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## The Politics of Environmentalism in Modern Day China

William Labate  
*SUNY Geneseo*

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# The Politics of Environmentalism in Modern Day China

William Labate

## Introduction

Over the past few decades the People's Republic of China (PRC) has experienced breathtaking growth and development. Millions of Chinese have risen out of poverty while China has experienced one of the largest rural to urban migrations in history. Most economists predict that China's growth will outpace even the dynamic United States economy. There is, however, a tradeoff for all of this growth, urbanization, and modernization within China. A byproduct of this prosperity has been the destruction of China's environment for the sake of continued economic growth. The most obvious issue is that China is the largest emitter of greenhouse gasses in the world, which of course contributes to global warming. While greenhouse gas emissions are not a contentious issue for the average Chinese citizen, there are many issues which are, ranging from large scale air pollution to local land confiscations. The focus of this paper are these underlying environmental issues which have large implications for individuals and civil society. Because these issues are so prevalent, individuals and groups seek to remedy them through environmental activism. In any democratic country this activism would take the shape of active NGOs and individuals lobbying their government to implement effective environmental policies. By the nature of China's political system, this activism takes quite a different shape.

The objective of this paper is to examine the limits of environmental activism set by the government and how Chinese civil society attempts to operate within those guidelines. The paper wants to show that the PRC does not operate with a rigid, top down structure, and that there are in fact many variations in priorities, actions and outcomes between the different levels of the Chinese government. It examines the barriers that activists encounter and the most successful methods that they employ to overcome them. Using these methods this paper suggests several ways that activists might want to employ in order to be successful in the future. Since China is not an ideal place for environmental activists, this paper also attempts to offer several policy prescriptions for the PRC to better address environmental and other

concerns both before and after they emerge. Some of these prescriptions are unlikely to be implemented at the present time, but can be pursued in the long run while still maintaining China's current style of government.

In China, environmental activism must be carefully constructed to fit into the Chinese government structure to avoid being rebuked. The Chinese government is dominated, of course, by the Chinese Communist Party (CCP) which operates party cells at every single level of government. The central communist party bureau sets economic, political, and social guidelines for the rest of the country to follow. To a limited extent, the central party sets environmental policy as well for issues of national concern like carbon intensity, certain standards, reforestation, etc. Still, many environmental problems are of a regional and local nature and are solved locally which we will see with our case studies (with the last being an exception). What this paper also looks at is how the PRC is not a monolithic one-party state with directives coming from the top and reaching the bottom in the same form. Every regional and even local party branch has different styles and priorities as will be seen in this paper. A directive from a higher level of government doesn't always get implemented the way it is intended. The lower level of government might want to tailor it to further their own priorities or ignore it all together if it contradicts their goals. This kind of internal dissent cannot be tolerated for issues of high priority, but for low priority issues it is permitted.

Environmental issues are of a relatively low priority compared to issues like economics or security. When George Bush asked Hu Jintao what kept him awake at night and he replied, the worry of "creating 25 million new jobs a year."<sup>1</sup> If it means ignoring the protection of the environment in order to prevent the creation of millions of jobless youth, the Chinese government will do so. Yet, meeting these economic targets have been, and will be the highest priority in China for a while. Creating these jobs will be worth the environmental externalities because the CCP judges unemployment as the most dangerous issue. Despite this, there has been a general backlash from

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<sup>1</sup> "Reassessing George Bush."

the Chinese citizenry for not having stricter environmental standards. The national and regional governments have attempted to placate these demands by implementing stricter standards and improving environmental quality but only to a limited extent. If China's environment degrades in a more rapid fashion, citizen displeasure might move environmental issues to a higher priority.

Due to the nature of its political system, the PRC and its citizens must reconcile how environmental activists can operate in an authoritarian, one-party state. The environmental regulations that the CCP write are the law of the state and are expected to be followed. By challenging those laws or lack thereof, environmental activists might be seen as opposing the CCP and by extension, the state. Even by framing activism as non-political concerning only environmental issues, it is easy to see how that can be extended to being considered a political issue as well. Despite this, the PRC has loosened its grip on civil society since the days of Mao. In the past few decades, civil society and the press have been given much more freedom to operate in many more areas than before. Though there are still many restrictions that the government places on communication and the internet that restrict NGOs from organizing. Additionally, in most places NGOs have to be pre-approved in order to operate which severely hampers the emergence of new NGOs around various issue areas. If an issue is too controversial or the government thinks that the organization will pose a threat to its rule, the government does not have to grant it recognition. This lack of legal status gives the government an excuse to suppress their activities if needed. It is still a challenge for NGOs and individuals to pinpoint the boundaries that the state sets forth for them in their activism. Where the state puts these boundaries and the methods for how civil society determines their location are what the case studies in this paper examine in great detail. I will explore these issues in the following three case studies of environmental activism in China.

The first case study examines the Green Garden conflict in Shanghai during the 1990s. In two instances, the local government wanted to build a structure in the middle of the green area in the Green Garden Village. According to the municipal regulations, green area is supposed to be preserved for the people of the village and not to be built up. The residents of the village attempted to assert their environmental rights by applying pressure to the local and city governments as well as different

regulatory agencies to revoke the permit. The local government, however, sought to prevent the protesters from succeeding by manipulating existing regulations. This case study reveals how a local government interacts with an organized and coordinated environmental protest movement who uses their own laws against them. It also is intended to reveal how far protesters can go before they go outside the limits of non-political issues. In addition to the government-protester interaction, there are also several rule of law failures on the part of the government and bureaucracies which are examined. The use of journalists and print media also play a role in channeling support for the movement. Finally several policy prescriptions are issued to encourage consistent applications of regulations and clearer land laws.

The second case study moves to the municipal level of government of Shanghai and the conflict over the Jiangwan Marshlands. The government wanted to drain the marsh and develop the area in order to accommodate the fast growing city. There were many Shanghai residents who did not want the marshlands to disappear at all since they are a vital green space which offers a prime place to bird watch. The fight to preserve the marshlands was led by an illegal and unregistered NGO, the Shanghai branch of WWF. The residents, many of them who were part of this NGO organized meetings and petitions against the building. They primarily used the internet as their chief medium of communication to organize but due to their illegal status, the government was able to step in and shut them down. Ultimately their efforts failed with only a small part of the marshland preserved and the rest build on. This case study is intended to show how the government handles dissent from illegal NGOs at a larger level of government. It also highlights how the internet can be used to organize protesters and how the government responds to that medium. Finally, it shows how the government out rightly prioritizes economic growth over the preservation of green space.

The third study is the dam project on the Nu River in which a legal NGO, the Green Environmental Volunteers (GEV), managed to prevent this project from being constructed. The study examines the favorable NGO climate in Beijing and how NGOs can operate with a reduced fear of persecution. Establishing bonds and connections were crucial in the study since the GEV was able to collaborate with NGOs from the other side of the country to collect data and raise public opinion. Another interesting factor was the

fact that the Ministry of Environmental Protection was on the side of the NGOs and assisted them in the form of giving information. The fissures between different parts of the central government will be analyzed as well as effective strategies to increase cooperation between NGOs.

Several factors went into the methodology of selecting these three case studies. At the most general, the cases were selected for their different levels of analysis with the Green Garden village being at the most local level, Jiangwan marshlands at the municipal/regional level and the Nu River at the regional/national level. It is necessary to see how at all levels the government interacts with environmental activism and how different priority levels affect that interaction (i.e. issues of national priority are more critical than regional/local). The form of advocacy is also another critical factor into determining the case studies. The Green Garden case was driven primarily by a few motivated individuals, the Jiangwan case with a loosely organized illegal NGO, and the Nu River with recognized and more organized NGOs. The rising importance of the internet is also important to examine with it playing a big role in the Jiangwan study. Each study examines a difficult hurdle that Chinese civil society has to overcome like rule of law failures (Green Garden), NGO recognition and internet censorship (Jiangwan), and NGO collaboration (Nu River). Two were big successes but another was a failure (Jiangwan) which is significant because these protests do fail on many occasions. What they all have in common is the PRC putting economic issues ahead of environmental ones. They all examine fissures and divergent interests at the different levels showing that the PRC is not a unitary actor both within and between levels of government. Each case study shows how the government attempts to clamp down on activists and stifle their dissent with varying results. Finally each one identifies the pitfalls that activists have to avoid in order for them to be effective in an authoritarian state.

### **Case Study #1: Individual Activism in the Shanghai Green Gardens**

This first case study examines the conflict between residents and the local government over construction in the green space of the Green Garden New Village in Shanghai. In an effort to address environmental decay and degradation inside Chinese cities, several municipalities embarked on urban renewal campaigns during the 1990s. The

Green Garden New Village in Shanghai was one such initiative designed to resettle residents from the city center to new residential communities closer to the city's periphery. Regulations established when constructing these villages mandated that 10.16 percent of the village's land area is comprised of green space. Green Garden village was comprised of 12 apartment blocks with a total of 10,000 residents surrounding and 8,000 square meter park. Residents were relocated from their dwellings in their traditional neighborhoods, or "*lilong*," and moved to these new villages. Many of the 12 housing blocks consisted of residents from several different *lilong* but a several of the blocks had been "collectively resettled" with residents all from the same *lilong*.<sup>2</sup>

The individual villages of the Shanghai municipality are composed of a series of different divisions managing affairs at the most local level. Theoretically, the most powerful citizen organization is the Resident's Committee comprised of local residents which is supposed to represent their interests to the local government. In reality, the members of this organization also must be members of the local cells of the CCP so they largely represent the party's interest instead.<sup>3</sup> The Residents' Committee, which is supposed to be politically autonomous, is in actuality held accountable to the Street Council which is the most basic form of local governance. This is a good example of how the CCP uses organizations which are supposed to be representing citizen interests, to represent their interests. With housing being commercialized and many of the tasks of a landlord moving from the responsibility of the government to real-estate management companies, the city of Shanghai decided to set up home-owners' committees in 1997. These committees were assigned one to each block and were designated to handle concerns between residents and the real-estate management company. The real estate management companies, although seemingly independent from government, exist to serve the government's interests and are extensions of their power. It is a good example of China's "Red Capitalism," or state direction of economic entities. Beneath all of these organizations are informal community associations of citizens who live in the

<sup>2</sup> Zhu, Jianguang. "Not against the state, just protecting residents' interests," 155.

<sup>3</sup> Ibid.

area and have common interests, like the Elderly Association.<sup>4</sup>

The first major occurrence of green space destruction in Green Garden came when a real-estate developer obtained a permit to build a structure in the middle of the village park in 1993. After the construction began, it was discovered by a group of elderly woman who spread the news through their informal associations within the community. They reported this violation to the Residents' Committee who then notified the Street Council and the real-estate developer. The residents, through their local associations, wrote a series of complaint letters to the company which were all ignored. At the time, the home owners' committees had not been created so the residents turned to another village resident named Shen Xin who agreed to help them.

Shen carefully constructed an advocacy strategy that was both effective in getting the residents' argument across and not getting him arrested. He needed to carefully define a reason to advocate for the protection of the green space that did not appear to go against the party or the government so their actions would not be suppressed. Shen framed his complaints in order to convey that residents were seeking to "protect their environmental rights" according to the laws passed by the government.<sup>5</sup> To back up these rights, Shen used an "authenticating strategy," which meant that he was not disagreeing with the official policy on environmental issues; he was simply compelling the government to adhere to their own laws. For example, the Shanghai Green Administrative Regulations explicitly say that "Building in public green space is forbidden."<sup>6</sup> The issue in this case was not that there was a lack in regulation protecting the environment; it was that existing regulations were not being enforced. Shen would use these regulations when discussing issues with officials and committees making it difficult for them to contradict government laws. With the lack of response from the Street Council, Shen took his complaints to the local Bureau of Urban Planning and the Bureau of Park Management who were charged with protecting the environment. Unfortunately for Shen, these two bureaus did not want to confront the other branches of the local government even though they supported his cause. This is a perfect example of rule of law failure

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<sup>4</sup> Zhu, 156.

<sup>5</sup> Zhu, 157.

<sup>6</sup> Ibid.

since the bureaucracy should be acting according to the law and not trying to interpret the wishes of the party. Since local remedies were not producing the desired outcome, Shen managed to convince the residents to file a "collective complaint" to the Shanghai municipal government.<sup>7</sup> What he was trying to do was draw attention to these abuses by the local government and show that enough citizens were displeased with this failure.

Shen decided to become bolder with his struggle to preserve the park as the battle went into its second year. Restrictions on the media had been loosened during the past few decades on issues which are not too politically sensitive in nature. Shanghai's newspapers began publishing stories on the Green Garden conflict which eventually came to the attention of many high municipal officials. The vice-mayor issued a statement that the situation should be handled "according to the law."<sup>8</sup> Though this was not a direct order to end the project, the Bureau of Park Management interpreted it as enough of a justification to order a freeze of further construction. Despite the freeze, the developer continued to build on the site in secret but the residents quickly discovered this violation. At this point, Shen made his most risky gamble yet when he ordered a few of the activists to break into the construction site and take down all of the scaffolding. When asked why he did such a thing, Shen replied that "The government had already forbidden the construction but they still went on, so what they were doing was illegal. We rushed into the site just to stop the illegal work. That's why we dared to do it."<sup>9</sup> By framing it in this way, Shen was able to portray the struggle as the people against the development company and not the people against the government (even though they were essentially the same entity). After this incident as well as subsequent stories in the press, the Bureau of Urban planning revoked the construction permit and forced them to leave the park.

Even with their initial victory to preserve the park, the residents of Green Garden had to fight for their environmental rights once more in 1997, but this time it was against the local government. The original plans for the park included the opportunity for the construction of a small, 135 square meter community center for the elderly. Despite these clear restrictions, the district government and the Street Council wanted to build a 2,600 square meter

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<sup>7</sup> Ibid.

<sup>8</sup> Zhu, 158.

<sup>9</sup> Ibid.

center for “old cadres” who were part of the movement which helped found the PRC.<sup>10</sup> Upset at this seizure of park lands, the residents protested that the park belonged to the community and were protected by the state under the law. The district government claimed that the park belonged to the state and they had the right to do with it what they wished. After the homeowners’ committee failed to reach an agreement with the Street Council, they once again turned to the media for support. After hearing about the story in the news, the municipal government put pressure on the district to compromise with the residents. Both the Street Council and the Homeowners’ Committee agreed to the construction of a larger community center in the park than what was detailed in the regulations, but only at the size of 650 square meters and not for cadres. The Street Council however, did not honor the agreement and decided to build a center for the cadres anyway at a size of 1,960 square meters.

After discovering that their agreement was going to be disregarded, the residents were outraged. Some wanted to take radical action and destroy the construction site all together. This might be seen as a direct attack on the local government and a precursor to further violent actions. Shen knew this would turn many of his allies and the higher levels of government against the movement so he took a different approach. He led about 100 residents to the construction site to negotiate with a government representative. When nobody came to talk, Shen ordered the residents to pull down the barrier wall around the site and do nothing else. In a very precise and orderly manner Shen hoped that the local government would be “afraid of the resident’s potential ‘violence’” but avoided any outward example of real violence.<sup>11</sup> Seeing this display, the Street Council temporarily stopped construction only to continue soon after.

As the builders continued construction on the expanded site, a few of the younger residents began to circulate a petition to end it. The petition itself wasn’t risky however, the residents wanted to submit it to the municipal authorities around June 4<sup>th</sup>, a sensitive date because of the June 4<sup>th</sup> movement in China during 1989 democracy protests. Shen thought that this was too politically risky and wanted to get the government’s attention but “not let them lose face.”<sup>12</sup> They submitted their petition to the government office in the evening in

an attempt to avoid public attention. In this way, the Shen and his followers wanted to not seem like they were attempting to blatantly muster public support in challenging the government. The Street Council struck back and declared that a petition around the period of June 4<sup>th</sup> was illegal. They organized a public meeting with the Residents’ Council and retired members of the Communist party where they declared that Shen and his followers were acting out of selfish interests and not of that of the community. The Street Council even called the police to come and surround the building which served to intimidate the residents. Despite Shen’s efforts to “depoliticize the matter, the Street Council consciously treated the conflict as a political question.”<sup>13</sup>

This intimidation by the police created fissures between the 12 homeowners associations and threatened the entire movement. Those who lived in the same *lilong* before they were moved showed the most commitment to the cause demonstrating how far old community ties went.<sup>14</sup> Shen wanted to press on with the strategy of depolarization even after the Street Council tried to bribe him. He decided to continue to go through legal route by making repeated complaints to the Bureau of Park Management and the Bureau of Urban Planning about the illegal construction even though they were still under pressure from the street council not to act. He once again reached out to the media where he portrayed the issue as an environmental conflict and not as one against the government. Through this channel, the wider public as well as many municipal officials were made aware of the Green Garden issue. Shen even went further to bring a lawsuit against the development company in order to compel them to follow the law. In this way he hoped “to establish the rule of law instead of the rule by administrative government.”<sup>15</sup> By focusing on the application of the law, Shen sought to use that as his cover from being accused of challenging the state. Shen claimed that the residents “defend the law. We are the people, so we stand on the side of the state. We know we are not against the state, but are just protecting our interests.”<sup>16</sup> After facing all of this opposition and pressure from above, the local government decided to abandon the project.

<sup>10</sup> Zhu, 159.

<sup>11</sup> Zhu, 151.

<sup>12</sup> Zhu, 161.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Zhu, 163.

<sup>16</sup> Ibid.

## Analysis and Policy Prescriptions

The Green Garden incidents highlight several trends in how the government and citizens interact over environmental discourse in China. First, the citizens have a much larger amount of leeway to protest environmental issues which are usually of low political significance. In this particular case, the construction of a senior center in the middle of a village park does not have political significance outside the local level. Shen's more radical actions like taking down the scaffolding and tearing down the wall around the construction site would not be tolerated if the issue in question was more sensitive. It did help that the city government did give tacit support for the goals of the protesters. Though Shen's goal was to depoliticize the environmental issue in question, the July 4<sup>th</sup> petition threatened to contradict that stance. Shen was still able to avoid any uncomfortable statements near the anniversary but the government still tried to politicize the matter. This politicization of non-political environmental issues was an attempt by the street council to drag the issue into the forbidden zone of political dissent. After failing to effectively contradict Shen since his legal argument was stacked against them, they attempted to halt his protests from this approach. Shen was able to drag the protest out of that zone and back into that of non-political dissent. It was clear to Shen that in China, discourse is only tolerated within those limits of non-political dissent. Once it strays outside those boundaries it can be interpreted by the government at higher levels as a threat or challenge to their rule. Shen accurately knew that by talking about these issues in a non-political light was the only way to do so without fear of retribution. His success at bringing the issues back into this light was the reason why it ultimately succeeded and was not shut down by the police.

The second trend was that the use of official channels and the media to effectively register dissent. Shen consistently quoted government regulations and the citizen's environmental rights as justification to halt the destruction of the green space. By using the PRC regulations while talking to officials, Shen placed them in a difficult position since they would have to contradict laws written by the party and government. This authenticating strategy is useful since sometimes the laws for proper environmental protection are in place but they are simply not enforced properly. Shen also used completely legitimate petitions and collective complaints to alert the higher level of government

that these abuses were occurring which led to pressure on the street council from above. Petitioning against abuses of the law by the government is actually encouraged by many leaders in China. Just recently Prime Minister Wen Jiabao appeared at the nation's top petition bureau to, as the New York Times describes it, compel "citizens to criticize the government and press their cases for justice" when laws are being violated.<sup>17</sup> It should be noted that the petition bureau is not intended to make the government more liberal but instead make it more efficient. This criticism would have never been tolerated in the Maoist days of China where any criticism of government would be seen as a challenge to the state. Though today, it is still doubtful that issues of real political or economic importance would be accepted by the government. It is easy to sweep away Wen's statements as political posing and rhetoric but for environmental issues the petition bureau can assist residents to a limited extent. Alone, the petitions that Shen submitted against the building weren't very effective but combined with media assistance they managed to accomplish his goals.

In both of the Green Garden conflicts the press played a critical role in disseminating information and for turning the people and municipal government to the side of the protesters. Though authoritarian, the PRC gives its press a certain (albeit short) amount of leeway to operate and report on stories. The media performs a certain amount of "self-censorship" to avoid potential "political minefields" while still being allowed to report on somewhat sensitive topics.<sup>18</sup> Most politically sensitive issues are still off limits but since environmental issues are of a relatively low political importance, in both cases the media decided to pick up the story. In both Green Gardens cases a law, written by the CCP, was clearly being violated and the residents had legitimate grievances. Even in the case where the local government was involved, these newspapers circulated city-wide. By going against the paper, the local government would attract unwanted attention for its law-breaking from the public and from the municipal government. While the media cannot go against the party line it is usually acceptable to expose government abuses at the local level. This media publication was able to

<sup>17</sup> Barboza, David. "China Leader Encourages Criticism of Government."

<sup>18</sup> Tong, Jingrong. "Press self-censorship in China: A case study in the transformation of discourse," 593.

attract enough attention from the municipal authorities that they in fact did apply pressure to the local government to compromise with the protesters. At the end of the first case after the Vice Mayor saw the news stories about the issues he even issued a veiled statement to support the protesters argument. The media also exposed the Bureau of Urban planning which after much reporting withdrew its permit for the building showing that the media has influence on the bureaucracy as well. After Hu Jintao rose to the post of CCP General Secretary in 2002, he wanted to promote more transparency in government through the media. It was Hu's desire for transparency that actually encouraged media to "investigate allegations of corruption and mismanagement of local affairs by local officials."<sup>19</sup> Since these reforms took place after the Green Garden protest, they can be seen as the continuation of the expansion in the range that the media can operate in China. By no means should this be viewed as liberalization since the arena of political reforms is still out of the questions. The goal of these reforms is to make the government more efficient and not necessarily to give the press more freedoms. Though this means that now it is even easier to report on environmental violations in local government, the media is more constrained when criticizing existing regulations or the lack thereof. The media is always under the rather ambiguous Article 51 of the Constitution of the People's Republic of China which states that "The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state."<sup>20</sup> This is another vaguely worded clause that the government can cite when they want to limit the publication ability of journalists. In order to improve governance overall and encourage truly effective investigative journalism the CCP needs to loosen its grip on the press. If a particular project or program of vital national interest has problems with corruption or harms the environment, the media would be less likely to cover it because of fear of retribution. The media also might misjudge the "minefield" and may not even cover some stories where their stories might be totally in the bounds to report. Unless changed, the way that journalism laws are in place currently discourages the media from publishing

<sup>19</sup> Rawnsley, Gary D.. "Media, Internet and Governance," 124.

<sup>20</sup> People's Republic of China. *Constitution of the People's Republic of China*.

stories which might lead to better governance and environmental protection in general.<sup>21</sup>

The third trend that was prevalent was the use by the local government of the ambiguous wording of laws and ignoring regulations to try to get their way. Ignoring regulations works in many instances around China when the opposition is not as organized or as cunning as Shen's movement. This rule of law problem can be abused in order to ignore environmental issues for the sake of progress and economic growth. China's land laws also open up more maneuverability since their vague definition of land ownership allows for wide interpretation. It is really up to the citizens to call the government out on their abuses in order for the problem to get fixed in many cases. In other instances, the project may be of such national or regional importance that no amount of protest will convince the government otherwise since it can many times fall back on legal ambiguity if no law specifically forbids their actions.

Both incidents in the Green Garden case reveal several weaknesses of the rule of law on the local level in China which must be addressed in order to avoid future protests. Pan Wei identifies 5 areas on which he bases rule of law; a neutral civil service, an autonomous judiciary, social consultative institutions, and freedom of speech.<sup>22</sup> The most glaring failing of the rule of law in this first scenario was the lack of a neutral civil service. The local Bureau of Urban Planning and the Bureau of Park Management were constantly trying to interpret the will of the party rather than apply the regulations that were clearly in place. In general, this leads to arbitrary application of the law by the local bureaucracies both to the advantage and disadvantage of the municipal government. On one side, the government is disadvantaged because the regulations to preserve green space are being ignored. The whole purpose of the Green Garden village was to combat urban decay and lead to a green renewal of Shanghai by promoting more green space. When the local Street Council ignores regulations, it harms the goals of the municipal government and undermines their objectives. The advantage to this weakness in rule of law for the local (and municipal) government is that it can ignore the regulations when it is in their interest to do so. If an important structure needed to be built,

<sup>21</sup> Rawnsley p.125

<sup>22</sup> Peerenboom, Randall. " A Government of Laws: democracy, rule of law and administrative law reform in the PRC," 47.



the party officials in the local government can simply put pressure on the civil service bureaucracy to issue them a building permit. Not only does this undermine the goals of the regulations, but it also leads to dissatisfaction among residents, many of which might not be as well organized as Shen to fight this. This dissatisfaction was prevalent during the Cultural Revolution due to the arbitrariness of regulations which resulted in many post-Mao legal reforms to encourage consistent application of the law.<sup>23</sup> These reforms have gone far to ensure much consistency at the national and regional levels, but not at the local levels where they are harder to enforce due to a lack of oversight.<sup>24</sup>

What the CCP should focus on is separating the party from government in order to ensure the neutrality of China's civil service. Since Wei's 5<sup>th</sup> criteria for effective rule of law, freedom of speech and to a larger extent, democratic accountability, is currently out of the question, neutrality remains a realistic near-term possibility. This isn't such a radical proposal since "the party has announced as far back as 1978 11<sup>th</sup> party congress that they intended to separate the party from government."<sup>25</sup> The party would still be able to maintain ultimate control since they would still write all of the regulations in the first place. This would mean that departments like the Urban Planning Bureau would enforce regulations to the letter no matter who is involved. Both bureaus involved in the first Green Garden case had to try to interpret the wishes of the vice-mayor when he said the situation should be handled "according to the law." Under a neutral civil service, there would be less second guessing and tiptoeing around officials for fear of retribution. If the Chinese government wants more consistent adherence to regulations across the board they need to reign in these local authorities who repeatedly flout the rules. Not only would this consistency promote more economic growth and foreign investment, it would also go further in meeting the demands of Chinese citizens. Many Chinese do not say that they are dissatisfied with their form of government rather they "increasingly expect the legal system to protect their rights" according to Chinese law.<sup>26</sup> The party would still be able to set the rules of the game by making this law but as long as the agencies and citizens play within those rules there should be fewer issues. Despite the

<sup>23</sup> Peerenboom, 48.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

benefits, neutrality has faced many obstacles since it is hard to enforce at the local levels and the CCP enjoys its ability to selectively apply policy when it suits them.

One of the several reasons that issues like those in the Green Gardens case arise, is because of the ambiguity of China's land laws. The government has many reasons to impose a "deliberate institutional ambiguity"<sup>27</sup> when crafting the laws. If this ambiguity is combined with the inconsistent enforcement of the laws which clearly delineate land ownership and land rights, the government has more room to adapt their policy to meet their own needs. The phrase "collective ownership" is deliberately left out of many places in the land laws in order to avoid public unrest when the land is used for the purposes of the state.<sup>28</sup> This concept of state ownership of land is a departure from the Mao-era policy of registering land under the local production team.<sup>29</sup> Now many of the land use laws state that the land belongs to "the people" which the government interprets as "the state" in cases like the Green Garden. This has allowed local governments to take ownership of what should be resident owned land and use it for various development projects. In the case of Green Garden, residents exposed what the local government was attempting to do and used it as a rallying point to turn the public against it.

Luckily for the residents, the government backed down at the end of the second case and the construction was halted. This clearly might not happen in other cases even when residents use similar strategy to Shen's. What happens when the local government is less sympathetic or the central government is involved? As we saw with Green Garden, there was a more radical wing that had a desire for more extreme action which Shen had to temper in order to achieve his goals. That radical side can easily be the one calling the shots in an alternate scenario. The intentional ambiguity of China's land laws can be "potentially explosive source for future social conflict."<sup>30</sup> It is up to the Chinese government to make sure that the rule of law is more effectively enforced at the local levels. They also need to clarify their land laws so that ownership is more clearly defined and these

<sup>27</sup> Ho, Peter. "Who Owns China's Land? Policies, Property Rights and Deliberate Institutional Ambiguity," 400.

<sup>28</sup> Ho, 401.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

conflicts do not erupt over preserving green space which should be publically owned. We have seen the bounds in this scenario for how far the government let the protesters proceed. The protesters operation within the laws and used the laws as their justification for their actions. Even in a society where the rule of law is weak it is hard for the government to ignore that these laws were clearly being broken. When the local government failed to stop the protesters they tried to turn the issue into a political matter. By trying to drag the issue of what is allowed into the area of what is not allowed, the government wanted to delegitimize the protests but failed to cast the protests in that light. By the end of this case study it is clear how the government sets the political arena and how far the people can go without retribution.

### **Case Study #2: Illegal NGO Activism in the Shanghai Jiangwan Marshlands**

This second case study expands its scope and examines the Jiangwan marshlands issue at the regional level during 2002. Shanghai one of the largest cities in China and the world with a population of over 17.8 million people.<sup>31</sup> Even more so when compared to the rest of China, Shanghai has gone through tremendous economic growth transforming into an economic hub for the rest of the country. Many politicians use municipal office in Shanghai as a stepping stone for higher positions within the central government based on their performance. Criteria for these promotions include wealth creation and economic growth so these goals quickly became the top priority for policymakers. Though impressive, this economic growth leads to many negative externalities with environmental destruction being one of the most prominent. This has led to the creation of many advocacy organizations throughout the city designed to address environmental and other concerns. In 1999 the very well-financed Shanghai Bureau of Civil Organizations was created as an extension of the Shanghai Bureau of Civil Affairs. This Bureau is charged with identifying and suppressing (if need be) those organizations and individuals who might challenge the aims of the government. If a civil society organization wants to be recognized, then they have to apply to the bureau for approval before it can exist legally. The government uses this ability as a tool since they can “prevent the development of NGOs by not

<sup>31</sup> Xie, Lei. “Environmental Activism in China,” 128.

providing them legal status.”<sup>32</sup> With all of these barriers and regulations it is very difficult to maintain and operate NGOs in Shanghai.

Though in this case study Shanghai is portrayed as being environmentally irresponsible regarding the marshlands, the municipality has attempted to improve the environment to a limited degree. The municipality made great strides in improving water quality, air quality, waste disposal and greenery since the 1990s and hopes to become an ecological city by 2020.<sup>33</sup> Enforcement of environmental regulations is left to the Shanghai Environmental Protection Bureau (SEPB). The SEPB has the ability to compel business to follow regulations or be fined like it has done to thousands of entities since its creation. It uses some of this revenue to invest in environmental protection inside the city. In addition to this bureau the municipality has set up an “Environmental Protection and Ecological Construction Coordinating Committee,” the first of its kind in all of China.<sup>34</sup> City officials of the highest levels sit on the committee including the Mayor and the Vice-Mayors. This makes implementation of the committee’s decisions fairly efficient since government agencies know that these decisions come directly from the top. Shanghai has been ranked number one among all other cities in China for its environmental protection efforts. All of these things, though still falling short of what is needed in order to guarantee a safe and clean environment for Shanghai’s residents, are still significant since they go further than what is implemented in other areas of China. The municipal government has made a concentrated effort to improve the environmental status of the city. The money used for environmental protection can go to other places that would promote development showing that Chinese political interests are more complex. The fact that the highest officials in the city have put the issue as a fairly high priority is also significant since in this case study it seems like the opposite is being done. It provides a basis for advocates to negotiate with the city for tougher environmental protection rules since there is a clear precedent for them. Though as seen with this case study, there are limits to how far Shanghai goes to protect the environment.

Despite the restrictions, many NGOs as well as many Environmental NGOs (ENGOS) exist within Shanghai. Most of the ENGOS that do exist

<sup>32</sup> Xie, 129.

<sup>33</sup> Xie, 131.

<sup>34</sup> Xie, 132.

are permitted to do so because they do not pose a threat to the government. The ENGO that we are specifically studying in this case is the World Wildlife Fund (WWF) Shanghai. Globally, WWF has many networks of supporters in many different countries and regional branches. Its main goals are the restoration and, as it is in this case, conservation of wildlife and green space. In China there are several regional organizations with WWF China based in Beijing. Most of the regional and local branches of WWF China operate independently from each other which are largely due to the nature of China's government system. The NGOs that operate do so at the good graces of the CCP which would try to thwart any large, centralized national NGO network. This forces NGOs to operate in the decentralized, autonomous way that WWF China operates. WWF Shanghai has around 1000 members listed but really has only a few dozen who are active.<sup>35</sup> At the time of the Jiangwan incident they had not registered officially as a legal NGO so their current status was an illegal organization. Their activities are actually fairly limited to meeting together and bird watching at various places outside and around Shanghai and not the activism one would expect from such an so that's why they decided not to register.<sup>36</sup> Members mostly communicate on the WWF Shanghai's website to organize meetings and expeditions. By its nature, this ENGO is fairly unorganized in its internal structure. Again this is a product of the illegal nature of this organization, by organizing the internal structure of the ENGO it would risk the government attempting to clamp down on it. It has also prevented WWF Shanghai from increasing its links with other NGOs in the area to coordinate activities.

The Jiangwan marshlands were originally inhabited by an airport built for the Chinese military before occupying its role as an important green space in Shanghai. After many years of municipal growth for Shanghai and with the construction of other airbases, the airport became strategically irrelevant. During the 1970s, the area was turned into a marshland and control was given to the Shanghai municipal government. Due to the lack of human disturbance, the area was transformed into a haven for the city's wildlife. There are a large amount of flora and fauna that live there and it is a breeding ground for 90% of the

<sup>35</sup> Xie, 146.

<sup>36</sup> Ibid.

city's birds.<sup>37</sup> Due to the area's large size (about 1% of the city's area) and location within Shanghai, the municipal government wanted to transform it into a residential community. Considering its importance for the city's wildlife, especially its bird population, WWF Shanghai took the leadership in trying to stop this development from occurring.

The activists encountered many barriers to effectively reach out to others outside their organization for support. The first was to assemble a report on the environmental impact of destroying the marshlands. Very few scientists wished to put their name on anything which would indicate that they cooperated with an illegal organization.<sup>38</sup> Eventually, WWF Shanghai was able to get one of its own activists with a scientific background to write one. The NGO attempted to reach out to other organizations like the Grassroots Community as well as various student groups which were met with failure. Many of these groups thought their legal status would be threatened if they cooperated with an illegal group. Others were instructed by the municipal government specifically to take no action on this issue. The only groups who were willing to participate were those other web based groups like Shanghai Nomad Cub and the Common Wealth Management Project.<sup>39</sup>

WWF Shanghai and their partners attempted to use mass media to attract attention to their fight to protect marshlands. They attempted to contact journalists but the municipal government put pressure on the news agencies leading to only a few stories to be produced on the issue. Eventually the media stopped reporting on their situation all together. The only other option for these groups was to use the internet in order to raise awareness. This strategy that WWF Shanghai was forced to use was actually fairly effective at getting their message out since a large number of Shanghai residents had access to the internet.<sup>40</sup> They used the forums on their partner groups like the Nomad Club and Common Wealth to report on the destruction. The amount of visitors being routed to the WWF Shanghai website kept rising so dramatically that the government had to shut down the website all together. Though the damage was done and public opinion had already started to turn against the government.

<sup>37</sup> Xie, 149.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

Because of the notoriety of the Jiangwan Marshland campaign after several months of online campaigning, more of Shanghai's citizens started to become involved in the project. Many different environmental experts were organized to offer their opinions on destruction of the marshlands at a level that was not possible before. An online petition against the construction was started and got the signatures from over 1000 people.<sup>41</sup> It wasn't long before several members of the Shanghai Municipal People's Congress began to support the activist's aims. They thought that perhaps it was a good idea to possibly consider making Jiangwan a nature preserve. When the SMPC met for the next time all construction was stopped on the marshland. This was significant because "for the first time, the public, led by activists, scholars, and political representatives, had successfully influenced government policy." The public was able to lead to an outcome that wouldn't have happened through "institutionalized policy channels."<sup>42</sup>

Despite the initial victory, there were still elements within the Shanghai municipal government who wished to develop the marshlands. First, the government targeted the scientists who supported the movement and were able to make them back down by pressuring them through their universities. The media was also more closely scrutinized to make sure that there was no more mention of the activists work. As the influence of the movement started to fade, the government conducted their own surveys to test public support over the marshland construction. They were able to produce an opinion outcome that was favorable for construction on the marshlands. This was done after a large public relations push on the side of the government who issued articles and news reports favorable to the construction in the media. Eventually, the government issued a new development plan for the marshlands which only preserved 200 square meters. WWF Shanghai was not able to meet its goals or objectives at preserving this critical green space within Shanghai.

### **Analysis and Policy Prescriptions**

The PRC uses the system of NGO regulation as a way to control civil society within its borders. The process of recognition for NGOs is essential for this control to be effective since the government can basically decide which organizations it wants to

<sup>41</sup> Xie, 152.

<sup>42</sup> Ibid.

see operate. The existing NGOs are essentially beholden not to its members but rather to the government itself. "The Party monopolizes the legitimate channels of interest articulation and aggregation"<sup>43</sup> so their message has to agree with the party's. Since they decide if an organization is recognized or unrecognized, the organizations have a very limited arena where they can operate. If their issue is too controversial or political in nature then they will get shut down. NGOs literally have to live in a state of fear because any misstep might lead them to be de-recognized. This is why they were so averse to assisting WWF Shanghai since the government might act against them. De-recognition would mean that they would not be able to grow too large, advertise extensively, advocate for too many issues, or have many activities. Essentially, they would have to operate as a small, decentralized, and unorganized group much like WWF Shanghai did before they advocated for the Jiangwan marshlands. These NGOs "lack the organizational capacity to implement even medium-scale projects on their own."<sup>44</sup> They have to reach out and collaborate with others which is difficult if you are unrecognized because of the stigma attached to it. As an alternative, the government often times tries to set up NGOs which have its leaders on the government payroll. They use the excuse that they want to eliminate "unproductive competition" between NGOs when what they really want to do is achieve control.<sup>45</sup> Just like business, the government wants to be able to control all areas of society in China so the most favorable outcome for the CCP is assured. One would ask why the government spends so much time suppressing organizations that are of a non-political nature. It is because these organizations "enhance individuals' capacity for collective political action."<sup>46</sup> They enable individuals to advocate for non-political issues which give them this experience for pushing for government change. By having all of these organizations providing this advocacy training to its population, in the future it can be directed towards political issues like voting and civil rights. Since political mobilization is one of the CCP's major fears, it is only natural that they clamp down on these NGOs.

<sup>43</sup> Guo, Gang. "Organizational Involvement and Political Participation in China," 460.

<sup>44</sup> Lu, Yiyi. "NGOs in China: Development Dynamics and Challenges," 93.

<sup>45</sup> Lu, 91.

<sup>46</sup> Guo, 457.

Another interesting phenomenon that this case study exposes was the use of the media and the internet to mobilize opposition to the project. Since the structure of WWF Shanghai is very loose and decentralized, the internet gave it the perfect medium to communicate with supporters. It was able to organize meetings of people to discuss the issue and come to a consensus on a plan of action. More importantly, it provided a medium of communication that was an alternative to the state run media. When the opposition to the marshlands got too threatening to the municipal government's plans, they ordered the media to stop reporting on it. This meant that the group's website and its partner's websites were the only way to inform the public about the marshland issue. With the media reports being skewed by the government the internet posed a contradiction to the official account of what was going on. The members of WWF Shanghai were able to, through their website, "offer alternative perspectives on events from those provided by other media."<sup>47</sup> Since most Chinese citizens are aware of the government's role in the press, they might be more inclined to believe what they see on the web from independent sources. Suddenly, the PRC's stranglehold on the media and official communication is loosened by the internet. WWF Shanghai even got a petition signed by over 1000 Shanghai residents which assisted in getting a temporary halt on the project. As was seen with the first case study, petitions are an effective and mostly legal tool for citizens to register their discontent. But why is the CCP so afraid of this activity which ultimately made them close down the website? It is what Howard Rheingold describes as the internet's "democratizing potential."<sup>48</sup> This potential comes from where the fast transfer of information between millions of individuals can lead to. If citizens can communicate instantaneously and organize themselves to advocate for environmental issues, why not for democratic rights as well? It is the same dilemma as the NGOs pose; their work and experience given onto citizens for non-political issues can easily be turned onto political issues. The internet threatens to "transform their more traditional forms of political behavior" into that which can directly oppose the government.<sup>49</sup> With the rising amount of Chinese citizens who have access to the internet this can be extremely dangerous for the regime.

<sup>47</sup> Rawnsley, 127.

<sup>48</sup> Rawnsley, 126.

<sup>49</sup> Ibid.

Shanghai is a perfect example of this potential since it has a very large internet savvy population.

This case study shows that even within a certain level of government in the PRC, there are a variety of interests and actions at work at one time. Certain members of the SMPC were sympathetic to the people's cause of protecting the marshlands. WWF Shanghai's petitions and scientific studies were able to convince the Congress that the marshlands needed more examination before it was built on. Though the council was able to effectively stop the construction, there were other interests in the mayor's office, the city planning board and other municipal institutions which wanted to see it continue. The higher officials in the government, by the system's nature, are more worried about developing the area and advancing their economic goals so they can get posted to higher positions by the central CCP. This shows that even in a city where the environment does place as a high priority, development still wins. It is economic progress that ultimately gets one promoted, not progress on protecting the environment. Because the interests of the different levels of the municipal government diverge with the more powerful ones in favor of development, ultimately the builders won.

The PRC needs to ease its restrictions on NGO registration and development in order to properly address the environmental concerns of its citizens. In a state such as China, there is no democratic citizen-government feedback loop for people to air their grievances and express their concerns. NGOs provide an alternative to that loop by providing a collective voice for issues of the population. By cutting that alternative out of the picture, citizens lack a mechanism to register their disagreements with government policy and mismanagement which could become a potentially explosive issue. By keeping the cap on civil society, China's goal of political stability could be undermined as environmental problems get even worse and increasingly dissatisfied people have no outlet for their concerns. The government has "limited NGO's usefulness as champions of interests and values different from that of the government."<sup>50</sup> By restricting NGOs, the PRC misses an opportunity to use them for their non-advocacy benefits as well. Plenty of NGOs do work in environmental cleanup, conservation activities, and environmental management which would go a long way to helping China cope with its environmental issues. Without the opening up of the registration system there will

<sup>50</sup> Lu, 93.

be few national networks of NGOs and little cooperation between them. This is required for any healthy society to flourish as China becomes more urbanized and its citizens look for these organizations to fill certain gaps.

At first, WWF Shanghai as an illegal NGO was able to work around many barriers that the government imposed with registration like cooperation with others, media and the internet. But in the end the government was able to halt its activities by cutting off its institutional links and outlets for organization. At this point in China, it would be extremely difficult for illegal NGOs to succeed in advocacy efforts because of the government can easily stop them from operating. The internet became a useful tool for WWF Shanghai in mobilizing supporters and spreading their message. It is difficult for the government to keep track of all traffic on the web which allowed even an illegal NGO to succeed for so long. The fact that they almost succeeded in getting the project completely stopped could provide a strategy for other illegal NGOs to use. Certainly for a legal NGO these benefits would accrue quicker with an established network of supporters and more range to operate due to its status. Despite WWF Shanghai's limited success, it ultimately failed because of their lack of recognition and the benefits afforded from that. In order for the NGO society to operate effectively and accurately reflect the people's interests, China will have to deregulate its NGO sector and allow for freer access to the internet.

### **Case Study #3: Environmental Activism from Beijing to the Nu River**

Beijing, like Shanghai and many other cities in China has experienced extremely fast growth over the past couple decades. Also like many other Chinese cities, it has a very poor environmental protection record with serious air and water pollution problems.<sup>51</sup> It wasn't until the 2000s when Beijing sought to improve its pollution problem culminating in a fierce campaign right before the 2008 Olympic Games. Unlike in other regions, Beijing has been fairly tolerant of NGOs operating within the city. The Ministry of Environmental Protection (MEP) has openly declared their support for many such institutions and has even cooperated with them in the past. It has even included their participation in

<sup>51</sup> Xie, 86.

Environmental Impact Assessments (EIA) which are issued before building on projects commences. Part of this reason was an effort by the MEP to achieve more influence on the EIA process where it is often eclipsed by other economically oriented ministries.<sup>52</sup> After 56 ENGO's issued a letter in 2005 which supported the MEP's growing influence on the EIA process, an informal partnership was established between these two groups. This ultimately led to the establishment of the regulation "Provisional Measures for Public Participation in Environmental Impact Assessment" in 2006 which was the "first legal document that enables the participation of the public in environmental policy-making process."<sup>53</sup>

A large number of public ENGOs exist in Beijing and foster a community of organizations which are able to advocate for their interests. They have their roots in the 1990's with the establishment of the first ENGO, Friends of Nature, in 1993. An offshoot of that NGO, the Green Environmental Volunteers (GEV), is the ENGO that we will be studying in this case study. After the turn of the century the amount of ENGOs increased dramatically after feeding off of existing organizations and enjoying increasing support from the MEP. Student green organizations also become prominent which fed into larger organizations after graduation. ENGOs in Beijing have had a large degree of cooperation by "sharing information, organizing workshops, launching programs collectively to achieve stronger influence" etc.<sup>54</sup> The GEV in particular was one of the most prominent ENGOs in Beijing. They had almost 200 permanent members with a volunteer and advocacy network of over 30,000 people.<sup>55</sup> It is well connected and has led a number of campaigns with other NGOs before. Despite its loose organizational structure, its leadership of extremely motivated individuals enables it to be successful.

The GEV took a leadership role in opposing the decision to build a large scale damming project on the Nu River. The Nu river flows through Yunnan province into Myanmar and is one of the last large rivers to not to be dammed in China. Surrounding it is a natural World Heritage Site where much of China's biodiversity lies with 79 rare or endangered species making their home

<sup>52</sup> Xie, 87.

<sup>53</sup> Ibid.

<sup>54</sup> Xie, 90.

<sup>55</sup> Xie, 92.

there.<sup>56</sup> The project entailed building 13 hydro-electric power stations at various points on the river generating 3.64 million kilowatts which is more than ever the Three Gorges Dam.<sup>57</sup> Due to the environmental impact of the dam, which would disturb much of the wildlife and plant species in the area, there was quite a lot of opposition to the project. The MEP and a group of ENGOs were opposed to the project and tried to organize meetings and make the public aware of the downsides of this project. The National Development and Reform Commission (NDRC) was on the other side of the issue claiming that the benefits of this badly needed power generation outweigh the downsides. The controversy over the project was able to push the projected start date past 2003 giving the ENGOs a chance to step up their campaign against the dams.

NGO partnerships between the GEV and local Yunnan organizations were crucial in opposing the dam project. In Kunming, the capital of Yunnan, the ENGO Green Watershed was the primary organization in opposition to the project. Support locally was weak for Green Watershed because the provincial government cracked down on potential partnerships by restricting media reporting as well as by other means. Upon interviewing leaders of other NGOs, it was discovered that their lack of participation was due to concerns over their status which could be under threat if they oppose the government.<sup>58</sup> Due to this lack of support, Green Watershed was forced to turn to GEV, a Beijing based NGO in the hope of assistance. GEV was very willing to assist in advocating against such a potentially damaging project and was able to get several of its partners involved in the fight. Because restrictions on the ENGO culture in Beijing were relatively loose, many of the leaders of the different organizations in the city had very developed *guanxi*, or influential networks of influence.<sup>59</sup> In addition to the NGO sector, GEV's leaders were able to use their *guanxi* with the MEP to coordinate action.

Once these partnerships were made between regional and Beijing NGOs they started to act to preserve the watershed. The MEP attempted to get a serious EIA of the project but it was stonewalled by supporters within the government. Many in the MEP increasingly turned toward the ENGO sector

<sup>56</sup> Xie, 97.

<sup>57</sup> Ibid.

<sup>58</sup> Xie, 100.

<sup>59</sup> Ibid.

by providing them with updates and information in order to help them advocate strongly for the area's preservation in ways that they could not.<sup>60</sup> The GEV was then able to use this information to report this issue in the media and get scientists to support their environmental claims. Through both organizations, scientists in both Beijing, and locally in Yunnan were contacted to offer their opinion through both on the ground assessments and reports. The MEP could then turn around and say the original EIA of the site was biased because of the clear opposition of all these scientists without seeming like it was instigating a coalition against the government. The media was also able to publish many of these opinions in both public newspapers and, most significantly, the daily newspaper for the CCP. This newspaper had a real significant impact on policy makers which was a major achievement for the movement since their goal was not only to reach a public consensus against the building but that of the government as well. Eventually the GEV organized a trip for journalists to the area where they got to see the environmental as well as social impact of the project. It was a big concern that over 50,000 people would have to be moved from their homes as a result of the dams.<sup>61</sup> The more media coverage the issue got the more support from the public, government, and other ENGOs the anti-building side received.

As public support continued to rise against the dam building, the actions of the ENGO coalition intensified in 2004. They conducted a series of photo exhibitions at several universities, in a supermarket, post office, and an office building showing the Nu river watershed. They even created a website called "Nu River Sentiment" where people could pledge their support for the region's preservation.<sup>62</sup> More scientific studies were published and presented at conferences nationally and internationally. The coalition even got international support from NGOs further downriver from the dams. 80 NGOs in Thailand and Laos wrote letters protesting the project and sent them to the Chinese embassy in Thailand.<sup>63</sup> In the end, due to a combination of pressures, the government continued to push off the project with no definite start date for construction at present time.

<sup>60</sup> Xie, 101.

<sup>61</sup> Xie, 103.

<sup>62</sup> Ibid.

<sup>63</sup> Xie, 104.

## Analysis and Policy Prescriptions

The success of the Green Environmental Volunteers was significant in both the size and scope of the Nu River dam project. The GEV was a legal NGO so therefore it had more room to operate than the illegal NGO we saw in the first case study, WWF Shanghai. The advantages afforded to it because of its status were obvious. It was allowed to use the internet and reach out to the public without being clamped down upon. Organizations were able to partner up with it without fear of reprisals from the government. It was even allowed to cooperate with the Environmental Protection Ministry which would have been forbidden if the GEV was an illegal group. Without these benefits the campaign probably would not have been able to attract as much public attention. The media was allowed to report on the issue as much as it wanted as long as it didn't openly challenge the government. Journalists were not as afraid as approaching the NGO and the government did not stop news stories from being published.

The GEV was permitted to operate as it did partially because of the lack of crackdown from the Beijing government. Even though it had legal status, the government might have been able to try to shut it down by other means but it didn't. The Nu river dam project was of the utmost national significance and posed an opportunity to greatly increase China's power generation capacity. The potential of this project was more than that of the Three Gorges Dam, arguably China's most important infrastructure project. Part of the reason that this crackdown didn't happen was because of the central government's new priorities for environmental protection. It was discovered that "environmental pollution cost China 511.8 billion Yuan (USD64 billion) in economic losses, accounting for 3.05 per cent of the country's GDP in 2004."<sup>64</sup> This only quantifies what China has known for years which were that these problems were hurting China's economic growth and the problem was getting worse. If China was to maintain its high growth levels it had to deal with these problems. It also had to tackle many of its problems due to its expected accession to the WTO and in preparation for the 2008 Olympic Games. Because these organizations were located within Beijing, central government and the city's policies

<sup>64</sup> Huang, Xibing. "Environmental issues and policy priorities in China: a content analysis of government documents."

often overlapped. Since environmental protection was acceptable to the central government up until a point, these NGOs were permitted to operate extensively.

The establishment of the Ministry of Environmental Protection is a step in the right direction yet shows some unsettling aspects of Chinese environmental policy. The Ministry was a relatively new creation when it was created as the State Environmental Protection Administration in 1998 when environmental protection in China became a larger priority.<sup>65</sup> As seen in this case study, it began to partner up with NGOs in the early to mid-2000s to help advance its goals. Part of the reason that this cooperation with civil society was needed was because it "lacks the money, staff, and power to override local leaders and to shut down polluters."<sup>66</sup> Unable to achieve its goals itself because of the lack of resources, it had to turn to these sectors. The information that it provided to GEV was crucial in allowing scientists to compile reports claiming the marshland construction was damaging. In giving them support, the MEP was able to use the GEV to force the opinion of the public against the opinion of more powerful ministries like the NDRC. Elevating environmental protection to ministry level should not give the impression that it has achieved the same priority level as the NDRC which has equal status. The MEV is handicapped at the start because "environmental protection often loses to the more attractive goal of economic development."<sup>67</sup> With economic growth still remaining the top priority for the government, ministries like the NDRC will always have more resources and capabilities than the MEV. In a way this will continue to strengthen the NGO community since the state will have to continue to turn to "non-state actors to carry some of the environmental protection burden."<sup>68</sup> Because of this increasing role of ENGOs in environmental protection, it leads to new regulations passed to legitimize public participation in EIAs. The MEP's support of the ENGO community has been essential to its growth and to its protection efforts.

This Nu River damming issue exposes the stark difference between different agencies within the central government. The MEP has shown a

<sup>65</sup> Schwartz, Jonathan. "Environmental NGOs in China: Roles and Limits."

<sup>66</sup> Liu, Jianguo. "Revolutionizing China's Environmental Protection"

<sup>67</sup> Schwartz

<sup>68</sup> Ibid.



remarkable amount of independence from the goals of economic policy planners within the PRC. It has been able to raise environmental concerns up to a point where their opinion is recognized as a legitimate consideration in the construction process. Much of the time this opinion is ignored but it is still significant progress since it is the starting point for further advancements. There is still a long way to go before it reaches the power levels of the NDRC who was starkly opposed to the project. The bureaucratic power struggle between the two ministries shows that the supposedly monolithic power structure of the Chinese government is not even true at the central level. Both agencies were ultimately engaged in a fight to convince policy makers that their position is the most legitimate. In this case, because public opinion was so strong because of the environmental damage, the “ecological impact” vs. “growth of the local economy and the increase in national energy” argument landed on the side of the environment.<sup>69</sup> Unfortunately this is a rarity because more often the side of the NDRC wins out making this victory more significant.

The PRC needs to strengthen its institutional capacity for environmental enforcement in order for the environment to be properly protected. The creation of the ministry is significant, but it still does not mean that its goals will be met. The government needs to give the MEP the capabilities to enforce environmental regulations and review projects more closely. This will not happen unless a number of changes happen to the ministry, including raising the numbers of employment from its current number which is one-eighth the size of the US Environmental Protection Agency.<sup>70</sup> Previously it was mentioned that this lack of support has strengthened the ENGO community by forcing the MEP to turn to them for assistance but a strengthening would also help the community. By giving the MEP the resources to accomplish its mission, it would strengthen the causes of these ENGOs by giving their positions more legitimacy from a branch of the government. The relationship between the ENGOs and MEP has already been established so it would be unlikely that it would be diminished just because one side’s power capabilities have been enhanced especially since they would be working in tandem. ENGOs need to continue to exploit the differences between branches of the government to help them succeed.

<sup>69</sup> Xie, 102.

<sup>70</sup> Liu

By combining this with favorable public opinion for preserving the Nu River watershed, the GEV was able to preserve the region for the time being.

## Conclusion

The three case studies in this paper reveal several interesting developments in how the government and NGOs interact in the realm of the environment. One of the most significant is how different levels of government as well as different institutions inside those levels have such a variety of interests and methods for dealing with environmental activism. In our first case study we see a lower level of government (local) ignoring the regulations of the higher level of government (municipal) in order to build on park lands. The local level of government was able to influence the bureaucracy enough that they were willing to ignore the regulations as well. One would expect that rules coming from a higher level of government to a lower level of government in an authoritarian, one-party state to be followed no matter what but that are clearly not the case. Among other factors, once the higher levels of government was informed about this lack of adherence they put pressure on the local government to shut the project down. In the second case study at the municipal level of Shanghai there was a stark difference not between levels of government but among the same level of government. The Shanghai Municipal People’s Congress actually was able to delay the project for a time. They thought the project should be reevaluated before construction proceeded against the wishes of the higher officials within the city government. Ultimately the wishes of these higher officials were able to win out since the process went along. In the last case study there was a difference between two branches of the central government between the Ministry of Environmental Protection and the National Development and Reform Commission. The MEP wanted the Nu River project stopped and the NDRC wanted it to continue with both ministries trying to influence policy makers. These branches of the bureaucracy were literally competing for influence in order to advance their respective goals. Though the Chinese government operates in a one-party state the interests of the top do not necessarily lead to the desired outcomes at the bottom. This is because as we have seen with the case studies, every branch and level of government has goals and interests that

they try to serve and they vary enough that differing outcomes will manifest.

Activists have tried a number of strategies to overcome barriers that the PRC has placed to block their activism. Shen, an individual in the first case study was able to motivate his neighbors to activate for a purely local concern. He was able to use the actual laws of the state which forbade construction to validate his position. This made it difficult for government officials to argue with him or shut his protests down because they were using actual laws of the state to “authenticate” his position. He framed their protests as simply protecting the resident’s environmental rights which was extremely effective. When their interests were ignored, on two separate occasions Shen ordered that the protesters take down first the wall, and then the scaffolding at the site in an orderly manner. It was important that they did not destroy anything and that they did this on the basis of the law because if not, this protest would not have been tolerated. He was able to make the government afraid of their potential violence but not of any outward real violence which would have gotten them imprisoned. In Beijing, legal NGOs like the Green Environmental Volunteers had more leeway to operate. They were able to form direct partnerships with the MEP which was a district branch of the government. The MEP was even able to send it information regarding the project enabling them to have scientists rally against the Nu River damn. Though rare, these partnerships with supporters in government are essential for NGOs to exploit. Since they are legitimate voices in policy making circles, they are able to influence decisions. In the case of Beijing, the MEP had enough strength to make a difference in that advocacy situation. The GEV was able to raise public opinion through the media and the internet and let the public know how destructive the project would be. Because the MEP coupled with NGOs who were able to get public opinion on their side, this greatly enhanced their power so that they could compete with the more powerful ministries like the NDRC. Another advantage that the GEV had in this situation was the ability to form connections with other NGOs. Since the zeal for environmental protection was so high at the time and Beijing was going through a period of relative loosening, this was possible. The GEV was able to use other Beijing NGOs to assist them at building public opinion through their *guanxi*, or personal connections. They were even able to assist local NGOs who exist in more unfavorable climates to

advocate for the construction to not proceed. Forming these networks of cooperation is necessary for effective national opposition to environmental projects to succeed.

While there were many strategies that were effective at advancing the environmentalist’s goals there were also many others that were met with mixed results. The efforts of WWF Shanghai were the most prevalent in this case. They were an illegal NGO that never applied for recognition because they never needed to. When the issue for the protection of the Jiangwan marshlands became apparent, they attempted to advocate for its protection but instead were met with a clampdown from the government. They did attempt to use the media and the internet as tools for promoting their issues. Shanghai as well as many other parts of China is increasingly connected to the internet giving them access to more information. Because of this, WWF Shanghai, an illegal NGO was able to be successful for a short time even after the government stopped media reporting on the issue. They could organize meetings to come to a scientific consensus and also get petitions signed by other citizens. Their online efforts were almost effective when the SMPC ordered a stop on their construction efforts. At the same time the internet offers many advantages for the green movement, it also gives them several vulnerabilities. The government was able to shut down WWF Shanghai’s internet outlet and succeed at getting their project built because public opinion started to fade. With the GEV environmental activism online was permitted because they were a legal NGO but that is not always guaranteed to be the case if the government feels threatened. Nevertheless, the use of the internet is an effective tool for both illegal and legal NGOs. Ultimately if NGOs want to succeed at their activism in the long term, they will need this legal status to function effectively. The politicization of environmental concerns was also a big issue as was seen in the first case study. The government tried to drag the activism into the political realm as Shen tried to keep it nonpolitical. They almost succeeded at stopping his movement but because of Shen’s persistence at keeping the issue centered on the environment, they were able to succeed. For the time being activists will have to make sure that their activism is kept in this non-political realm until there is a widespread political change within the PRC.

The PRC needs to embrace a number of reforms in order for it to better cope with environmental activism. Firstly, it needs to ensure a

greater rule of law within the bureaucracy and government. Regulations should be followed no matter what politicians and party members try to say to influence it. This is the only way that environmental regulations will be ensured to be effective at all levels and not be controlled by special interests. This move towards greater rule of law has other benefits for the PRC like greater efficiency and it seems that it is moving generally in that direction. The party would still ultimately be able to write what regulations which would be followed so nothing to far outside their interests would be done. The PRC also needs to lift the restrictions that it places on NGO registration in order for civil society to flourish and the interests of the people be properly reflected. Understandably these NGOs represent a threat to the regime since they give them activist training. But, in order to assist the state in identifying polluters and without the collaboration from NGOs to protect China's environment, the state's environmental needs will be difficult to meet. The government also needs to strengthen the MEP to make it able to compete with other ministries. Of course, economic interests will trump environmental ones for a long time. More money, resources and staff will still go far in ensuring that the MEP has more of an ability to articulate its interests. Many of these reforms would be beneficial, but China is only likely to implement them in a limited manner in the short term.

Ultimately what is necessary for China to have truly effective environmental activism would be an open political system and competitive democracy. Since this will not happen anytime soon, China needs to implement several of these reforms in order to effectively deal with environmental concerns of its citizens. Like mentioned before, environmental problems have explosive potential if they continue to deteriorate which represent "destabilizing factors" for the government. This is why the PRC has decided to take up environmental protection as one of its top concerns. Though commendable, they have not gone far enough in ensuring this protection leading to so much activism. These activists have met much resistance and encountered many failures but at the same time many successes as well. Jonathan Schwartz writes that "China's environmental non-governmental organization community-arguably the most advanced manifestation of Chinese civil society." In this role, environmental activists have the potential to define how civil society as a whole grows and changes in China into the future.

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