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ENVIRONMENT

INTRODUCTION

China's leaders acknowledge the severity of their country's environmental problems, and the Chinese government has taken steps to curb pollution and environmental degradation. For example, the central government has developed an expansive framework of environmental laws and regulations to combat environmental problems. Nonetheless, effective implementation remains systemically hampered by noncompliance at the local level and administrative structures that prioritize the containment of "social unrest" and the generation of revenue over environmental protection.

Just as China's environmental policies have not kept pace with the country's severe environmental degradation, neither have they kept pace with citizens' aspirations for, and increasingly vigorous expression of concern over, environmental health and human rights. During 2007, China's citizens confronted environmental public policy with an increasing propensity, not only to voice intense dismay with government and industry, but also to turn to petitions and mass protests, and to some extent to the courts, in order to pressure public officials for greater environmental accountability, enforcement, and protection.

Participation in environmental protests has risen in the last two years, particularly among middle-class urban residents. Their participation is significant because, until recently, public protest related to environmental issues was concentrated in rural areas and thought to be a more remote concern for urban elites. Official responses to environment-related activism have included crackdowns on the free flow of information, and the suppression of citizen protest. In part because these strategies target potential allies instead of engaging them, further environmental degradation may require China's leaders to confront the ways these strategies diminish their capacity to exercise effective environmental leadership over the long run.

ENVIRONMENTAL DEGRADATION AND PUBLIC FRUSTRATION WITH OFFICIAL RESPONSES

Rapid economic growth without effective environmental safeguards has led to severe environmental degradation, with water, air, soil, and other forms of pollution threatening public health and quality of life. Poor soil and water conservation practices and government inattention to polluting industries exacerbate these problems. Many Chinese citizens suffer from respiratory diseases, and the State Environmental Protection Administration (SEPA) estimated that there are approximately 358,000 premature deaths each year due to air pollution.¹ Acid rain affects about one-third of the country.² Deforestation and erosion leading to loss of arable

land, landslides, and sedimentation of waterways are widespread.³ Water pollution and poor conservation practices have led to water shortages in many areas, leaving millions in urban areas, and one-third of the rural population without access to clean drinking water.⁴

The Chinese government acknowledges the severity of China's environmental problems. The State Council's White Paper on "Environmental Protection (1996–2005)," issued in June 2006, notes that "the contradiction between economic growth and environmental protection is particularly prominent" as the "relative shortage of resources, a fragile ecological environment, and insufficient environmental capacity are becoming critical problems hindering China's development."⁵ Senior government officials also acknowledge the public protest that severe environmental degradation could prompt.⁶ A U.S. expert has observed that environmental degradation and pollution "constrain economic growth, contribute to large-scale migration, harm public health, and engender social unrest."⁷ According to official Chinese estimates, environmental degradation and pollution cost China an estimated 8 to 12 percent of annual gross domestic product (GDP), and the number of mass protests over pollution has increased by 29 percent per year in recent years.⁸

China has taken steps to curb pollution and environmental degradation. In both its 10th (2001–2005) and 11th (2006–2010) Five-Year Plans, the government formulated or revised environmental protection laws, administrative regulations, and standards, and has worked to strengthen enforcement of anti-pollution rules.⁹ In addition, SEPA and the Ministry of Health (MOH) are working together to facilitate the sharing of information resources, and to develop a national action plan and implementation measures on environmental health.¹⁰ As described below, for some incidents that have captured public attention, central and local governments have imposed administrative penalties on polluters and public officials responsible for enforcement failures.

Nonetheless, although the central government has issued numerous environmental laws and programs, effective implementation has been beset by problems that are fundamental and widespread. Local environmental protection bureaus (EPBs) depend on local governments for resources and funding, and submit to political control by local Party Committees. In part because local governments (and some officials) derive income from local enterprises, some local EPBs receive pressure to engage in weak or selective enforcement. Even without such pressure, officials in underfunded EPBs have incentives to permit polluting enterprises to continue operating in order to preserve revenue used to finance their bureau's operating deficits. Shortages of well-trained environmental personnel, loopholes in the law, and weak interagency coordination contribute to an incentive structure that favors economic growth over the rigorous implementation and enforcement of environmental protection measures.¹¹

China's serious air, water, and soil pollution problems have emerged in recent years as one of the country's most rapidly growing sources of citizen activism. For example, SEPA's Minister Zhou Shengxian stated in July 2007 that the number of citizen petitions

received by SEPA in the first five months of 2007 grew by 8 percent over the same period in 2006. Moreover, the number of pollution-related “mass incidents” (China’s official term for protests) increased during a year when officials claimed that overall mass incidents decreased significantly.¹² These numbers reflect, in part, Chinese citizens’ willingness, prompted by rapidly rising frustration with the government’s failure to rein in environmental degradation, to stand up for the environment, and for their rights.¹³

In its 2006 Annual Report, the Commission reported that central government officials delayed some of the proposed hydroelectric dams on the Nujiang (Nu River) in response to environmental concerns from civil society groups.¹⁴ As of February 2007, some villagers have already been resettled in advance of the Liuku dam, one of four approved dams, and there have been concerns over inadequate relocation compensation.¹⁵ Local residents around the site of the proposed Lushui dam, which has not been approved, have observed laborers engaging in survey work on the dam. Other villagers have limited knowledge of the proposed dams being built in their vicinity.¹⁶ This continued lack of transparency limits public involvement and violates the government’s own environmental protection laws and policies.¹⁷

In a nationwide campaign that inspected 720,000 enterprises in 2006, the government reported that 3,176 polluting enterprises had been closed, and SEPA reported 161 pollution accidents in 2006.¹⁸ Administrative litigation and administrative reconsideration remain avenues for environmental dispute resolution and private enforcement, but attention in 2006–2007 turned to a rise in the form of “high-impact” litigation, particularly in cases involving compensation for the health impacts of environmental pollution. Although the government prevails in the majority of cases, experts have noted that high-impact cases often prompt an official response, typically in the form of new administrative rules and Party directives, even when plaintiffs lose.¹⁹

Promotion of rural officials for a long time has been tied to their record of containing social protest. For example, “(L)ocal officials will only be promoted to more senior positions if they can minimize social unrest in the countryside,” according to a senior Party official.²⁰ These officials choose either to confront the underlying environmental problem or to suppress activists.²¹ Previously, experts have noted that rural residents tended more frequently than urban residents to engage in “large-scale” protests over environmental issues.²² Events in 2007, however, suggest that this impression may now be outdated, as the urban middle class’ supposed preference for non-confrontational approaches gave way to a rise in urban environmental activism. Mass protests in Xiamen over the construction of a chemical plant in June 2007 and protests shortly thereafter in Beijing over the building of a garbage incineration power project signal some of the first large-scale protests in urban areas by middle-class citizens over environmental pollution. These protests are significant because they suggest that middle-class urban residents regard alternative methods for pollution prevention and health preservation as inadequate.

Chinese citizens concerned with environmental issues are increasingly organized. There are now an estimated 4,000 registered

and unregistered environmental nongovernmental organizations (NGOs) nationwide.²³ In recent years, these NGOs have broadened their focus beyond initial efforts at public education and awareness to assisting pollution victims in pursuing redress through the legal system, and mobilizing public participation in and support for environmental protection.²⁴ SEPA has sought public support for and participation in environmental protection work and has, to a limited extent, encouraged and supported environmental NGO activism. In 2005, SEPA held a public hearing to encourage citizen interest and NGO activism,²⁵ and in February 2006, it released two provisional measures on public participation in Environmental Impact Assessment (EIA) procedures. These measures are the first to contain specific arrangements and procedures for public involvement in environmental issues.²⁶ Since the release of the provisional measures, approximately 43 projects with a value of 160 billion yuan (US\$20.5 billion) in investments have been halted for violating EIA procedures.²⁷

In an effort to increase transparency, SEPA issued a regulation in April 2007 on environmental information disclosure, coinciding with the State Council's issuance of the Regulation on the Public Disclosure of Government Information. [See Section II—Freedom of Expression.] The SEPA regulation lists 17 categories of government information that should be made public either through government Web sites, local newspapers, or upon request. Firms may voluntarily disclose information in nine categories and are obligated to disclose information when they violate standards or cause an accident.²⁸

In spite of this apparent support for limited citizen activism by SEPA, official efforts to increase control over environmental civil society groups during the past two years have had a chilling effect on citizen activism. During 2006–2007, the Commission has observed numerous official actions to repress citizen activism and organizers that work on environmental or environmental health issues:

- Fu Xiancai, who has protested forced resettlement of citizens during the construction of the Three Gorges Dam project, gave an interview with a German television station in May 2006. A public security official interrogated Fu about the interview in June 2006, and shortly thereafter an unidentified assailant attacked Fu. The attack left Fu paralyzed from the shoulders down.²⁹ The official investigation into the assault concluded in August 2006 that Fu's injuries were self-inflicted.³⁰
- Environmental activist Tan Kai was detained in October 2005 for his involvement in the environmental group "Green Watch" and was tried in May 2006 on charges of illegally obtaining state secrets. In August 2006, Tan was sentenced to 18 months' imprisonment and was reportedly released in April 2007.³¹
- After activist Sun Xiaodi was awarded the Nuclear-Free Future Award in December 2006, officials have intensified their harassment efforts. Sun has spent more than a decade petitioning central authorities over radioactive contamination from the No. 792 Uranium Mine in the Gannan Tibetan Autonomous Prefecture in Gansu province. Sun has protested illegal

mining allegedly carried out by local officials that has resulted in an unusually high rate of cancer and other health problems for residents in the area. In February 2007, Sun traveled to Beijing to seek further medical consultation and treatment of a tumor in his abdominal cavity.³² In July 2007, the State Security Bureau in Beijing reportedly ordered Sun to leave Beijing.³³

Case: Human Rights Abuses and Intolerance of Environmental Activism

Background

Wu Lihong, a 39-year old sound-proofing equipment salesman turned environmental activist, has spent the past 17 years documenting the pollution in Taihu (Lake Tai) in his hometown of Yixing city, Zhoutie township, Jiangsu province, in the hopes of pressuring local officials and factories to stop the pollution and clean up the lake.³⁴ Wu notes, “My wish is that the lake will return to the lake of my childhood, when the water was safe and we could go swimming in it without fear.”³⁵ Wu collects physical evidence of pollution in Lake Tai, such as bottles of dirty water illegally discharged from chemical enterprises around the area and the local officials whose complicity exacerbate the situation, and submits this evidence to provincial- and central-level officials through the *xinfang* (petitioning) system.³⁶

In interviews with foreign media in 2006 and early 2007, Wu remarked that “It is shameful that we can’t drink from the lake. The chemical factories and local government officials should be blamed. I want them to admit their responsibility so we will have clean drinking water again. . . . The corruption is severe. Some local officials are only after profits so they will do anything to protect their interests, even if it means flouting environmental standards and allowing polluting factories to operate.”³⁷ His strategy of bypassing local officials and filing petitions with provincial- and central-level officials seemed to have worked in part: more than 200 polluting factories have been closed since the mid-1990s. Local officials, such as the director of Yixing’s EPB, give a different assessment, “He is only interested in filing reports to officials above us. If you want me to commend him . . . sorry, I can only say I will not do that.”³⁸

Due to his environmental advocacy efforts, local government officials have repeatedly harassed Wu and his family members, even though a panel of judges from the People’s Political Consultative Conference and the National People’s Congress named him one of China’s top 10 environmentalists in November 2005.³⁹ According to foreign media interviews with him and his wife, Xu Jiehua, Wu lost his job after his manager was warned by local officials to fire him and in 2003, he was beaten on three occasions by local thugs. In addition, his daughter reportedly received threats over the phone from anonymous callers, and his wife lost her job in 1998, after the chemical factory where she was employed closed in response to one of his reports.⁴⁰

Official Mistreatment in 2007

Case: Human Rights Abuses and Intolerance of Environmental Activism

April 13, 2007: Shortly before Wu planned to provide central officials in Beijing with new evidence against local officials, Yixing public security officials detained Wu, accusing him of blackmail and extortion.⁴¹ Officials at the Yixing Detention Center restricted his ability to see his lawyer or family, and his lawyer reported evidence of torture when she met with him a month later.⁴²

May to June 2007: Outbreaks of green-blue algae in Lake Tai left millions of residents in a rush to purchase bottled water. The central government's main news agency, Xinhua, largely attributed the outbreaks to pollution.⁴³ In June, Premier Wen Jiabao ordered a formal investigation into the algae growth, noting that despite numerous attempts to improve the quality of the water, "the problem has never been tackled at the root."⁴⁴ State-controlled media and experts criticized local officials for blaming the problem on natural conditions, such as a warm climate, and for not taking effective steps to control pollution in Lake Tai.⁴⁵

June 2007: The Yixing People's Court charged Wu with blackmail and allegedly extorting 55,000 yuan (US\$6,875) from enterprises in exchange for not exposing them as polluters.⁴⁶ Wu's original trial date was scheduled for June 12, but was postponed to allow a medical investigation of his wounds in response to a complaint filed by his lawyer.⁴⁷

August 10, 2007: The Yixing People's Court sentenced Wu to three years' imprisonment for fraud and extortion, and ruled that there was no evidence of torture.⁴⁸ Wu was also fined 3,000 yuan (approximately US\$400) and ordered to return the money he allegedly extorted from enterprises.⁴⁹ Xu Jiehua has taken on her husband's cause by suing SEPA for naming Yixing a model city. The Yixing People's Court reportedly refused to consider the case.⁵⁰

A System of Policy Implementation That Relies on the Abuse of Rights

Even though national leaders have publicly called on China's citizens to report misbehavior by members of the Communist Party, Wu Lihong's detention and imprisonment underscore the problem that activists are not afforded adequate whistleblower protections, but instead are singled out for harassment, and left vulnerable to revenge by the officials whose malfeasances they bring to light.⁵¹ Effective implementation of China's announced commitment to environmental protection requires information, private initiative, and citizen leadership.⁵² Wu's imprisonment illustrates the extent to which China's leaders have structured political and legal affairs in ways that impose risks on citizen activists.

Case: Human Rights Abuses and Intolerance of Environmental Activism

According to Xinhua, the central government demanded that officials close several hundred factories near Lake Tai in June 2007. Officials also required 20,000 chemical plants in the Lake Tai area to meet tougher standards for sulfur dioxide emissions and water pollution. Plants that fail to meet the new standards by the June 2008 deadline risk suspension or closure. In addition, cities around Lake Tai must establish sewage treatment plants and can no longer discharge untreated sewage into the lake and rivers in the area. Existing plants must install nitrogen and phosphorus removal facilities before the deadline. In July 2007, senior provincial officials in Jiangsu instructed local officials to make combating pollution in Lake Tai a priority, even if it meant a 15 percent decrease in the province's GDP.⁵³ At the time of this writing, Wu Lihong remains in prison.

CHALLENGES OF BUILDING BUREAUCRATIC CAPACITY AND
OVERCOMING OBSTRUCTIONISM

Local EPBs are frequently unable or unwilling to carry out many of the numerous environmental laws and regulations passed by the central government. Strengthening local level EPB funding and enforcement capacity has been a significant challenge. Some local EPB offices rely upon income from fines to fund operating budget deficits, which in turn provides incentives for lax enforcement of environmental measures.⁵⁴

China continues to delay publication of its 2005 Green GDP report due to bureaucratic wrangling and pressure from local governments. The report has already been drafted but has now been "indefinitely postponed." The report's release would have symbolized growing environmental transparency as it would have provided the public and Chinese and international NGOs more detailed information than the first Green GDP report in 2004. The 2004 report sparked controversy by estimating that China's economic losses from environmental degradation amounted to 511.8 billion yuan (US\$67.7 billion), or approximately 3.1 percent of China's entire GDP.⁵⁵ Local governments reportedly opposed the report's publication because it contained detailed data on environmental performance and conditions broken down by province.⁵⁶ SEPA and the National Bureau of Statistics also reportedly disagreed over what information to include and how to disseminate that information.⁵⁷

The Chinese government reportedly pressured the World Bank to remove material from a joint report, including the figure that some 750,000 people die prematurely in China each year due to air and water pollution.⁵⁸ China's Ministry of Foreign Affairs has denied this charge.⁵⁹ Several news accounts reported, however, that the Chinese government impugned the report's methodology, calling it "not very reliable," and voiced concern that it might spark citizen protest if released.⁶⁰ SEPA's Vice Minister Zhou Jian noted that "It's a very complex issue to analyze the impact of pollution on

human health. Without a common scientific methodology in the world, any survey on environment and health is not persuasive.”⁶¹

In 2007, China finally issued punishments to those found responsible for the November 2005 Songhua River benzene spill that threatened the Chinese city of Harbin and the Russian city of Khabarovsk. As the Commission noted in its 2006 Annual Report, the coverup of the Songhua spill demonstrated a lack of transparency which, in turn, hampered the government’s ability to respond to the environmental disaster. In its aftermath, despite steps to improve local reporting to higher authorities, the central government did not address the larger issue of government control over the news media [see Section II—Freedom of Expression]. In November 2006, the State Council supported administrative punishments and Party disciplinary punishments, but no criminal prosecutions, for 14 state-owned company and local government officials involved in the Songhua incident.⁶² SEPA imposed the maximum fine on the state-owned Jilin Petrochemical Company as administrative punishment for its role in the incident.⁶³ Some Chinese experts assert that SEPA’s maximum fines are still too low to act as an effective deterrent.⁶⁴ A recent draft revision of the Water Pollution and Control Law may strengthen and increase punishments for unlawful conduct.⁶⁵

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