresting netizens and restricting mobile phone usage, even if they could not prevent several hundred residents from engaging in a stroll. This was also partly the case in Xiamen, where officials considered the possibility of tightening Internet controls through banning anonymous web postings (*Associated Press*, 6 July 2007), and some netizens were placed under house arrest. Yet in this case, support from local elites such as Zhao Yufen, substantial media interest, and a successful campaign that spread news of the PX plant all across the city that meant that opponents to the project mobilised in much greater numbers. The Chengdu case did not generate the same level of public support and/or media attention that was present in the other three cases. In any case, the Xiamen and Chengdu cases show that oppressing opponents rather than engaging with them through public participation mechanisms still appears to be the default setting for local officials, who, as Chapter 3 discussed, face considerable pressures and incentives to grow their economies.

#### *Linkages between public and private interest activists*

The cases examined in this chapter also reveal something about the nature of relationships between public and private interest activists. For example, Xiamen only has

one registered environmental NGO, Green Cross. It publicly stated its commitment to 'three no's' (*san ge bu*) in relation to the PX protests: 'no' to support, 'no' to opposition, and 'no' to participating in organisation (*bu zhichi, bu fandui, bu canyu zuzhi*) (*Nanfang Zhoumo*, 19 December 2007). In distancing itself from the private interest activists and refusing to become involved, Green Cross was criticised online by those who favoured a more contentious approach (*Ibid.*). In the Beijing case, residents from Liulitun did seek out NGO support (Feng, 2007). In January 2007, environmental NGO Global Village Beijing held a training session on harmful chemicals. Liulitun residents learnt of this in advance, and sent three representatives to take part. The three residents made use of experts who were present at the training session, repeatedly asking them about the potential dangers of waste incineration. In addition, the residents appealed to participating journalists to report on the incident, as well as asking NGOs to get involved (*Ibid.*). However, NGOs did not become involved in the incident, and the same was true of organisations in Shanghai and Chengdu. This suggests that NGOs are more concerned about maintaining a good relationship with Party-state officials rather than forming links with the 'grassroots'.

Although environmental organisations did not become involved in the cases discussed in this chapter, the presence of other actors suggests that the distinction between public and private interest activism is sometimes not so clear-cut. In Xiamen and Chengdu, bloggers who did not necessarily have a direct financial interest in events nevertheless played an important role. Both Lian Yue and Ran Yunfei could be described as 'public interest' bloggers in that they blog on a variety of subjects in the hope of promoting the public good. In the Xiamen and Chengdu cases, Lian and Ran helped mobilise citizens against the unpopular projects. In this sense, they crossed the divide between public and private interest activism and reach out to the 'grassroots' in a way that NGOs were unable to do. In China, netizens are better placed to form links with growing environmental discontent, due in part to their 'fluid' existence, than conventional NGOs. The Internet allows these individuals to pursue goals in ways that NGOs, which are easily identifiable and vulnerable to being closed down, cannot.



It is also important to note the role played by a small number of elites and experts. In Xiamen and Beijing, CPPCC members and scientific experts including Zhao Yufen and Zhou Yinfeng added legitimacy to the private interest activists' campaigns by filing reports against the projects. It did so by indicating that there was elite sympathy for the activists. In addition, the reports provided authoritative sources of evidence supporting the activists' positions. As noted above, the absence of similar support in relation to the Chengdu campaign was seen as a limiting factor in this case.

*A new prototype for environmental activism in China?*

The private interest activists examined in this chapter may not be recognisable as environmentalists, but they have campaigned for the right to enjoy a clean environment in the place that they live. The incidences of opposition to unpopular projects were very much localised, and activists did not campaign on behalf of people in different localities. In this sense, private interest activism in China does not amount to a genuine social movement. And yet there are important links between the cases studied in this chapter. Most notable among these is the similarity in terms of tactics. Thanks in part to a large amount of traditional media interest, and also due to the campaign's successful outcome, the tactics employed by private interest activists in Xiamen, including the 'stroll' tactic and use of technology to overcome a lack of information, has become a prototype<sup>127</sup> that has been copied elsewhere, most notably in Chengdu.<sup>128</sup> One newspaper coined the phrase 'discuss online, stroll offline' (*wang nei taolun, wang wai sanbu*) to describe this new prototype for environmental activism.

Another aspect that the four cases had in common was that participants partly framed their grievances with regards the poor enforcement of accountability, participation, and transparency mechanisms. This could have significant implications in the future. Private interest activism might continue to exert pressure on authorities to conduct more open

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<sup>127</sup> For a discussion on the significance of 'prototypes' in social movements, see Hill & Rothchild (1992).

<sup>128</sup> Citizens in Nanjing also cited the Xiamen case when confronted with the construction of a proposed PX plant in 2008. According to one Hong Kong media report, some citizens used the Internet to urge people to oppose the project in a similar fashion to the Xiamen residents (*Singtaonet.com*, 2 January 2008). However, there has been no large-scale protest in Nanjing along the lines of what occurred in Shanghai, Beijing, and Xiamen.

decision making processes with regards urban planning in the future. The case studies examined in this chapter suggest that it is becoming ever more difficult for officials to introduce controversial projects through the back door. Since the Xiamen PX incident, there is at the very least a very real possibility that citizens in other cities might be emboldened into adopting carefully organised contentious tactics. As certain citizens in Chengdu stated, if people in Xiamen can successfully oppose a huge PX plant, why can't we?

### **Conclusion**

This chapter has found that private interest activism can be an important factor in promoting accountability, transparency, participation, and rule of law in China. In all four cases, activists attempted to hold officials to account for decisions to construct large-scale projects that would significantly affect people's lives. Officials originally attempted to implement these projects with a minimum of public interference. And yet in each case, citizens mobilised in order to challenge these projects and demand that officials be responsive to their grievances. In Xiamen, Beijing, and Shanghai, officials responded in part by adopting a more transparent decision-making process that sought to incorporate public opinion. Levels of transparency and public participation were still low, and there is no indication that public comments as delivered via official mechanisms had any impact. However, ensuring greater transparency and participation is very important, especially in China where public involvement in decision-making is still extremely rare. From this perspective, the fact that officials in Xiamen, Beijing, and Shanghai changed their behaviour in relation to the three projects, should be seen as significant. By compelling officials to discharge their public participation requirements as mandated by law, citizens in these three cases also contributed to strengthening the rule of law. It is possible that private interest activism as described in this chapter will promote new, more participatory and transparent, governance norms. Officials may increasingly solicit public opinion in a meaningful way in order to pre-empt possible opposition.

Despite the fact that officials in Xiamen, Beijing, and Shanghai sought greater formal public participation following the strolls, the large-scale protest element of the campaigns

had the greatest effect on officials' behaviour. For example, although residents in Liulitun started to take action against the waste incineration plant from late 2005, it was only after their peaceful protest to the MEP's headquarters that the latter took action and called for the project to be suspended pending further investigation. Similarly, officials in Xiamen and Shanghai also engaged with the public following citizens' strolls. This suggests that merely calling on officials to consider public opinion is unlikely to be successful in China at present unless citizens can place pressure on officials through tactics such as highly publicised strolls. Indeed the solicitation of public opinion in these three cases was likely used as a way to placate citizens. As noted earlier, it was suggested that the decision to move the PX project away from Xiamen had already been taken *before* the public hearing took place. Carrying out public participation requirements also served as a delaying tactic and enabled officials to save face. This was particularly so in relation to the Xiamen case, where officials were subsequently praised for listening to public opinion and conducting an 'open' decision-making process. Hence, public participation legislation also plays a part in limiting social unrest.

The four cases examined above show that public unrest can arise precisely because there are no effective channels allowing for meaningful public participation in planning decisions in China. Arguably the only viable option open to citizens wishing to oppose the projects was to mobilise and take to the streets in peaceful, but nevertheless clear, shows of disapproval. That they were able to mobilise, and were willing to take to the streets in what were, in Shanghai and Xiamen at least, fairly large scale gatherings, suggests that citizens have become emboldened in standing up to unpopular development projects. Due to a lack of opportunity to voice opinions through official channels, this type of tactic, although risky, is still appealing for citizens who may feel they have no other effective recourse to action.

In all three cases, participants exhibited strong similarities with the rightful resisters identified by O'Brien and Li (2006), and also homeowner activists (Read, 2007; Zhu & Ho, 2008; Zhu & Wang, 2007-8). The netizens and private interest activists examined in this also displayed a strong awareness of their rights and relevant pieces of legislation,

and frequently cited these when promoting their cause. Another similarity with rightful resistance and homeowner groups was the relatively contentious tactics that activists employed. At the same time, however, private interest activism differs from these other forms of contentious politics. First, the incidents examined in this chapter move beyond a simple dichotomy of central government versus local government. Some of the decisions that activists attempted to overcome had often been made at the local *and* central levels. The projects in Xiamen, Shanghai, and Chengdu were all approved by central government ministries. Second, private interest activists examined in this chapter used the latest technology in the shape of mobile phones and the Internet in order to spread information and organise opposition. Netizens such as Lian Yue and Ran Yunfei played a key role in online discussions that spread information and helped coalesce and mobilise opposition. This new technology enabled citizens to overcome shortages in information arising from a tightly controlled local media. It also enabled greater numbers of citizens to join together in opposition. In Shanghai and Xiamen, this creative use of media attracted attention beyond the local level and ensured that central level officials intervened. This appears to have been an important factor in the success of these campaigns.

## Chapter 7: Conclusion

Since the start of its reform and opening-up policy in 1978, China has enjoyed remarkable success in terms of economic growth that has lifted tens of millions of people out of poverty and helped re-establish the country as a dominant force in global affairs. And yet, as the first chapter of this thesis noted, this has come at a huge environmental cost. Since the onset of the reforms, China's environmental problems, including severe air and water pollution, desertification, and biodiversity loss have intensified. These environmental problems not only have growing implications for public health and social order, but also threaten China's ability to sustain economic growth. Moreover, due to its size, rapid economic growth, and great demand for natural resources, the environmental implications of China's economic miracle have truly global implications. How China resolves, or whether China *can* resolve, the tensions between increasing its people's material living standards on the one hand, and providing an acceptable level of environmental protection on the other, is of fundamental importance to the country's continued development. It is a subject that has captured the attention of commentators both domestically and internationally.

It has been widely acknowledged that China suffers from a substantial environmental protection 'implementation deficit' (Weale, 1992), where legislative intent is not translated into action (Chan et al, 1995; Economy, 2005, 2007; Lo et al, 2006; Van Rooij, 2006a; OECD, 2006). And yet, as various scholars have correctly pointed out, the Chinese government is currently in the process of reforming its system of environmental protection in order to improve environmental conditions and reduce the country's environmental protection implementation deficit. As Neil Carter and Arthur Mol (2006) have argued, China's environmental governance reforms partially reflect a 'shift in governance', whereby traditional regulatory policies are replaced, or supplemented, by new, more flexible policies and arrangements that do not solely rely on the authority of state actors and institutions (Van Kersbergen & Van Waarden, 2004). This conclusion is supported by a variety of other studies that highlight a growing diversity in China's

system of environmental protection (Lo & Leung, 2000; Ho, 2001; Rock, 2002a, b; Economy, 2004a; Carter & Mol (eds.), 2007). These studies have greatly improved understandings of governance reforms and policy innovations designed to successfully resolve China's environmental problems. However, there are still numerous gaps in our understanding of these reforms. This is partly due to the rapid pace at which these environmental governance reforms are emerging, which in itself highlights the growing seriousness with which environmental issues are being viewed. This in turn creates even greater demand for further detailed empirical research in this area. By presenting a detailed empirical examination of environmental governance reform in China, I have attempted to make a contribution in terms of addressing this demand.

This thesis has employed an analytical framework based on 'good governance' criteria. It has analysed important developments in environmental governance processes in the PRC in the context of accountability, participation, transparency, and rule of law. In doing so, it has focused on the environmental state, which includes state agencies and their policies, and civil society, which incorporates 'public' and 'private' interest activism, and the media (Mol & Carter, 2006).

I have shown that the Chinese Party-state's policy of introducing new governance processes that go beyond a purely regulatory approach has gathered pace in the past few years. It has analysed important developments in the environmental state. The promulgation in 2003 of the EIA Law created the conditions necessary to incorporate public opinion into project planning through establishing formal public participation channels. The rights of the public to participate in the EIA process were clarified further with the 2006 promulgation of the Measures on Public Participation in EIA (Trial Version). Also in the past few years, the Party-state deepened its policy of information disclosure. In recent years, information has increasingly been used in order to pressurise polluters, for example through 'naming and shaming'. Another important part of the government's effort to promote greater transparency in environmental protection was the promulgation in 2008 of legislation that stipulates conditions and responsibilities for the disclosure of environmental information. Moreover, this thesis has shown how Ministry

of Environmental Protection (MEP) officials have attempted to take advantage of a policy window created by heightened concern for the environment among leadership elites since 2002.<sup>129</sup> The MEP has done so by introducing initiatives such as green GDP and environmental storms designed to change the behaviour of local officials through subjecting them to a higher level of accountability with regards environmental issues.

This thesis has also revealed how civil society reacts to, and promotes, the MEP's governance agenda as set out in the previous paragraph. It has shown how civil society actors playing the role of 'policy pioneers' can help consolidate governance reforms and promote new governance norms. It has demonstrated that public interest activists have attempted to advance governance reform within the one-party system. Both public and private interest activists have promoted accountability, transparency, participation, and rule of law in Chinese environmental governance. However, this has only been achieved to a limited degree. It could be argued that many of the developments in the environmental state and civil society examined in this thesis are highly significant in the PRC, and show how environmental issues can stimulate gradual political reform within the framework of an authoritarian political system. And yet, because of this authoritarian political system, these new governance processes are endowed with Chinese characteristics that ensure they differ significantly from governance reforms that have been introduced by other countries in order to better respond to environmental challenges (Weale, 1992; Gunningham & Sinclair, 2002; Durant et al (eds.), 2004; Fiorino, 2006).

When examining the concepts of 'shifts in governance' in China, it is vital to understand how governance processes play out in the country's one-party state. Failure to do so may result in the drawing of distorted or incorrect conclusions. In contrast to the argument advanced by Carter and Mol (2006: 341; Mol & Carter, 2006; Mol, 2006) that environmental governance reforms represent convergence with those carried out in advanced industrialised nations, I have found that there are serious limitations to using a 'governance' approach in China. Based on thorough empirical research of several case

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<sup>129</sup> Before 2008, the MEP was referred to as the State Environmental Protection Administration (SEPA). For clarity, this chapter uses the term 'MEP' when referring to the central level environmental protection agency both before and after this bureaucratic reorganisation.

studies, this thesis has argued that China's authoritarian political system represents a major constraint on the promotion of a more inclusive environmental governance system in a similar vein to those systems adopted in advanced industrialised nations. For these reasons, I argue that the level of convergence between China's system of environmental governance and those commonly found in OECD countries is likely to be very limited.

This chapter is arranged as follows. First, it reviews the main findings from each chapter in this thesis. It then considers the implications of these findings for China's environmental state and environmental civil society. Next, it examines obstacles that limit the effectiveness of a governance approach to environmental protection in China. This chapter then considers the implications of this thesis in terms of wider political reform in the PRC. Finally, this chapter discusses the limitations of this dissertation, before suggesting ways in which China might attempt to develop its environmental governance in the future.

### **Main Findings**

As Chapter 1 discussed, one of the most intractable problems associated with environmental governance in China is the existence of a serious environmental protection 'implementation deficit'. Chapter 2 mainly drew on secondary materials in order to analyse the evolution of China's environmental state and civil society. It noted that the Chinese Party-state has gradually strengthened the environmental state in order to overcome this implementation deficit. China's environmental state has been progressively improved since the early 1970s by raising the bureaucratic position of the central government's environmental protection agency and its local level incarnations. Since the beginning of the reform era more, and better, environmental legislation has been promulgated. Chapter 2 confirmed that this process has continued up to the present. As of early 2008, the MEP has enjoyed full ministerial status. This means that it now has more formal authority than at any time in its history, and can participate in all State Council meetings and decisions. At the provincial level, a limited number of environmental protection bureaus (EPBs) have been promoted to become departments (*ting*) in the local government. In addition, several supervision stations that report directly



to the MEP have been established. These stations do not come under the influence of pro-growth local officials, and should in theory be able to improve the enforcement of environmental legislation. However, Chapter 2 found that the tension between vertical and horizontal levels has not been resolved. The MEP still does not enjoy direct control over EPBs. And even if direct control was achieved, it is unlikely that it would represent a 'cure-all' for China's poor compliance record, because economic growth remains the top priority for local officials. Merely strengthening the environmental state has been insufficient to overcome the implementation deficit.

Chapter 3 focused on the issue of official accountability. It did so by focusing on attempts to make local officials more accountable to higher levels of government. This chapter began by arguing that since 2002 the fourth generation leadership has emphasised environmental issues to the extent that there has been a paradigm shift in how the environment is perceived by leadership elites. Environmental issues are central to the Scientific Development Concept (SDC) and featured prominently in the 11<sup>th</sup> Five-Year Guidelines. In one sense, these developments support the observation made by Carter and Mol (2006: 341) that China has become more reflexive about its modernisation path and has recognised the need to shift to a more balanced mode of development. However, Chapter 3 found evidence to suggest that achieving this in practice is likely to be extremely difficult, and highly unlikely in the short term at least. This chapter examined two high profile initiatives launched by the MEP, namely attempts to calculate green GDP, and a series of so-called 'environmental storms' in which the MEP showed a previously lacking determination, backed up by the central leadership, to improve the enforcement of environmental legislation.<sup>130</sup> Both were designed to influence the behaviour of local officials in order to help establish a new, more balanced development approach. The two initiatives also aimed to subject local officials to a greater degree of accountability for the environment. However, Chapter 3 found that neither initiative is likely to achieve this.

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<sup>130</sup> SEPA was promoted to become the MEP in 2008.

As Chapter 3 argued, the green GDP and environmental storm initiatives were made possible by a 'window of opportunity' (Kingdon, 2003) created by the new leadership's paradigm shift. Both initiatives were closely related to the environmental protection goals of the SDC, and both were predicated on support from the central leadership. Despite having won support from political elites including Hu Jintao, however, the green GDP initiative has failed to achieve its goals. Opposition to green GDP from government officials at both central and local levels has proven sufficient to significantly downscale the project. Although the green GDP project is continuing, the unpopular decision to publish results and rank provinces was reversed indefinitely due to fierce opposition from provincial Party-state officials. In contrast, the three environmental storms that the MEP launched between 2005 and 2007 have arguably achieved their goals. However, by their very nature these are one-off campaigns that are based on 'command-and-control' tactics. Although environmental storms can hold officials and companies to account in the short-term, they fail to address long-term issues of non-compliance with environmental legislation. Despite drawing public attention to the serious issue of poor environmental enforcement, the need to launch environmental storms merely highlights deeper-seated shortcomings in environmental law enforcement and official accountability. Both of these cases demonstrate the difficulties associated with attempts to hold local officials to account for environmental issues when economic growth continues to trump other goals. So far, the SDC and policies influenced by it have been largely unable to persuade local officials to develop in a more sustainable manner. If accountability for environmental protection is to be improved within the Party-state, a more fundamental restructuring of the cadre assessment system is required.

Chapter 4 examined the issues of participation and accountability in Chinese environmental governance. It did so by analysing legislation promulgated by the Party-state designed to facilitate formal public participation in environmental planning decisions. It focused on the environmental administrative licensing and EIA procedures. In 2003, clauses were included in the EIA Law that provide mechanisms to solicit public opinion, which can then be incorporated into the EIA process. This represents part of a policy to extend governance beyond the environmental state in order that non-state actors

can play a greater role in environmental protection. Chapter 4 examined this policy in the context of China's first ever national level environmental public hearing at Beijing's Yuanmingyuan (Old Summer Palace). The public hearing provided a platform where members of the public and government officials could openly debate the issues surrounding a controversial 'leak prevention project' (*fangshen gongcheng*) commissioned by Yuanmingyuan officials.

The Yuanmingyuan hearing was carried out in a transparent manner. It was broadcast live on the Internet, the EIA report for the project was made publicly available, and there was extensive media coverage. Despite representing an example of 'best practice' in terms of Chinese public hearings however, the Yuanmingyuan case suggests that the extent to which the public can participate meaningfully in decision-making processes via such mechanisms is still very limited. Even though the hearing was supposed to showcase a more participatory decision-making process, the final decision was apparently not affected by the public hearing. This in turn suggests that formal public participation channels need to develop further and more independently if they are to effectively hold officials to account.

Chapter 4 also examined formal public participation in hydropower development in Yunnan. In 2005 and 2008, public interest activists had tried and failed to persuade the central authorities to carry out formal public participation in relation to proposed dam construction on the Nu River. However, the level of transparency and participation in a decision-making process concerning a hydropower project at Ahai in Yunnan, starting in 2008, was unprecedented in the PRC. NGO representatives were invited to take part in an experts' meeting, and the EIA report was made available for public comments. And yet this case also highlighted weaknesses in formally mandated public participation in China. Activists complained that the EIA report was, in line with legislation, only an abridged version. This affected their ability to provide comments. In addition, the project was already well underway at by the time the experts' meeting was convened. This suggests that, rather than being an effective channel through which to hold officials to account, this meeting only facilitated tokenistic participation.

Despite the deficiencies associated with formal public participation identified in Chapter 4, the Yuanmingyuan and Yunnan hydropower cases highlighted and tested a new type of decision-making process. This is important in terms of improving environmental governance in the longer-term. In this regard, civil society has played an important part in promoting the implementation of new governance processes. Environmental NGOs and the media were very active in the Yuanmingyuan incident. As ‘policy pioneers’, they helped publicise the public hearing process through organising meetings and producing newspaper articles. Furthermore, activists at Ahai also broke new ground in taking part in, and therefore helping advance, a more participatory and transparent governing process regarding hydropower development. Although in the short term formal channels for public participation are relatively poor avenues for public input, activists’ promotion of these new mechanisms by taking every opportunity to put them into practice may contribute to better governance processes taking hold in future. It is possible that this could lead to greater official accountability, transparency, and participation in the long term. However, if this does occur, it is likely to be a very gradual process.

Chapter 5 focused on how transparency is being improved in Chinese environmental protection. It found that since the turn of the century, the Party-state has significantly stepped up its policy regarding environmental information disclosure. Although still low, the amount of environmental information in the public sphere has increased in the past few years. Environmental protection authorities are increasingly using ‘naming and shaming’ tactics in order to pressurise polluters that escape censure from the regulatory system. Since May 2008, when the Measures on Environmental Information Disclosure (MEID) came effect, the policy of disclosing environmental information has gathered further pace. The MEP hopes that providing the public with greater access to information will enable citizens to ‘supervise’ polluters and boost accountability.

Chapter 5 also looked at how environmental NGOs have responded to the recent Party-state emphasis on increasing transparency. It also examined the extent to which information disclosure can be used by NGOs to promote greater accountability.

Deepening the policy of information disclosure has enabled NGOs to move into new areas of activism. The activities of the NGO Institute of Public and Environmental Affairs (IPE), founded in 2006, are based on information disclosure. Chapter 5 also examined two NGO campaigns: the 'Green Choice' campaign, as well as a campaign that aimed to prevent the paper manufacturer Gold East Paper (GEP) and six of its subsidiaries from listing shares on the Shanghai stock exchange due to the companies' poor environmental records. Both campaigns were strongly reliant on accessing publicly available environmental information. These cases, as well as the establishment of IPE, show that developments in the environmental state have provided additional space for environmental activism.

However, although legislation such as the MEID is intended to facilitate public supervision of officials and polluting enterprises, the channels for exercising this supervision remain limited. The two NGO campaigns analysed in Chapter 5 did not significantly improve accountability. The 'Green Choice' campaign did have some success in targeting multi-national corporations (MNCs), several of which agreed to be subjected to third-party inspections in order that the companies' names would be removed from the NGOs' 'name and shame' list. Yet the campaign has had a negligible impact on domestic companies. The campaign against GEP and its subsidiaries did hold parent company Asia Pulp and Paper Company Limited (APP) to a greater level of account than it would otherwise have been subjected to. APP China denied NGO criticism of its environmental performance through several media articles. In this sense, it engaged with the Chinese public. However, Chapter 5 found that NGOs were unable to exert significant pressure on APP China.

The NGO campaigns examined in Chapter 5 also demonstrate how public interest activists attempt to pioneer policies by promoting new governance norms and legislation. Although many enterprises ignored the calls from NGOs to adhere to information disclosure legislation, activists were still able to bring attention to these policies and attempt to put them into practice. Although the Green Choice campaign has failed to hold domestic firms to account, it was more successful with regards MNCs. In the longer term

it is possible that this could lead to a trickle-down effect and stimulate better adherence to environmental legislation by domestic companies within and beyond the MNCs' supply chains. On the whole, however public interest activists have been unable to put significant pressure on the vast majority of enterprises via the use of publicly disclosed information. The reliance on non-contentious tactics reflects a major limitation in Chinese public interest activism. Unlike NGOs in liberal democracies, Chinese NGOs purely rely on non-contentious tactics. Engaging in activities such as boycotts or demonstrations is politically risky for Chinese NGOs. In addition, pursuing polluting enterprises through litigation is fraught with difficulties due to the influence that Party-state officials exercise over the courts. As a result, Chinese environmental NGOs are limited in the extent to which they can use publicly available information to hold polluters to account.

Finally, Chapter 6 focused on the extent to which environmental 'private interest activism' can promote 'good governance' in China. It examined four cases of how private interest activists in Xiamen, Shanghai, Beijing, and Chengdu organised relatively large-scale peaceful protests between 2007 and 2008 against planned projects that they saw as detrimental to their own private interests. Through taking to the streets in peaceful marches that were dubbed 'strolls' rather than demonstrations, activists put pressure on officials and won significant concessions. Activists in three of the cases managed to change outcomes in relation to the projects. The Xiamen PX plant was eventually relocated to another Fujian province city. The Shanghai Maglev project and waste incineration project at Liulitun were both put on hold. This shows how private interest activists' use of contentious tactics that are located at the boundaries of acceptability in China, can be effective in terms of changing decisions and holding officials to account. Not all cases were successful, however. The authorities in Chengdu managed to limit the size of the stroll, and although the projects in Pengzhou were scrapped, this was apparently due to the 2008 Sichuan earthquake.

As well as changing outcomes in some cases, private interest activists also had an impact on governance processes. In all four cases detailed in Chapter 6, activists demanded

greater accountability, transparency, participation, and adherence to legislation from Party-state officials. In Chengdu, local officials ignored these demands and the decision-making process in relation to the Pengzhou projects was not changed to incorporate public opinion. However, in the other three cases activists were successful in persuading local officials to open up previously closed decision-making processes. In Xiamen, officials responded to the activists' stroll by soliciting public opinion on the PX plant and convening a public hearing. In Shanghai, officials provided opportunities for public comment on the Maglev project's second EIA report, and also met with local residents. And, in Beijing, the MEP accepted a request for administrative review into the decision by the Beijing municipal EPB to approve the Liulitun waste incineration plant's EIA report. Additionally, in the Xiamen case, activists made use of modern communications technology in order to break the monopoly on information that officials had attempted to preserve. In doing so, these activists became a force for transparency by ensuring that relevant information about the project was circulated. Chapter 6 showed that private interest activists can help to reinforce new governance processes and, potentially, aid in the establishment of new environmental governance norms and promote good governance.

### **Developments in the Environmental State**

As well as strengthening the environmental state through bureaucratic promotions and better legislation, it is also being improved in other ways. The current leadership's emphasis on a new development paradigm has raised the profile of environmental issues and has enabled the MEP to introduce unprecedented policies such as green GDP and environmental storms. In addition, and as discussed below, since 2002 the Party-state has placed issues such as public participation and government transparency on the Chinese political agenda. These two factors have helped facilitate policies to strengthen the environmental state by promulgating legislation that extends governance to non-state actors. The aim is to enable the public to hold officials and polluters to account regarding the implementation of environmental policies. Although these developments have strengthened China's environmental state and should therefore be viewed positively, so far they have not gone nearly far enough towards addressing the implementation deficit.

*China's New Development Paradigm*

The seriousness with which China's 'fourth generation' leadership views environmental issues is unprecedented in the history of the PRC. Since 2002, environmental issues have been given a new 'strategic' place in China's development strategy. Leadership elites have attempted to change the trajectory of China's economic development by making it more environmentally sustainable. This is evident through policies such as the SDC and the 11<sup>th</sup> Five-year Guidelines that emphasise environmental protection and energy conservation. Central leadership support has undoubtedly contributed to a strengthening of China's environmental state, as well as raising the profile of environmental issues. And yet putting these ambitious policies into effect has proven difficult.

The MEP has been able to place itself at the forefront of the creation of a more balanced development path. It is likely that this partially represents a strategic move on behalf of the MEP in order to increase its bureaucratic clout. So far, this appears to have been successful. Support from central elites enabled the MEP to carry out its green GDP and environmental storm initiatives. This was significant because through these schemes, the MEP has challenged powerful vested interests that it would otherwise have been powerless to confront. Although these two schemes are unlikely to change the behaviour of local officials, they do show that the MEP is in a position to benefit from growing concern among the country's elites for environmental issues by contributing to the forging of a more balanced development path in China.

Another important consequence of the growing support for environmental issues among China's leadership elites is that responsibility for environmental protection is increasingly moving beyond the sole domain of one ministry. Powerful ministries such as the National Development and Reform Commission (NDRC) are increasingly taking environmental issues more seriously. This was apparent in the NDRC's support for the MEP's environmental storms, which in itself sent out a powerful signal against careless and unrestrained development. Another sign of growing resolution to tackle environmental issues in the NDRC was the appointment in 2007 of former MEP head Xie Zhenhua as a



vice-minister.<sup>131</sup> Xie was given responsibility for overseeing work to improve energy efficiency and reduce sulphur dioxide emissions (*Associated Press*, 7 January 2007). This indicates a strong determination on behalf of the central leadership to meet these targets. The energy efficiency and pollution reduction targets contained in the 11<sup>th</sup> Five-Year Guidelines are being taken very seriously by leadership elites. To date, however, results regarding these targets have been mixed. As Chapter 3 noted, initial targets to reduce energy intensity have not been met. This echoes previous failures to meet environmental protection targets set by the central authorities. This suggests that these targets need to be backed up with more concrete action in order to persuade local officials to develop their economies in a more environmentally sustainable fashion. Whether or not this will happen is open to debate.

#### *Public Participation and Information Disclosure*

Since 2003, environmental public participation has been firmly on the MEP's agenda. The Chinese Party-state has promulgated legislation in public participation and information disclosure designed to extend governance to non-state actors. This forms part of an attempt by the MEP to establish a 'comprehensive social supervision structure' (*jianquan shehui jiandu jizhi*). This framework does not aim to provide the public with a platform from which to challenge the Party-state. Rather, it represents a top-down attempt to prescribe, based on legal rights, a rather narrowly defined role for the public in environmental protection in order that the public can improve the efficacy of the centre's environmental policies.

The promulgation of the 2003 EIA Law was a watershed in terms of the promotion of formal public participation in China. One of the most significant aspects of this law (and its implementing measures) was the way in which it provided channels, such as public hearings, surveys, and questionnaires, for public participation in the EIA and administrative licensing processes. Since 2003, the policy of promoting formal public participation has undoubtedly gathered pace. The promulgation of the EIA Law was followed by the issuance of the 'Temporary Measures for Environmental Protection

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<sup>131</sup> Xie Zhenhua stepped down from the MEP in the wake of the Songhua River Disaster in late 2005.

Administrative Licensing Hearings' (hereinafter 'ALL Measures') in 2004. And, in 2006, the Temporary Measures on Public Participation in Environmental Impact Assessment' (hereinafter 'EIA Measures') were promulgated. One important effect of this legislation has been to give legal backing for the public to play a limited role in environmental protection.

The environmental state has also increased the role of information disclosure in environmental protection. For several years before 2008, the MEP had increasingly sought to use tactics such as 'naming and shaming' in order to exert pressure on polluters. In the 1990s, information disclosure had been mainly limited to 'state of the environment' reports that did not target polluting enterprises. The MEID, which came into effect in 2008, represents a further deepening of the policy of using information in order to overcome China's implementation deficit.

There is significant support within the MEP for extending governance to non-state actors via innovative legislation. At the same time, this is still a relatively new policy in China that has not been uncontested. Implementation of this legislation is very limited at present. This limits the extent to which members of the public can participate in environmental governance through formal channels in order to hold officials to account. Effective capacity building, as well as a significant cultural change in how officials interact with the public, are arguably required if the latter is to play a greater part in environmental governance through formal channels. At present, incorporating public opinion into decisions through formal channels is very much the exception rather than the rule. And while disclosure of information has increased in recent years, transparency in environmental governance remains limited. High profile cases such as the Yuanmingyuan and Xiamen public hearings discussed in this thesis are very important in terms of raising awareness among officials and citizens about formal public participation mechanisms in China. However, the policy of extending governance through legislation has to date proven far from sufficient in order to overcome China's immediate environmental concerns.

*The Role of Pan Yue*

MEP Vice-Minister Pan Yue has played a central role in advocating a new style of environmental governance in China. Pan's background places him as one of China's political elites. His parents have reportedly been close to former president Jiang Zemin for several decades. In addition, Pan's former father-in-law Liu Huaqing used to be vice-chairman of the Central Military Commission of the Communist Party (*Asia Times Online*, 16 March 2005). Pan is considered to be both outspoken and also something of a political reformer. For example, in 2001 he presented the then president Jiang Zemin with a controversial report in which he argued for reform of the CCP (*Ibid.*). He has also been forthright in admitting the scale of China's environmental problem (see, for example, *Spiegel*, 7 March 2005). According to an article in *Business Week* (11 July 2005), 'Pan can take credit for igniting an important national debate on whether China is sacrificing its environment to its runaway growth'.

It is difficult to determine exactly how influential Pan has been in pushing for a new form of environmental governance in China. However, it is clear that Pan is closely associated with the various governance initiatives examined in this thesis. He appears to have played a central role in each of them. For the past few years, Pan has continuously argued that China needs to enlist the support of the public and the media in environmental protection. He has played a prominent role in promoting public participation (including the Yuanmingyuan public hearing). Pan has also been one of the main advocates for greater transparency in environmental governance. He has been at the forefront of the MEP's drive to increase public disclosure of environmental information. In addition, Pan was closely associated with the green GDP and environmental storm initiatives. As Chapter 3 noted, he fielded numerous interviews and earned the nickname 'whirlwind Pan' from journalists due to his role in launching the environmental storms. The publicity that these environmental governance reform initiatives enjoyed appears to have been largely a result of Pan's efforts.

The key role played by Pan might have implications for the future sustainability of environmental governance reform in China. According to one reporter, the current

leadership's decision to pursue a new development path has made it easier for an 'individual' (*gexing*) official such as Pan to emerge (*Nanfang Zhoumo*, 9 February 2006). Pan has enjoyed political support for his outspokenness due to his family background but also because the Hu/Wen leadership is more committed to environmental issues (*New Statesman*, 18 December 2006). However, Pan has also ruffled a few feathers during his time at the MEP. Some cite this as a reason why he has not been promoted above the rank of Vice-Minister (*The Weekly Standard*, 9 April 2007).<sup>132</sup> Pan's prominence with regards environmental governance reform might be a double-edged sword. On the one hand, and as argued below, many of the reforms advocated by Pan have consequences for political reform. If allowed to continue, they might ultimately result in a more transparent and participatory system of environmental governance based on rule of law, citizens' rights, and greater official accountability. However, if Pan was removed from office or became a victim of political circumstances, reforms designed to hold the CCP to greater account for environmental protection might stall. The role of elites such as Pan in environmental governance reform in China is poorly understood, and is an area deserving of future research.

### **Implications for Environmental Civil Society**

#### *Environmental Protection 'Policy Pioneers'*

As Chapter 1 noted, various studies have examined environmental activism in the context of state-society relations (and state-NGO relations in particular). Existing studies focus on the power relationship between the Party-state and environmental activists. For example, Tony Saich (2000) has claimed that NGOs are engaged in a symbiotic relationship with the Party-state. Although NGOs rely on the Party-state for legitimacy, the former have been able to 'negotiate the state' and carve out a position for themselves whilst minimising state penetration into their activities (*Ibid.*). Peter Ho and Richard Edmonds have further developed understandings of this symbiotic relationship between state and civil society through their 'embedded activism' concept (2007; Ho, 2007). They argue that environmental activists are 'embedded' in the Party-state. As long as activists

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<sup>132</sup> After MEP Minister Xie Zhenhua stepped down in the wake of the Songhua River disaster, he was replaced by Zhou Shengxian. Zhou's background was as an official in the State Forestry Bureau, and he was seen as lacking strong environmental protection credentials.

practice self-censorship and do not challenge the central Party-state, they are allowed to operate relatively unobstructed in China's authoritarian political milieu. By developing close personal ties (*guanxi*) with officials, environmental activists can be effective in China (Ibid.).

The concepts of negotiating the state and embedded activism are revealing about the power relationship that exists between environmental activists and the Party-state. They reveal the extent to which the Party-state tolerates the existence of a Chinese non-state sector. And, as noted above, these approaches acknowledge the important role that informal personal connections play between Party-state officials and environmental activists. At the same time, these approaches fail to capture the ways in which environmental civil society in China is developing in response to new environmental policies. The 'governance' approach employed by this thesis highlights the ways in which environmental activists respond to innovative developments within the environmental state designed to create a more participatory style of environmental governance. By examining interactions between the environmental state and civil society, the governance approach reveals how environmental activists can promote and consolidate new governance processes and/or policies that originate in the environmental state. Hence, this thesis has shown that activists do not only cultivate personal ties with Party-state officials, they also react to, and exert influence on, the emerging environmental 'governance' agenda that this thesis has documented. The concept of 'policy pioneers', introduced by this thesis, captures this role. Although it is not in conflict with the notion of 'embedded activism', the policy pioneers concept reveals how state-society relations in China's environmental sphere are developing in new ways.

Policy pioneers is a new conceptualisation that highlights a different aspect of state-society relations from those that have been articulated in existing studies. In the wider literature concerning environmental governance, the term 'policy pioneers' has been used to describe countries that introduce new and untested environmental policies (see, for example, Jänicke, 2005). Others have conflated the term with John Kingdon's (2003) 'policy entrepreneurs' (Stead, 2008). I argue, however, that the two terms are

distinguishable from one another. Moreover, the concept of policy pioneers as applied by this thesis to Chinese environmental civil society differs from these previous uses of the term.

Chinese policy pioneers can also be distinguished from the environmental activist ‘policy entrepreneurs’ introduced by Andrew Mertha (2008) in his investigation of Chinese hydropower politics. Policy entrepreneurs have been defined as, ‘advocates willing to invest their resources ... into a problem in order to gain benefit’ (Kingdon, 2003: 179). In the Chinese context, Mertha (2008) suggests that cleavages in China’s fragmented political system that occur, for example, along territorial or jurisdictional lines, can be used by environmental activists in order to advance their own agendas. In contrast, ‘policy pioneers’ contribute to strengthening policies designed to extend environmental governance by putting these policies into practice. The term ‘pioneer’ captures the way in which these activists are forerunners who explore and sometimes ‘colonise’ new territory created by policies originating from the environmental state. Through their actions, policy pioneers can ‘bring to life’ policies that might otherwise be ignored by local officials. In so doing, these activists can pave the way for others to follow by helping to establish new environmental governance norms based on developments in the environmental state.

This thesis has further contributed to understandings of state-society relations in China by disaggregating Chinese environmental activism into public and private interest activism. This is an important distinction, because these activists behave, and potentially influence governance processes, in different ways. And yet previous studies of Chinese environmental civil society have largely ignored the impact that private interest activists have (for a rare exception see Zhu & Ho, 2008). By differentiating between public and private interest activism, it is possible to assess how different types of activist influence environmental governance, and ‘pioneer’ environmental protection policies in China.

The environmental governance reforms examined in this thesis have enabled public interest activists to move into new areas of activism. They have been able to do so due to

new policies, rather than through a reliance on personal connections. This is an important finding, as previous studies have not examined the link between environmental ‘governance’ policies and civil society.<sup>133</sup> For example, the deepening of the government’s environmental information policy as discussed in Chapter 5 has provided new space for environmental activists to move into. Since 2006, NGOs have attempted to use publicly disclosed information to hold polluting enterprises to account. The most notable of these organisations is IPE, which only exists because information disclosure has been promoted by the environmental state. In other words, the emergence of a Chinese NGO dedicated to the dissemination of environmental information has only been made possible due to the deepening of the government’s environmental information disclosure agenda. Following the emergence of IPE, other organisations such as Friends of Nature and Global Village Beijing have also joined campaigns that use publicly disclosed information. These campaigns also rely on the legitimacy that has been provided as a result of the government’s information disclosure policy. This has enabled environmental NGOs to move into, and ‘colonise’ space that has been opened up by developments in the environmental state. In doing so, these organisations arguably raise the profile of information disclosure and help to ensure that this policy is put into practice in real-life situations.

Since 2004, public interest activists have also attempted to promote formal public participation. Stimulating governance change within China’s one-party political system has become a goal in itself for many public interest activists. NGOs that played an active role in the Yuanmingyuan incident were more focused on helping pioneer the policy of public hearings than they were about the outcome in this case. In one sense, it appears that these NGOs wished to lend support to the MEP and its policy of public participation. In another sense, however, public interest activists view the creation of a more participatory approach to environmental protection as a key long-term goal. This is because they believe that public participation is a vital element of China’s environmental

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<sup>133</sup> Peter Ho (2001) has linked the emergence of Chinese environmental NGOs with what he terms the ‘greening’ of the Chinese state. However, he does not refer to any specific policies. Rather, he bases his finding on the perceived link between greater governmental concern for environmental issues and the emergence of a space for NGOs to operate in.

protection strategy and that it will ultimately lead to better environmental outcomes. As a result, they have shown an eagerness to promote new governance policies. Public interest activists also highlighted the lack of public participation and transparency in the Nu River case. This appears to have contributed to the opening up of formal public participation channels in relation to the Ahai hydropower project. Through taking part in the Ahai experts' hearing and by submitting comments on the project's EIA, activists ensured that public participation procedures were carried out in practice, even though this represented an unsatisfactory level of participation. Through patiently engaging with new governance processes, public interest activists aim to play a long-term role in gradually affecting better environmental governance within China's authoritarian political environment.

Private interest activists can also act as policy pioneers, although they fulfil this role in a different way from public interest activists. In contrast to public interest activists, private interest activists do not view the establishment of new governance norms as a goal in itself. Neither do private interest activists hope to pioneer environmental governance policies in the long-term. For these activists, short-term outcomes are the most pressing issue. They are not interested in long-term environmental protection. Yet in pursuing these short-term goals, private interest activists can nonetheless help pioneer new governance policies. The private interest activists that I have examined have called on Party-state officials to enforce public participation and information disclosure legislation. This is not based on a desire to consolidate governance reforms per se. Rather, it is based on the hope that a more participatory decision-making process will help further these activists' goals. In some cases, pressure exerted by activists on local officials through their 'stroll' tactics was sufficient to make the latter adopt a more consultative stance regarding the projects in question. This was most notable in the case of Xiamen, where public pressure led to a two-day strategic EIA public hearing. Activists also changed the way in which officials interacted with the public in the Beijing and Shanghai cases. By pressing officials to discharge their public participation responsibilities, private interest activists can raise the profile of new governance policies and promote the enforcement of these policies that would otherwise go unenforced. This is the case despite the fact that, for private interest activists, the consolidation of new governance norms is not an end in



itself. In this sense, private interest activists also pioneer new policies because they can also help ensure that public participation and information disclosure policies are carried out in practice.

Finally, the role of the media in pioneering new policies has also been identified as important by this thesis. Chapter 3 noted how a large amount of media reporting raised the profile of the green GDP and environmental storm initiatives. The media has also been important in raising awareness of new policy instruments such as public hearings. Media coverage generated by incidents such as the Yuanmingyuan public hearing is arguably vital in terms of helping establish new policy mechanisms. Organisers of the Xiamen hearing, for example, had a precedent on which to draw due to the high profile nature of the Yuanmingyuan hearing. Additionally, participants could learn about the hearing process through reference to the widely reported Yuanmingyuan case. This might have been a factor in demands from private interest activists that authorities convene a public hearing. Furthermore, the media has also played an important part in promoting environmental information disclosure. It has exposed companies through ‘naming and shaming’. In addition, it was an integral part of the NGO campaigns against polluting companies described in Chapter 5.

### **Limits to Convergence**

One of the central questions that I have sought to address is the extent to which the Chinese central government can use a ‘governance’ approach in order to achieve better environmental outcomes. It has been argued that a more flexible and diverse governance approach can lead to better environmental protection when replacing, or working alongside, a traditional regulatory approach (Fiorino et al (eds.), 2004). As discussed in Chapter 1, there is a growing realisation that governments alone cannot solve the increasingly complex, diverse, and severe nature of many environmental issues. In addition, the traditional policy paradigm is prone to implementation deficit. As a result, it has been suggested that governments should reach out to non-state actors, as well as adopt policies that go beyond a regulatory approach, in order to improve environmental protection efforts. To what extent are we witnessing new governance processes and

structures in China, and how effective are these in terms of improving the country's environmental governance system? These questions have important implications not just for China, but also for the wider governance literature.

This thesis has identified examples of how a governance approach to environmental protection is continuing to emerge in China. In this sense, I have found added evidence to support the argument put forward by Neil Carter and Arthur Mol (2006) that China is developing a more diverse governance approach to environmental protection. As Carter and Mol (2006: 334) state, employing a wider range of policy instruments is indicative of a governance approach to environmental protection. As this thesis has noted, the Chinese Party-state has introduced various new policy instruments designed to improve officials' accountability for environmental issues, promote public participation via mechanisms that incorporate public opinion into planning projects, and advance environmental information disclosure. These measures go beyond a purely regulatory approach to environmental protection.

At the same time, however, China's authoritarian political system naturally exercises a huge influence on the emergence of new governance processes and structures. This guarantees that, to the extent that China is moving towards a more diverse governance approach to environmental protection, it is one that will be endowed with Chinese characteristics. China's one-party political system presents sizable obstacles to a governance approach that allows non-state actors to play a greater role in environmental protection. Weak rule of law and lack of transparency inhibit the extent to which the PRC can implement a governance approach at present. In addition, officials have been able to resist attempts to hold them to account for environmental issues, and public participation remains tightly restricted by the Party-state. For these reasons, this thesis finds that convergence between China's system of environmental protection and those of OECD countries has been very limited, and that this is likely to remain the case for the foreseeable future.

*Environmental Protection in China: Towards 'Good Governance'?*

Accountability, transparency, participation, and rule of law have been conceptualised by the World Bank (1992) as 'good governance'. The good governance framework is useful because it enables analysis and evaluation of governance reform based on a break down of these four constituent parts.

The Chinese Party-state has taken steps to improve official accountability to higher levels of government for environmental protection. Greater central leadership support for environmental protection is helping facilitate this trend. Ensuring greater official accountability is vital if the central leadership is to successfully set China onto a more environmentally sustainable development trajectory. However, only very limited progress has been made in this regard. Attempts to make officials more accountable to higher levels for environmental protection through the green GDP initiative met with strong resistance because officials are still encouraged to pursue rapid economic growth. This highlights the difficulties of introducing greater official accountability when economic growth remains one of the country's primary goals.

The Party-state has also taken steps towards empowering the public to hold officials to account for environmental issues. Since 2003 it has promulgated important legislation that for the first time provides formal channels for proactive public participation in decision making processes. Despite these reforms, however, public participation in environmental protection remains limited. As I have argued above, these formal channels for public participation have so far failed to give the public a meaningful role in decision making processes. To a large extent, citizens' participation in public hearings and through submitting comments on EIA reports has been tokenistic. In addition, formal public participation in decision making processes is still very much the exception rather than the rule. At the same time, participation in China's environmental sphere is developing in other ways. As others have noted, public complaints have increased significantly and can be an effective form of participation (Dasgupta & Wheeler, 1996; Brettell, 2008). The growth of private interest activism also suggests that reactive participation is still by far the most effective means of influencing policies and holding officials to account.

Members of the public are developing innovative means for participation that make use of modern technology for mobilisation and awareness raising purposes. It is possible that in future the Party-state will try to pre-empt this type of activity by improving channels for public participation in order to internalise unrest within the system. Despite some notable successes, reactive participation tends to be ad hoc and subject to local and circumstantial variations. It is therefore not always a reliable form of public participation.

Improving transparency in environmental protection has been identified as another important area of environmental governance reform by the Chinese authorities. There has been some progress with regards information disclosure. Since the mid-1990s the media has played an important role in publicising pollution incidents. More recently, officials have increasingly 'named and shamed' polluters. Arguably the most high profile example of this was during the environmental storms, which MEP officials carried out to a large extent in the public sphere via the media. Since the late 1990s there has been an increase in the amount of environmental information available to the public, particularly regarding pollution levels in urban areas. In some cases this is demand-driven, as the public is increasingly demanding greater transparency from government officials. Citizens can be an important force in promoting greater transparency in China. The private interest activists in this dissertation were successful in pressurising officials to operate more transparently. These success stories were, however, isolated cases based on single issues. On the whole, transparency remains limited, particularly when officials want to ensure that lucrative but potentially controversial projects meet a minimum of public opposition. Although the MEID is a significant symbolic step towards greater transparency in environmental protection, there have been difficulties enforcing it. The MEID also has various loopholes that companies have already exploited. Although progress has been made in the promotion of greater transparency, much more still needs to be done.

The governance reforms in this thesis also have implications for rule of law in China's environmental sphere. Public participation and information disclosure are increasingly being conceptualised as legal rights that officials are duty-bound to respect. The public's 'right to know', 'right to supervise', and 'right to participate', however, are a long way

from being institutionalised in China. In some cases, environmental activists have attempted to enforce these rights. This arguably contributes to a strengthening of the rule of law, even if activists fail to ensure that these rights are upheld. Rule of law has also been promoted in other ways, albeit again to a limited degree. For example, campaigns such as environmental storms can stimulate adherence to environmental legislation. However, this is only the case in the short term for the duration of the campaign. On the whole, rule of law is still weak in relation to environmental protection.

### *Governance deficits*

This thesis has found that only very limited progress towards ‘good governance’ has been made in China’s environmental protection sphere. One of the main obstacles to China adopting a more diverse environmental governance approach is a series of ‘governance deficits’ (Howell, 2004b: 227), which persist as a result of reluctance to submit the Chinese Communist Party (CCP) to greater checks and balances.<sup>134</sup> Governance deficits continue to negatively impact on environmental governance reform, as officials have been able to resist any reforms that threaten to undermine short-term economic growth. For example, attempts to improve officials’ accountability for environmental issues are liable to face strong opposition if they threaten to clash with the economic growth imperative. This is also the case in relation to attempts to improve rule of law, participation, and transparency. In China, where the Party-state apparatus dominates environmental enforcement, local officials can pursue vested interests relatively free of the influence of state and non-state mechanisms and actors.

A key reason why local officials can resist attempts at environmental reform is due to the fragmented nature of China’s political system (Lieberthal & Oksenberg, 1988). When the central leadership is united in pursuing a policy, it is much harder for local level officials to resist. Conversely, when conflicting signals emerge from the central authorities, there is greater scope for local level resistance (Ibid.). Although environmental issues are being promoted more than at any other point in the PRC’s history, maintaining economic

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<sup>134</sup> Governance deficits refer to a lack of accountability, transparency, participation, and rule of law (Howell, 2004b).

growth and social stability are still the CCP's top priorities. Party-state officials are divided regarding the level of seriousness with which environmental protection should be taken. The policy of enlisting public support is also contested within the Party-state due to the perceived threat that citizens might pose to the CCP's monopoly on political power.

Governance deficits also impinge on attempts to improve environmental protection through extending governance to non-state actors. The same government officials that are responsible for incorporating public opinion into project decisions are often strong supporters of these projects. Weak accountability mechanisms mean that local officials often attempt to implement projects with minimum public involvement, as evinced by Chapter 6. The case of hydropower development in Yunnan, examined in Chapter 4, is also illustrative of this. Although formal environmental public participation has been introduced to China via new legislation, Party-state officials still largely decide whether or not to implement this legislation. The lack of predictability regarding the implementation of mechanisms designed to incorporate public opinion into planning processes is a major weakness that seriously limits the extent to which the public can use these mechanisms to hold powerful economic interests to account.

I have shown that environmental civil society in China can be important in terms of promoting, or pioneering, new policies aimed to extend governance. Activists and the media have had some success in ensuring that new governance norms are given a higher profile and, in some cases, have ensured that new policies are implemented. Civil society in China can be a force for good governance. And yet in the PRC, unlike in liberal democracies, civil society remains significantly constrained by the Chinese Party-state.<sup>135</sup> Empowering civil society to act as a genuine counterbalance to the Chinese Party-state is arguably vital if a more transparent and participatory governance approach to environmental protection is to be implemented in China. However, this is unlikely to occur soon within the present political system. The lack of independent oversight that a

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<sup>135</sup> For a discussion on the merits of a liberal democratic system to environmental protection, see Payne (1995).

vibrant civil society can provide is another major obstacle to environmental governance reform in China. This is true for top-down as well as bottom-up governance reform.

*Tension between governance and CCP control*

A significant amount of tension exists in China between the need to reform governance processes and strengthen the capacity of the central government to ‘steer’ society on the one hand, and an aversion on behalf of the CCP to losing its monopoly on political power on the other. Attempts to empower the public to play a greater role in environmental protection are also frequently opposed by ‘special interests’ at the implementation stage, particularly in the case of those local officials that practice local protectionism in order to maximise revenue. This tension represents an obstacle to the ability of the public to hold officials to account by playing a greater role in environmental protection.

In order to provide the public with the necessary tools to participate meaningfully in environmental protection, the Party-state arguably needs to adopt a less ‘hands-on’ approach to governance. This would include empowering civil society in order that it can better hold officials and polluting enterprises to account. It might also mean improving existing public participation and environmental information disclosure legislation and its implementation. And yet this would represent a significant change in the way in which the CCP exercises its power. At present, the authorities attempt to closely control public participation in order to ensure that citizens do not mobilise against the Party-state. Indeed, another way of looking at these reforms is that they constitute an attempt to extend the environmental state in order to incorporate citizens into closely regulated top-down public participation mechanisms. As Chapter 6 suggested, public participation mechanisms can serve the function of buying time for the authorities by temporarily appeasing social unrest.

Another obstacle to environmental governance reform in the PRC relates to weaknesses in legislation designed to promote greater public involvement in environmental protection. This also reflects tensions within China’s political system regarding the extent to which non-state actors should be able to check the power of Party-state officials. As

this thesis has shown, even if officials do discharge their public participation requirements, this often leads to ineffective and tokenistic participation. Due to the prevalence of bargaining in China's legislation drafting process, clauses allowing for greater public participation can be watered down by other departments, as Chapter 4 illustrated. As a result, the incorporation of effective public participation into China's authoritarian political system has proven a difficult undertaking when powerful development-oriented ministries are able to limit its scope in new legislation.

### **Implications for Wider Political Reform**

This thesis also has implications for understandings of wider political reform in the PRC. As it attempts to move from being a revolutionary party to a ruling party (Fewsmith, 2004; 30), the Chinese Communist Party (CCP) increasingly derives its source of legitimacy from its level of competency in governing the country rather than relying on communist ideology. As Yongnian Zheng (2006) notes, at present the CCP is officially in favour of pursuing good governance, specifically in a managerial sense. In contrast to the instigation of radical political reform such as democratisation, the promotion of a managerial form of good governance is viewed as a relatively moderate way of ameliorating some of the social and political problems that have emerged or intensified during the reform era. Weiwei Zhang (2006; 162) has argued that a consensus has emerged among the country's leadership that cultivating rule of law, increasing media supervision, and improving institutionalised supervision are necessary, and are preferable to introducing a model of western liberal democracy. It has been argued that through pursuing the former, the CCP can circumvent pressure to instigate the latter (Heberer & Schubert, 2006). In short, China's leadership accepts the need for political reform *within* the current one-party political system in order to render it more efficient (Zhang, 2006; 154).

Furthermore, the 'Harmonious Society' rhetoric promoted by the Hu/Wen leadership appears to be consistent and compatible with aspects of good governance as understood by international development agencies such as the World Bank. The 'Harmonious Society' concept has been closely linked with good governance by some Chinese



commentators, and there are certainly areas where the two overlap. In an essay entitled, ‘Social Justice and Good Governance are the Bedrock for Constructing a Harmonious Society’, director of Peking University’s Centre for Chinese Government Innovations Yu Keping (2006) states that a harmonious society should be ‘democratic’ (within China’s one-party system), possess good governance, rule of law, justice, tolerance, and honesty. He argues that good governance is about cooperation between government and society in the management of public life. Yu includes participation, rule of law, official responsibility, fairness, stability, transparency, and absence of corruption in his criteria of what constitutes good governance.

Although the term ‘good governance’ has not received nearly as much attention in Chinese discourse as the highly publicised ‘harmonious society’ rhetoric, it has been argued that the spirit of good governance has nevertheless been embodied in many recent government policies (Zhang, 2007). Since coming into power in 2002, the current ‘fourth generation’ leadership has stressed the need to improve governance in China, for example by promoting concepts such as transparency, public participation, and rule of law. This has been articulated through, for example, the 2004 State Council ‘Comprehensive Strategy to Implement the Promotion of Administration According to Law’, as well as the 2007 ‘People’s Republic of China Ordinance on Governmental Information Disclosure’ (hereinafter referred to as the State Council’s ‘Information Disclosure Ordinance’) that promotes government transparency (State Council, 2007).

#### *Top-down governance reform*

In many ways, this vision of political reform towards a Chinese version of good governance is informing, and being promoted by, the developments in China’s system of environmental governance examined by this thesis. The question of whether or not environmental governance reform can act as a ‘laboratory’ for more comprehensive political reform in China is an important one that has not been raised directly in the literature on Chinese environmental governance.<sup>136</sup> Speaking in 2005, Pan Yue said that,

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<sup>136</sup> Jennifer Turner (2006) does, however, identify it as an important issue.

The environment touches on every person's vital interests. However, it is different compared with other areas. Its political risk is relatively low, and because of this it is fairly easy to achieve mutual agreement and benefit in society. *It is the best entry point for exploring socialist democracy and fairness.* We therefore need to design a set of environmental protection public participation mechanisms that are more open and transparent, and that can better concentrate the knowledge of the people in order to represent the will of the people (*Renmin Wang*, 19 May 2005, *emphasis added*).

The environmental governance reforms that I have analysed can also be treated as a prism through which to examine more general questions of governance reform in the PRC. They can help shed light on the path that China's leaders envisage governance reform taking, and enable initial conclusions to be drawn as to the likely effect of carefully controlled reforms within China's authoritarian political system.

This thesis has found that China's environmental challenge has stimulated a limited amount of political reform from the top-down. In an attempt to overcome the country's environmental protection implementation deficit, the Party-state has introduced policies and initiatives that promote accountability, transparency, participation, and rule of law. Some policies, such as demanding greater official transparency through information disclosure, and providing channels for public participation in environmental issues, are largely unprecedented in the PRC. At the same time, these policies do, notionally at least, redefine the relationship between citizens and the Party-state. One notable feature of policies designed to facilitate environmental public participation and information disclosure is that they are conceived of in terms of individual rights accorded to citizens that Party-state officials have an obligation to recognise. Although I have found that, in many cases officials do not respect citizens' rights to know, participate, and supervise, the discourse that is emerging from the MEP in particular is one that advocates a role for the public in holding officials to account.

It is debatable, however, whether or not the slow pace of political reform towards a more accountable and transparent style of governance will be sufficient in order to overcome China's environmental challenge. Although it has been argued that 'revolutionary bottom-up political and economic reforms' are required in order to halt environmental deterioration in China (Economy, 2007), this is highly unlikely to happen as long as the CCP remains in power, barring a major change in CCP policy. Rather, the most likely means through which governance reforms might occur is via a gradual transition to a Chinese version of good governance as outlined above. And yet, as I have shown, there are considerable obstacles to introducing measures that attempt to promote checks and balances on local Party-state officials, both within and outside of the bureaucracy. And yet, in the context of China's significant environmental problems, failing to implement even limited political reform might be more damaging to the CCP than implementing it.

#### *Bottom-up political reform*

As noted in Chapter 1, this thesis subscribes to the 'states in society' approach that emphasises the mutually transformative nature of state-society interactions (Migdal et al, 1994). It has found evidence to suggest that environmental issues are also contributing to limited bottom-up political reform.

Environmental issues appear to be gradually stimulating growing awareness of citizens' rights and public participation in China. Activists, be they public or private interest, are increasingly framing their activities in terms of citizen rights and government responsibilities. This chapter has already suggested that this in itself can help promote political reform, albeit to a limited degree, by putting into practice and consolidating new governance processes. This is partially a mutually reinforcing phenomenon, consistent with the 'states in society' approach (Ibid.). One of the reasons why environmental protection activists cite public participation and transparency legislation is because this legislation has been promulgated and advanced by state officials.

In part, the top-down environmental governance reforms examined in this thesis are in themselves a response to public pressure arising from environmental issues. Part of the

rationale behind introducing new channels for public participation is to reduce the likelihood of social instability arising from poorly planned projects. In addition, mechanisms such as public hearings have been introduced partly to act as a 'safety valve' that can partially dissipate public pressure. In other words, the threat of social unrest related to environmental conditions is stimulating a limited amount of governance reform that is to an extent designed to incorporate unrest and internalise it within the political system.

I have also found that environmental civil society in China can stimulate good governance. In calling on officials to carry out their obligations as stipulated in environmental legislation, whether that be via arranging a large-scale 'stroll', or through writing letters and/or expressing opinions through the media, activists are taking a lead in promoting rule of law. This thesis has identified several instances whereby environmental civil society has attempted to hold officials and polluting enterprises to account for their actions, advance government transparency, and ensure that the public's right to participation is observed. Although they are still operating under difficult conditions, civil society actors in their role as policy pioneers can be an important force for limited governance reform from the bottom-up.

### **Limits to this Thesis**

Inevitably, there are limitations to the argument put forward in this thesis. First, the findings in this thesis are based on a limited number of case studies. The case studies that I chose were all relatively high-profile cases. Although it is important to examine such cases, and despite the fact that these case studies are revealing about certain aspects of Chinese environmental governance reform, conclusions arising from them should not be taken too far. Generalisation is a pitfall that should be avoided, particularly in such a vast and diverse country as China.

Second, the case studies that I examined are limited in that they focus on just two components of China's system of environmental governance, namely the environmental state and civil society. I did not examine the effect of international linkages on

environmental governance, nor did I look at market-based policy instruments emerging in the PRC. Moreover, this thesis focused on policies and activism that attempts to promote good governance in order to improve environmental outcomes by ensuring that local officials comply better with environmental legislation. In addition, this thesis has mainly focused on developments at a national, rather than a local level. Focusing on national level developments is vital in terms of understanding environmental governance in China. However, there are also many important developments and variations in environmental governance at local level that I have not examined. An important area of future research would be to carry out detailed studies of how some of the policies designed to extend governance are being taken up at the local level. There is a need for in-depth localised case studies in order to examine which types of governance initiative are most successful, and why.

Third, to the extent that this thesis has examined Chinese environmental activism, it has focused on high-profile episodes of private interest activism and on well-known NGO. The latter could be described as the ‘elites’ in Chinese environmental civil society, and often pursue cases on a national level in that they become involved in activism outside of the location in which they are based. As well as being well-known within environmental circles, some of these NGOs’ leaders such as Friends of Nature’s Liang Congjie and Green Earth Volunteers’ Wang Yongchen have good connections with officials in the central government. They may not be representative of many less well-known, local level NGOs.

### **Prospects for Environmental Governance in China**

This thesis has identified some positive developments in Chinese environmental protection. The trend in China appears to be one towards more, and not less, environmental protection. The fact that the central leadership has displayed heightened concern for environmental issues is a positive step. It seems likely that support for better environmental protection and energy conservation will, if anything, deepen in the future. Leadership elites do acknowledge that ‘careless and unrestrained’ development can jeopardise the sustainability of China’s economic growth. Furthermore, environmental

governance reform is clearly on the agenda in China. The challenge, however, is translating this into better environmental outcomes. At present, this appears to be a difficult undertaking. And yet at some point effective action will need to be taken in order to compel local officials to accord greater priority to the environment.

Given the Party-state's suspicion of non-state actors, it appears certain that environmental protection in China will continue to rely heavily on regulatory measures. The 'command and control' approach still fits well with China's political system. As Chapter 2 noted, the Chinese authorities have shown a certain amount of commitment to strengthening the environmental state. This process is still continuing. Although regulatory approaches to environmental protection have been criticised in the literature, it has also been acknowledged that they can be effective up to a point. If the Chinese leadership continues to be serious about environmental issues, there is much scope for improving the current regulatory system. This in turn could ameliorate some of the country's environmental degradation.

I have found that environmental civil society in China still operates in a restrictive political environment. However, room for the public to stand up to egregious examples of official neglect appears to be increasing. Citizens appear to be more and more standing up for their rights and demanding a cleaner environment. This phenomenon is reinforced by public participation and transparency legislation that provide added legitimacy for activists. Ultimately, environmental activism, and private interest activism in particular, might compel officials to introduce genuine public participation into decision-making procedures. One interesting area for further research relates to the linkages between public and private interest activists. This thesis has shown that in many cases NGOs decline to associate too closely with private interest activists. And yet there are signs that space for linkages might develop in China. This was evident in the NGO campaign against GEP and its subsidiaries when NGO activists actively sought out aggrieved citizens. In addition, netizens, who could be seen as public interest activists, have mobilised citizens with grievances. Interaction between public and private interest activists, as well as experts and other 'intermediaries' is potentially highly important in

terms of the development of China's environmental civil society, and deserves further study.

Finally, the fact that environmental issues are highly prominent on the international agenda, especially in relation to the issue of climate change, arguably bodes well for China's environmental protection efforts. China must be part of any co-ordinated global action on climate change, and there is likely to be much effort expended in persuading China to sign up to commitments to reduce its carbon emissions. As China works to show that it is a responsible global actor, it is likely that it will feel greater compulsion to take more action with regards the environment. This is likely to be an important factor in helping China move towards a more environmentally sustainable future.

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## **Appendix: Interviewee List**

1. Chinese environmental NGO activist – 13 July 2006
2. Researcher from the Development Research Centre of the PRC State Council  
– 18 September 2008
3. Chinese International NGO activist – 4 August 2006
4. Chinese environmental NGO activist – 10 November 2007
5. Chinese environmental NGO activist – 15 November 2007