

THE POLITICS OF ENVIRONMENTAL PROTECTION

SUSTAINABLE DEVELOPMENT IMPLEMENTATION GAPS IN CHINA

By Sunny Lam

Introduction

By implementing the “Open Door Policy” since 1978, China has achieved tremendous economic growth and development. China has seen the largest human migration in history, leading to a rise in urban population from 191 million in 1980 to over 650 million in 2010—an increase driven largely by rural-to-urban migration (NBSC, 2011). However, China’s economic growth has come at a heavy cost to the environment. Many scholars acknowledge that the Chinese have brought serious pollution-related health problems along with their rapid urbanisation (Ho and Kueh 2000; Qiu, 2008). For example, outdoor air pollution is associated with more than 400,000 premature deaths per year in China (HEI report, 2004). A 2006 survey (Zhang, 2006) of several thousand suppliers revealed that more than a quarter of

municipal drinking water plants and more than half of private plants were not complying with monitoring requirements for water quality. Urbanisation is proceeding rapidly even though nearly half of China’s major cities do not comply with health-based standards for drinking water (SEPA, 2007). In the Pearl River Delta region of Guangdong Province—which is a major destination for migrant workers—average full-dose coverage for migrant workers with environmental-related illness was estimated to be less than 60% (Lin et al, 2007).

Developing countries often lack well-developed mechanisms for implementing environmental management programs. China is no exception. Chinese leadership has focused most on ensuring the continuation of economic growth; it has largely ignored the environmental



consequences, leaving behind a legacy of pollution (Mol and Carter, 2006). The rule of law in China is still weak (Stern, 2010), and existing environmental laws and regulations are often ignored by local government leaders (Liu and Diamond, 2008). In recent years, the Chinese government has recognized these and other environmental challenges. One of its milestones was the eleventh Five-Year Plan, where Beijing has passed numerous laws and regulations and established an extensive central infrastructure for environmental protection. In keeping with its overall decentralization of authority for fiscal decision-making, the government continues to develop authority over environmental issues away from the centre, delegating enforcement of both central and local government regulations to local officials. In some cases, local governments have achieved remarkable results, but in most cases, environmental protection has continued to deteriorate. This paper attempts to answer how sustainable development implementation works in China and assesses the shortcomings of China's approach. It focuses on the meaning of sustainable development and explores the relationship between bureaucracy and business industry in the field of sustainable development in China. This essay mainly focuses on the political side of the issue, rather than the legal aspect, although I consider that they are equally important.

China, as an important developing country, cannot follow the footsteps of many other nations by continuing the practice of "pollute now and treat later". To achieve long-term economic growth, the country must find a road to

sustainable development. China's environmental law enforcement system is based largely on internal protocols and longstanding practices at the national and local government levels. The general lack of publicly available documentation of enforcement practices and procedures increases the regulated community's feelings of unpredictability, unfairness, and helplessness concerning, in particular, law enforcement in the environmental sector in China. The objective of this paper is as follows:

- Explicating the scope and characteristics of China's increasingly multifaceted and acute environmental problems;
- Providing background on China's environmental law framework ;
- Discussing the barriers to the implementation of sustainable development in terms of the bureaucracy and market perspectives.

One fundamental research question for this paper is: What form of environmental implementation and monitoring structure can realistically support China's role as being the world's factory with its estimated annual GDP growth rate at 8% for the next 10 years? In order to answer this question, we have to understand the current barriers.

Barriers to the implementation of sustainable development – the State Owned Enterprises (SOE) problem

Although it appears that China is making progress toward the implementation of sustainable development on numerous fronts, not all of the efforts are going smoothly. Many plans have been created



to infuse sustainable development into China's national development, but only a limited number of these plans have been implemented and fully executed.

China has more than 158,000 state-owned enterprises (SOE), serving as the main source of state revenue and occupying a central position in the national economy as of the end of 2008. The Second National Economic Census conducted in 2008 revealed that of all the 208 trillion RMB total assets of the secondary and tertiary sectors (industrial and service sectors), 63 trillion – or 30% of the total – were held by SOEs. Production in China's enterprises, especially the state-owned

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ones, adjusts slowly to market demand. Many SOEs have old-fashioned production lines, which are the main source of pollution in many cities. Furthermore, environmental management strategies, such as command-and-control policies and the polluter-pays-principle cannot be effectively implemented in SOEs. In addition, the situation is further complicated by the fact that considerable power, especially in economic planning, is devolved to provincial governments. This process of decentralization intensifies the contradiction between the central state authority and local government due to more general claims for regional self-management and local decision-making power in the areas of the economy and environment. The integration of economic development

and environmental protection is a major challenge.

The problem of pollutant discharge fine

The market-based approach uses economic incentives to make the polluter voluntarily reduce waste emissions and even to upgrade or change their production line (OECD, 1994). For example, a charge is imposed for discharging a pollutant or effluent into a body of water: this is the so-called “pollutant discharge fee”. The Environmental Protection Bureau (EPB) is a local unit and is responsible for collecting discharge fees from polluters whose emissions/discharges exceed the standard permitted by the local office. But the amount of the fine in China is lower than the cost of installing pollution treatment facilities. This encourages enterprises to pay the fee rather than investing a large amount in pollution treatment facilities. The fines are too low compared to the production costs of industries: only about 0.1% of production costs in the machine-building and paper industries (Xiong, 1991). Furthermore, most of the pollutant discharge fees in China are recycled back to polluters to be used for pollution control or technological innovation. For example, the fund for environmental protection was obtained by a local SOE from the local EPB and parent company to instead upgrade its products by technological innovation. This encourages the formation of a coalition between the regulator (EPB) and the enterprise (SOE) to convince and influence the parent company of the latter and the EPB to provide additional funds for technological innovation of production. Another issue is that fees are only assessed on the basis of the most highly concentrated pollutants measured



rather than on the total volume of all pollutants discharged.

SOE – Incoming tax machine for local government

Many local governments emphasize that the SOEs are the most important tax source for local governments. Therefore, many senior officials in the city and provincial government are more concerned about its business and profit. From my earlier research, a senior local government official clearly recognized that the most difficult cases involve charges levied on SOEs because nationally they are all part of the same governmental unit. Moreover, all SOE functions under different ministries at different levels of government, and city governments are not willing to see the implementation of environmental protection affecting economic activities that would reduce tax revenues and employment. Once they enforce environmental regulations, it will then affect business output and hence their tax income. As the revenue from the incoming tax far exceeds the pollution penalty, it is obvious that they are willing to receive more revenue from the tax rather than from the pollution penalty. Therefore, any disputes between the enterprise and the EPB are typically resolved in a way that favours economic considerations.

Many local officials are short-sighted by giving priority only to development, turning a blind eye to violation of environmental implementation by some SOEs. Government cadres must undergo mandatory yearly performance evaluations that are based heavily on local industrial output. Because officials' careers depend upon the efficient

promotion of local industrial development, they pursue the goal with great vigour. Local leaders, therefore, have a strong incentive to boost the local economy in order to promote their career. Such economy-based competition would easily lead to short-term economic growth; however, it creates institutional lock-in where only urgent environmental matters are being addressed, while the long-term social development is missing. Any long-term cost-effectiveness of pollution reduction projects faces great challenges.

In fact, under some cases, some powerful SOEs disagree that environmental protection is the responsibility of polluters and manage to place the financial burden of pollution control onto the local government and claim that it is the government's responsibility. The costs of pollution are dispersed among a large number of individuals, but the benefits of discharging pollution are concentrated on a small number of enterprises (polluters). The unbalanced distribution of costs and benefits of and countermeasures presents barriers for the public to organize and take collective actions against environmental harm.

Barriers to the implementation of sustainable development – the impact of decentralization

Devolution of authority for environmental protection to local officials was formally enshrined in 1989. This decentralization process made local officials responsible for the environmental health of their regions in the same way they were responsible for grain production. In theory, the decentralization process



permits close coordination among all the relevant actors: local environmental officials, officials from economic and planning bureaus, the mayors, and the governors. However, local enforcement of national laws remains a significant challenge and they often encounter political and social obstacles.

To obtain a better understanding of sustainable development and its implementation in China, we must not only appreciate the content of environmental laws, regulations, standards, and policies but also the responsibilities of authorities, and the capabilities and motivations of the EPBs. The environmental protection bureau structure should first be introduced.

Conventional decision-making in China follows a top-down model. At the national level, the State Environmental Protection Commission (SEPC) is the highest decision-making body on environmental policy in China. The SEPC meets quarterly and is chaired by a Vice Premier. The National Environmental Protection Agency (NEPA) provides

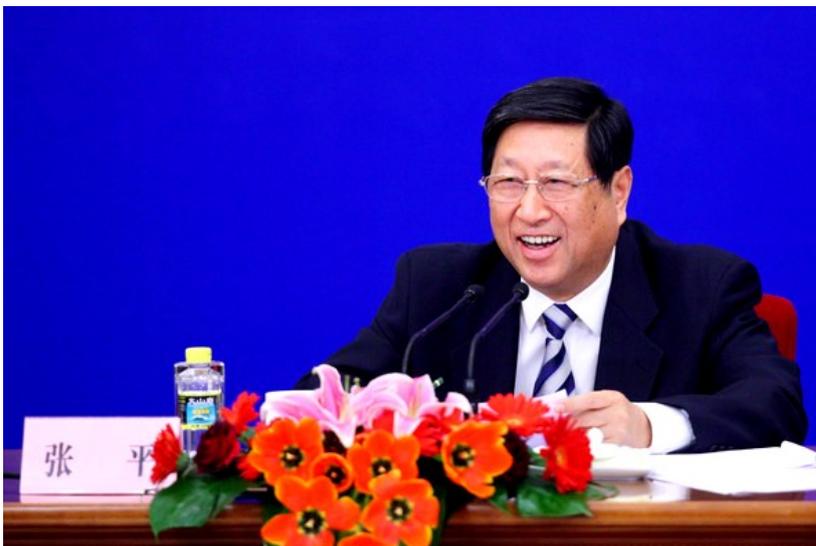
administrative support and serves as the secretariat to the SEPC. NEPA is required to report to both the State Council and the SPEC. The State Planning Commission (SPC) and the State Science and Technology Commission (SSTC) are also involved in the formulation of environmental policy. NEPA, in theory, has the same seniority or rank as other ministries under the State Council, but in reality it has less power. The main role of NEPA is to draft laws, devise standards, advise on environmental policy, and plan strategies, but it does not itself enforce environmental laws and regulations around the country. In fact, the implementation of environmental protection policy and management is carried out primarily at the municipal and county levels via local EPBs.

Below the national level, the environmental protection network includes 30 provincial, 366 municipal and 2,084 county agencies. Almost every province, municipality, and county in China has its own EPB or environmental protection office that ultimately reports to NEPA and local government. EPBs

are embedded with the local governments. While they must follow the laws and regulations that emanate from the central government or from their local governments and participate in programs directed by SEPA, EPB officials' salaries and all other expenses are all determined by



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the local governments. Because of this, EPB officials are particularly susceptible to pressure from senior officials within the local government. In some cases, local officials may pressure EPB officials to limit or ignore the fees because of concerns for social stability. It is complex and difficult to regulate state-owned enterprises that belong to more powerful organizations such as related economic departments or higher levels of government. Along with the decentralization of environmental decision-making to the local level, the environmental bureaucrats are delegated powers to police, monitor, assess, and levy fines upon the polluting enterprises who mostly are under the control of ministries in local government; this includes financial decisions and the appointment of the general-director of factories. As a result, local government plays a dual role as the owner of state-enterprise (polluter) and supervisor of the EPB (regulator).

As discussed above, environmental protection is dominated by economic and technical choices in which the trade-offs among issues are more complicated, and powerful local ministries frequently find themselves in conflict with EPBs. As a result, personal relationships between the regulator and the polluter are very important to environmental management in China because the dominance of state-owned enterprises and the complicated bureaucratic system allow negotiations and bargaining between them to play a very important role in sustainable development. One danger of this situation causes unbalanced relationship that affects the effectiveness of any environmental regulation implementation. The larger and more

powerful the regulatory agency, the stronger the position it will have in the process of negotiation and bargaining. As a result, any activity that can increase the institutional strength of EPBs is welcomed by them. In contrast, bureaucrats usually reject actions that will limit economic growth and that in turn will affect the revenue of EPB. Therefore, bureaucratic judgment is the most important aspect in the implementation of environmental policy given this emphasis on the regulatory nature of sustainable development administration in China.

The above grim situation is further compounded by institutional constraints such as the limited problem-solving capacity of government institutions in environmental protection, underdeveloped infrastructure for supporting environmental policy formulation and legislation, restricted channels for public participation, and poorly developed mechanisms for mutual accommodation and support among the government agencies who share responsibilities for environmental protection. As a result, the gap between policy intents and actual environmental actions is almost inevitable and has become prevalent.

Barriers to the implementation of sustainable development – the impact of rapidly changing pollution patterns

The phenomenon of ‘implementation gap’ in sustainable development is particularly pronounced and common in transitional economies. In newly and rapidly industrializing and urbanizing countries such as China, the structure and patterns of pollution are rapidly changing, so much so that broad



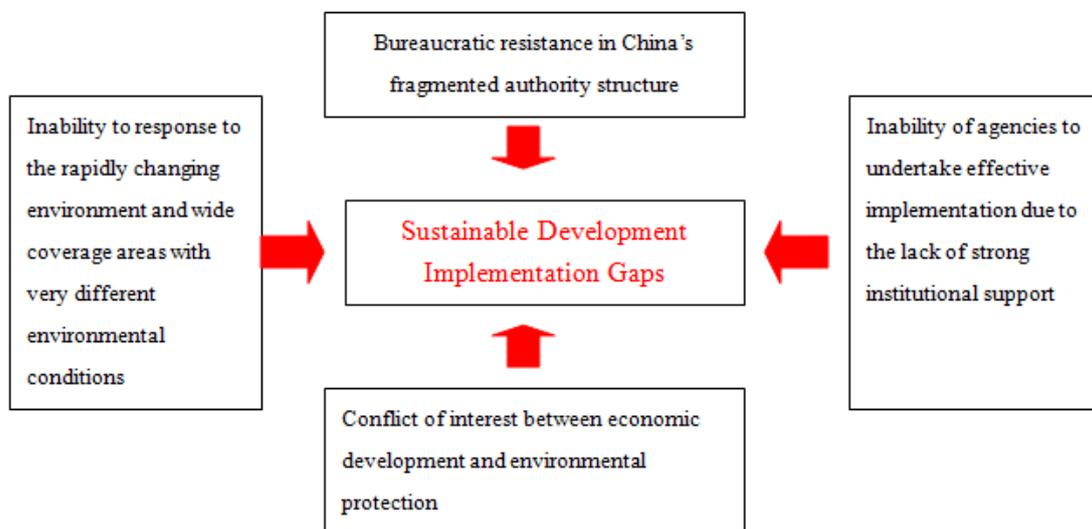
strategies designed decades or even years ago to tackle these problems quickly become obsolete. Two major problems occur in such rapidly changing environments. First, China is a large country covering a wide range of geographic situation and hence has very different environmental conditions. A central focus on selected area or pollutants might be helpful in some aspects, but overall it erodes the ability of different local EPBs to deal effectively in their own area. It certainly affects the effectiveness and flexibility of pollution control strategy. Second, the mentioned top-down allocated environmental goals make local governments meet specific targets but ignore other challenges including the balance between economic and social development. This perspective asserts that China's sustainable development has a gap between their orientation to policy problems and policy output. In other words, existing pollution control policies formulated in an earlier era, such as the urban emissions control strategy, have become inadequate as

responses to the challenge at hand because the structure and characteristics of air pollution are rapidly undergoing, or have already undergone, a fundamental change.

Conclusion

Similar to all rapidly developing economies, China faces significant environmental challenges. In addition, China's system of environmental protection, which combines a well-defined formal structure and set of laws with an underdeveloped environmental bureaucratic apparatus and still developing set of behavioural norms, faces great obstacles in protecting its environment. Perhaps the greatest challenge that remains is that the evolution of China's legal regime is closely tied to sweeping changes in the political and administrative system. As discussed above, personal ties between local officials and enterprise managers, local leaders' concerns over layoffs and the potential for social instability, and

Summary of China's sustainable development difficulty



corruption all have undermined the efficacy of China's environmental implementation at the local level. Dramatic changes to China's existing political and administrative system will require protracted and concerted efforts by all members of Chinese society.

Looking to the future, the involvement of environmental NGOs could act as an alternative solution. Increased public participation, as well as environmental NGOs in the planning process, usually increases the likelihood that the public interest will be understood by governments, including, local environmental protection governance. The NGOs is a powerful force, attracting significant media attention and therefore may help overcome some of the weaknesses in environmental bureaucracy, putting pressure on officials to ensure that environmental laws are forced. Despite its essential interest in encouraging environmental NGOs to act as watchdogs at the local level, the Chinese government is concerned that it risks the development of organizations whose interests may not be aligned with those of the Communist Party. The fear for the central government is that these NGOs may use environmental issues as an excuse to push for broader political reform. For the consideration of social stability, the Chinese government is the primary force to ensure public interest, which usually blocks public participation in environmental governance. For the purpose of further research, it will be necessary to discuss the role and position that environmental NGOs play and their connectivity between the Chinese central government and their overseas counterparts.

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