



NRDC Builds Public Capacity: Involving China's People is Essential For Effective Environmental Enforcement

"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 to protect this right."

SEPA VICE-MINISTER PAN YUE

China has an urgent need to improve enforcement of its environmental laws and regulations—and public participation is a critical complement to government initiatives. Open information laws, rules allowing public input into government decision-making, and public interest litigation are essential to the solution to China's environmental challenges. NRDC is working with China's leading government agencies, lawyers, environmental groups and the public at large to build the capacity to use these tools effectively and create a greener future for China.

Public involvement in environmental protection is recognized globally as a necessary ingredient of effective environmental enforcement. Public engagement in environmental protection played a crucial role in countries that had dramatic improvements in their environmental conditions in the last century, such as the United States, Japan, and England. Recognizing the importance of public participation, dozens of countries in recent years signed onto a groundbreaking international treaty on environmental public participation, known as the "Aarhus Convention," which set forth a broad range of rights to environmental information, participation in

environmental decision-making, and access to judicial and administrative relief. China, too, understands that no country can protect its environment through government efforts alone, and has begun to experiment with a variety of measures to involve the public in the areas of access to information, participation, and justice.

Encouraging Open Environmental Information

Accurate information concerning environmental quality, illegal factory emissions, government plans, and private development projects is a necessary prerequisite to public engagement in



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environmental enforcement and participation in decision-making. Chinese law now requires a wide variety of information on environmental quality (e.g., air, water) and industrial environmental performance to be publicly available. At the time of publication of this fact sheet, at least 15 provinces or municipalities had passed government open information regulations giving the public the right to obtain information from the government. SEPA has issued a policy guidance encouraging the development of regional industrial performance rating systems based on pilots in Jiangsu Province and Inner Mongolia.

NRDC is working with an influential environmental NGO to develop a comprehensive online resource on environmental public participation laws, with instructions on how to request environmental information and utilize other public participation rights set forth in Chinese law. NRDC is also working with local groups to bring available government industrial pollution data to the attention of multinational corporations to help “green” corporate supply chains and to expose illegally polluting factories. Although the trend toward what the Chinese call “informatization” is clear, without active public involvement these rules and policies will not likely be implemented properly.

Getting Public Input into Environmental Decision-Making

The ability of the public to comment on proposed plans, projects, policies, and legislation is another fundamental aspect of environmental participation. China has passed two major laws in recent years that impact environmental public participation. The 2003 Environmental Impact Assessment Law and 2004 Administrative Licensing Law both require public participation in certain circumstances, whether through hearings, questionnaires, expert forums, or other techniques. SEPA has supported these laws with groundbreaking implementing regulations, clarifying the role of the public in environmental decision-making processes. Guangzhou is now experimenting with “notice-and-comment” procedures in administrative rulemaking that offer the public a low-cost, convenient avenue for participation in public affairs.

NRDC is working with local partners to develop national procedures to allow the public to submit written comments with respect to development projects that may have significant impacts on the environment. We have also held a series of environmental law trainings with leading Chinese academics and environmental groups to educate the public on the opportunities for participation provided by Chinese law.

Seeking Relief from Environmental Degradation

Environmental laws and the rights to environmental participation are meaningless without an ability to appeal to a court or other body for relief when laws or rights are violated. Frustration over the lack of effective official channels for relief has arguably led to the 29% average annual increase in “mass incidents” attributed to environmental pollution in recent years.¹ The push for new solutions has never been more important. Chinese lawyers are beginning to play a greater role in taking polluters to court and seeking other ways of resolving environmental disputes. Government officials and environmental law experts are actively discussing proposals to create a “public interest litigation” system in China that would expand the public’s role in using law and the courts to vindicate environmental rights.

NRDC is introducing international experience in environmental public interest litigation to help Chinese experts develop a system that works for China. We are also collaborating with local partners to train lawyers and judges in environmental legal advocacy and have supported the publication of a citizen’s guide on environmental rights.

China’s framework for public involvement in environmental protection expands with each passing year, but much still needs to be done to make the system work effectively. NRDC is proud to work with China’s environmental leaders on this important issue.

¹ Zhou Shengxian: Promoting a Historical Transformation in Environmental Protection Work with the Greatest Determination and Courage,” Xinhua Net, April 26, 2006.

