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Public Participation in China: Strengths, Weaknesses, and Lessons Learned

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Public participation is an integral part of the Chinese environmental impact assessment (EIA) system. Successful public participation though is more than just granting a right to participate and setting out a procedure in a legislative act. This paper analyses the strengths and weaknesses of the Chinese EIA system by reporting on the practical issues and lessons learned during regional workshops with EIA professionals in China. It offers an overview of principles, legal instruments, mechanisms and guidelines, and analyses the Chinese practices at the provincial and local level. Recommendations to improve public participation in China are based on a gap analysis, best practices and lessons learned, interviews with key stakeholders, inputs from public authorities, EIA agencies, and civil society organizations, collected in training modules and public events held in Yunnan, Shandong and Beijing.

Keywords: Public participation; environmental impact assessment; China; legal framework; implementation.

Introduction

Public participation is the involvement of individuals and groups that are positively or negatively affected by, or that are interested in, a proposed project,

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programme, plan or policy that is subject to a decision-making process (André *et al.*, 2006; Enserink *et al.*, 2009). Public participation can be either direct by the public or through legitimate intermediate institutions or representatives, such as, for instance, through civil society organizations. Public participation in environmental decision-making is a critical component of the legal mechanism for environmental protection and the environmental impact assessment (EIA) procedure, which has become a world-wide applied tool for environmental decision-making. EIA actually was one of the first procedures explicitly including public participation and should guarantee the consideration of environmental concerns in project and program planning before decisions are taken (Fischer, 2003). The objectives of public participation in EIA vary from improving the quality of plans and projects, improving implementation by preventing litigation and costly delays, and meeting legal requirements, to improving active citizenship, complementing democracy, protecting individual rights, and creating acceptance for the projects outcome (Beierle and Cayford, 2002; Creighton, 2005; André *et al.*, 2006; Enserink and Koppenjan, 2007; O'Faircheallaigh, 2010).

The quality of public participation can be traced along two main dimensions: the performance of the entitled agencies against the established standards of the public participation procedure, and the degree of involvement and impact as perceived by the participants themselves (Domorenok and Elmi, 2014). The first dimension relates to the fair execution of the procedure which is adopted to the local context; the second makes explicit how the assumed benefits of public participation are understood by the population and how the existing channels of public involvement established by law are really used by citizens and their organizations, and what obstacles, if any, to participation exist. More detailed evaluation frameworks derived from the IAIA Best Practices for public participation for public participation in EIA (André *et al.*, 2006) have been further explored by Enserink *et al.* (2009) and developed and applied for evaluating public participation in EIA in Pakistan by Nadeem and Fischer (2011). All frameworks have in common these two main dimensions: performance against the (national) standards and the degree of impact perceived by the participants.

As political systems and decision-making practices are very different in various countries, public involvement levels in EIA and participative practices vary around the world. As the roots of EIA and public participation lie in the presumed democratic West, China with its more centralized and socialistic party rule system can be considered an intriguing case. Zhao (2010) claims that the emergence of public participation in a country without the tradition of participatory democracy deserves investigation. He concludes that while all relevant provisions are in place, the Chinese public has limited access to inform judicial resources to redress and

remedy. Implementation of meaningful public participation is a challenge; in their paper, based on a Guangzhou case study, Tang *et al.* (2008), for instance, argue that the assessment and mitigation of adverse impacts on the community from urban development have been carried out with different objectives, core values and principles when compared with those in Western societies. They conclude that the poor prospects of strategic impact assessment and collaborative planning in China lie not only in the weak framework for environmental legislation but also in all institutions concerning state–society relations, the socialist governing ideology and traditional Chinese culture. Research by Li *et al.* (2012a) shows that in public participation in EIA for infrastructure projects, the current level of participation is quite limited, particularly in the crucial earlier stages. They too mention the traditional culture and values, but also uneven progress in the adoption of participatory mechanisms, and lack of confidence in public competence.

From the above literature, it shows that efficient and effective management of EIA and SEA laws is a major challenge in China. Wu *et al.* (2011) in their five-year review on SEA implementation conclude it is necessary to establish criteria based on foreign experience and political, legislative, administrative and cultural characteristics of China. In the classification by Bina *et al.* (2011), this paper therefore focuses on the procedural dimensions of EIA/SEA effectiveness and less so on substantive and incremental effectiveness. The latter is also framed as indirect effectiveness, for instance by Thissen (2000) who defines indirect effectiveness in terms of contributions to environmental management principles, administrative structures and cultures, research and science in a more general sense, and to the state of the art in EIA practice. As Bina *et al.* (2011, p. 574) argue organizational learning, accountability, and inter-sectoral integration should not just be considered as a desirable indirect or side-effect, rather it is an important objective of EIA and SEA to spur environmental governance (Runhaar and Driessen, 2007; Jha-Thakur *et al.*, 2009).

One of the initiatives in this respect is the EU-China Environmental Governance Programme (EGP). The Project "Regulating and promoting public participation in EIA in selected pilot provinces and municipalities", funded by the European Union through the EU–China EGP, aimed to improve the quality, transparency and effectiveness of procedures for public participation in EIA in China.[1,2] In particular,

[1] EU and Chinese project partners: the European Academy of Bolzano (EURAC), the Croatian Green Istria Association, the Chinese Academy for Environmental Planning, the Yunnan Institute of Environmental Science, and the Shandong Academy of Environmental Science. The project concentrated on Yunnan province, the municipalities of Shangri La and Lincang, and Shandong province, the municipalities of Linyi and Rizhao, and Beijing.

[2] For more information, see: http://egpeia.caep.org.cn/Default.aspx.

the project aimed to identify the main gaps in the existing Chinese EIA public participation procedures by analysing rules and practices and interviewing competent public authorities and stakeholders. Therefore, a mixed methods approach, combining qualitative, and quantitative analysis, have been used in order to disclose both the institutional performance and the perceptions of key stakeholders involved in the process.

Another aim was to support local Environmental Protection Bureaus (EPBs) in developing clear and transparent procedures on public participation in EIA by building on existing mechanisms and best practices through comparison with the EU and identification of local gaps, thus enhancing environmental, economic, and social sustainability. The latter objective was reached amongst others through a series of intensive workshops in the Spring of 2014 in Yunnan and Shandong for the exchange between Chinese and European partners and the comparison of case studies (see Alberton, 2014). Based on this comparative analysis of the best practices of the EU and China, the main components of successful implementation of the public participation procedure were identified. As concluding activity questionnaires have been prepared for different typologies of actors: local communities, non-governmental organizations (NGOs) and local public authorities who are in charge of authorizing construction and other projects at the local level EPBs. The questionnaire for local communities has been administered to citizens in the provinces of Yunnan and Shandong and aimed at a number of selected aspects of public participation in EIA, corresponding to different levels of citizens' involvement. While the qualitative analysis of NGOs and EPBs has focused on a limited number of cases, the sample size of questionnaires administered to local communities amounts to a total of 1.780. Of those, 59.10% has been collected in the province of Yunnan and 40.9% in the province of Shandong (Domorenok and Elmi, 2014).

EU experience showed that "the failure to comply with procedural environmental rights, such as public participation, results in increased litigation that not only inevitably delays the decision but also exacerbates the so-called not in my backyard (NIMBY) syndrome, which can transform itself into the build absolutely nothing anywhere near anything (BANANA) syndrome if crucial information is not disclosed with the clear purpose of preventing an active involvement of the public" (European Academy, 2014a, p. 13). Some concrete examples of EU failures in recent years are a waste landfill in Pezinok, near Bratislava in Slovakia (Court of Justice of the European Union, 2013) and the Irish programme for promoting renewable energy (REFIT), under which developments (such as wind parks) were authorized in breach of the provisions on public participation of the Aarhus Convention (Compliance Committee, 2012).

From these and several other examples,[3] it appears that competent authorities sometimes try to discourage the public from participating actively; deadlines have been set not allowing the public sufficient time or high participation fees were introduced. The main lesson learned though is that in the end, these disobedient administrations did not gain much, if anything at all; the increase in litigation and court appeals resulted in delays on permits, which then affected the planned investments and business. Even worse, once the public perceives that information is being withheld or participation discouraged, it organizes itself to fight against it and new information and communication technologies are instrumental to this self-organization (McCormick, 2006; Naber and Enserink, 2012). In some cases, as the Italian–French experience of high-speed train between Turin and Lyon illustrates, public protest may take forms that become difficult to control for the authorities (Coux, 2012; Faris, 2012; Povoledo, 2014).

In the next section, we will describe China's national legal framework for EIA followed by a description of the practical implementation of this framework including two examples that illustrate that implementing good regulations is not self-evident. An analysis of the current practice then leads to a discussion, conclusions, and policy recommendations for future developments.

China's National Legal Framework

The EIA concept was introduced in China in the early 1970s, when the First Conference for National Environmental Protection introduced the Environmental Quality Assessment Programme on a provisional basis to address industrial pollution. In 1979, this initiative was legally confirmed in the environmental protection law (EPL) of the People's Republic of China (for trial implementation). Yet the concept of public participation in the EIA was absent till 1991 when the Asian Development Bank put it in its EIA training programme. In the years to follow, this concept began to be formally recognized and several government documents[4]

[3] EU best practices and case studies are analysed extensively in Report D.2.2 — Chinese and EU best practices of public participation in EIA, available on the project website http://egpeia.caep.org.cn/default.aspx. See also the results achieved and data collected by the EU–China EGP (http://www.ecegp.com/english/knowledge/knowledge.asp).

[4] For instance: The "Decision of the State Council on Several Issues Concerning Environmental Protection", the "Law of the People's Republic of China on Prevention and Control of Water Pollution", the "Law of the People's Republic of China on Prevention and Control of Pollution from Environmental Noise", and the "Regulations on the Administration of Construction Project Environmental Protection".

stipulated the need to consider the opinions and other requirements of the public, thus laying the foundation for improving the Chinese public participation system in EIA. However, it was in 2002 with the adoption of the EIA Law of the People's Republic of China that the public participation system in EIA was specifically introduced, making a significant leap forward. This new law required the environmental impact report (EIR) submitted by the construction unit for approval to include an explanation of whether or not to adopt the comments of the units, experts, and the public.

The "Temporary Methods of Public Participation in Environmental Impact Assessment" issued by the former State Environmental Protection Administration in 2006 extend and deepen the public participation system in EIA. It defines the principles of this system, the rights and obligations of its main participating bodies, the specific range of its solicited opinions, the information disclosure requirements at each stage, and the specific modes and timing, etc. of public opinion surveys. It has become a milestone of this system in the democratization process. It is supported by a large number of laws and regulations to provide legal assurance of the public participation in EIA. In addition to the above laws concerning public participation in EIA, China developed the "Administrative License Law of the People's Republic of China" in 2003, the former State Environmental Protection Administration issued the "Interim Measures for Hearing the Administrative License in Respect of Environmental Protection" in 2004 and "Measures for the Disclosure of Environmental Information" in 2008 and the State Council formulated the "Regulation of the People's Republic of China on the Disclosure of Government Information (for trial implementation)" in 2007.

Since 2006, the standing committees of local people congresses, the local people's governments and their competent administrative departments of environmental protection in China have added some special clauses or sections on public participation in EIA in their local regulations or local government regulations in line with the actual EIA work of the administrative regions under their jurisdiction. The aforementioned documents, along with the local provisions on the environmental protection disclosure and the administrative licensing hearing system of environmental protection, have continued to deeply detail the law and system guarantee of Chinese public participation in EIA.

In practice, some relatively economically developed regions in China have given more concern to the specific details on public involvement in EIA by issuing local normative legal documents. Guangdong, Zhejiang, and Shandong have prescribed the identification and selection requirements and methods for public participation, and defined the nature, range, proportion, and number of people for "public". Shandong has further stipulated the requirements and standards

for verifying the truth of questionnaires. According to the rules of Shanghai and Shandong, an entrusted environmental assessment agency is not allowed to re-entrust any third party as a subject to implement public involvement. Despite these new laws and regulations, challenges have occurred during the implementation.

More recently, the revised text of the EPL — adopted by the Standing Committee of the National People's Congress on 24 April 2014 — became effective on 1 January 2015. The new EPL includes a wholly new chapter entitled "Information Disclosure and Public Participation" addressing the role of civil society in environmental protection. Chapter 5 requires disclosure and publication of pollutant emission information to become available to the public by companies and governments — except that which is considered a state secret. A significant advance is the inclusion of environmental information disclosure and public participation rights in EIA procedures, completed with a set of provisions on liability, access to justice, penalties and remedies. According to articles 53–54 of the EPL, the public, defined as citizens, legal persons, and other organizations have the right to acquire environmental information. On the other side, the competent Environmental Protection Administrations of the people's governments at various levels and other departments with environmental supervision responsibilities shall disclose environmental information, improve public participation procedures, and facilitate the public to participate in, and supervise, environmental protection work. In particular, the competent department of Environmental Protection Administration under the State Council shall release national environmental quality, monitoring data of key pollutant sources and other major environmental information. Competent environmental departments of governments at or above provincial levels shall regularly publish environmental status bulletins. The competent environmental protection administrative departments at or above the county level and other departments with environmental supervision responsibilities shall disclose information on environmental quality, environmental monitoring, environmental emergencies, environmental administrative permits, environmental administrative punishments, the collection and use of pollutant discharge fees, etc.

In addition, with specific reference to EIA procedure, the project owner of a construction project for which an EIR should be prepared pursuant to the law shall explain relevant situations to the potentially-affected public when preparing the EIR, and solicit public opinions. Besides, the competent department that is responsible for the examination and approval of EIA documents for the construction project shall make public the full text of EIRs of the construction project upon receipt.

Public Participation in the Law

According to the 2006 EIA Law measures, public participation consists of the following four phases:

(i) The first public announcement (art. 8) is issued within seven days after appointment of the organization that will undertake the EIA activities (usually an EIA agency). It implies that the project proponent issues a public announcement to inform the public regarding the project.
(ii) Before submitting the EIR to the Ministry of Environmental Protection (MEP) or EPBs, the project proponent issues a second public announcement to report the EIA findings and conclusions in the form of a brief EIR. This includes a summary on the potential impacts on the environment; the main measures to prevent or mitigate the adverse environmental impact; the duration of the EIR available to the public; the range and main matters of soliciting the public opinions; the specific means and the timeframe to solicit the public opinion.
(iii) After the above information announcement is released and the brief EIR is posted publicly, a 10 days period starts during which the construction unit or its EIA agency solicits the public to comment for instance through public investigation, expert consultation, or a public hearing.
(iv) Review of public opinions by the construction unit or the EIA agency; they should consider the public opinions and include in the EIR the explanations on whether the public opinions have been adopted or not.

Common practice

In practice though the implementation of public involvement in the specific procedures of Chinese EIA adheres to what is formally required: First, for disclosing the information on EIA, notices are posted in residential quarters, and the news is released in local newspapers and on the websites of enterprises or local governments, etc. Next, information is collected, usually by a hired contractor, sometimes by holding informal discussions or by carrying out door-to-door interviews, but most often by putting out a simple questionnaire; third, the collected public opinions on EIA are classified and the opinions submitted to the project owners for rectifications and improvement and then taken along as an important conclusion of the public involvement chapter in the obligatory EIA report. This practice has a number of obvious drawbacks,[5] such as the poor information disclosure; the very

[5] See questionnaires and findings summarised in project reports, available on the project website http://egpeia.caep.org.cn/default.aspx.

short reaction times, the validity of the information collected due to poor quality of the questionnaires and limitations and biases in the selection of the respondents.

In Shandong province, the EPB has adopted the "notification of strengthening the project EIA public participation provision" in May 2012 to improve PP practice[6] as in most cases they found that

- EIA information was oversimplified and meaningless and omitting relevant information.
- Some construction units and EIA agencies issuing questionnaires randomly, thus avoiding the involvement of major public affected by the project.
- Several EIA procedures were initiated after the project starts, thus public participation was included only as a symbolic exercise.
- The public participates in EIA mainly through questionnaires, which is too simple to satisfy the public needs for the environmental public interest.

In Yunnan, specific guidelines on public participation have not been approved yet, therefore the national rules and guidelines apply. Major problems in the implementation of public participation in the EIA relate to[7]:

- The specific environmental sensitive and relevant information concerning the project is usually not released by the competent authority, project proponent and EIA agencies. The information about public participation procedure is unidirectional and in the form of announcements and notifications without reference to the investment scale, technological level or pollution level or to the scope of the project.
- The definition of public participants is not clear.
- The timeframe for collecting opinions from the public is delayed and in any case is too short, especially for those people living in remote areas of Yunnan.
- The main form of participation, i.e. questionnaires, is mostly carried out by the construction unit or the EIA agency. Public opinion survey is mostly restricted to general requirements and the scientific approach, justice, reliability and effectiveness of questionnaires are often questioned by the public.

Above findings corroborate the findings of Wu *et al.* (2011) that information disclosure and sharing has always been the most criticized point for administrative management and scientific researches in China. The imperfect disclosure of environmental information is often seen as a main reason for a low level of participation. (Li *et al.*, 2012b; Chen *et al.*, 2015) Moreover, as Wu *et al.* (2011)

[6] See Gang *et al.* (2014).

[7] See Chen *et al.* (2014).

contested, it creates an asymmetry of information between the government/project proponent and the general public. Especially in rural areas where environmental education and information disclosure are inadequate, this explains the low public environmental awareness in China (Chen *et al.*, 2015). Moreover, as Wu *et al.* (2011) argue, the problem grows worse as in the current political system, information and data acquired through public resources are retained as the profitable means by some departments, which seriously affect the progress of scientification and democratization of decision-making.

The collection of information and opinions is problematic too. The most frequently used methods to engage and involve the public include public meetings, questionnaires, hotlines, suggestion boxes, and public hearings, (Chen *et al.*, 2015) but questionnaire surveys and public meetings are the two most popularly adopted means (Li *et al.*, 2012b). They both have been heavily criticized amongst others for their biasedness and methodological flaws (Ho and Edmonds, 2008; Wu *et al.*, 2011; EURAC, 2014a). For instance, when discussing the plans to establish a chemical plant in Yunnan province, all respondents to the questionnaire had to live within an arbitrary 100 m from the perimeter of the new complex; the sampling strategy to reach the obligatory 100 respondents led to a highly biased selection, and leading questions were omnipresent (EURAC, 2014b).

As indicated above, the public involvement in EIA of construction projects has been clearly stipulated in relevant laws and regulations, but like in many parts of the world, a lot of problems occur during the implementation. A number of "group events" have occurred across China in recent years, which are a symptom of the fact that public demands in EIA had not been satisfied. Such a series of public conflicts have also been hotspot issues in the society, triggering people's concern about their own environmental interests. The next section will describe two cases: the solid waste disposal site in Linxiang District in Lincang City in Yunnan Province, which were used as a "good practice" example in our training sessions, and the case of the Shifang copper smelting factory (Sichuan). More details on these cases can be found in EURAC (2014a,b).

Second solid waste disposal site in Linxiang District, Lincang City (Yunnan)

Lincang city is located in the southwest of Yunnan province, where the Mekong River runs through. Rapid urban expansion, population growth and economic development in the last few years led to an increase in solid waste. The existing landfill had to close before its designed life span was due and a new landfill site would be constructed in Linxiang District to reduce urban solid waste pollution, improve live quality, and protect the environment. This landfill site was designed

to serve about 0.4 million persons of four areas with 210 t/y capacity for 15 years. The proposed site was located in Wenwei village in the northern part of Linxiang District. There was no settlement and enterprises within 1 km range away from the site. The site was surrounded by upland farming. The nearest village, which is 1.25 km away from the site, is populated by 60 farmers of 16 households.

The public's involvements were executed in the following three stages:

(i) In May 2009, the developer, the Urban Development Investment Co., Ltd. of Linxiang, Lincang carried out a questionnaire survey, containing information on the project and 10 questions designed to acknowledge attitudes from the public based on the project. The target group of the survey was local residents potentially affected by the project, including local farmers, teachers, workers and labourers, etc. Background information, social and environmental benefits, potential environmental impacts, planned impact avoidance and mitigation measures and their effectiveness were clearly included in the questionnaire. Through the questionnaires, the public's opinion on the prevention and control measures and other suggestions were solicited. 80 individual questionnaires and group questionnaires to 11 village committees were handed out and all of them were recovered.

(ii) In January 2010, the EIA information of the project was notified at the website of the Yunnan Institute of Environmental Science (YIES) and in the villages and towns adjacent to the potential site. Comments were invited. The notification lasted 15 days and received no objection.

(iii) In June 2010, the short version of the EIA report was uploaded to the YIES website for 15 days and no opposition was detected. It included the proposed environmental prevention and control measures which would be effectively relieving the priority concerns of the public, such as surface water environment, leachate, odour, etc.

The EIA report was produced in October 2010 by YIES and put the project and its receiving environment in a broader urban development and environmental protection context. The public comments received by the developer during the questionnaire survey were claimed to be taken into consideration in developing the environmental control and mitigation measures.

The public participation in this project was evaluated as adequate, transparent, fair, and consistent as the results of public participation of this project reached the identified goals:

(a) Inform the public
(b) Improve the project

(c) Identify potential impacts on the local communities
(d) Avoid social conflict
(e) Improve transparency and accountability of the public administration
(f) Raise public awareness of environmental protection

The argumentation for this positive evaluation runs as follows: "through the public participation, local people got involved in building a larger new landfill in Linxiang district. They gave comments according to their truly care, which avoided social conflict and helped competent authority to identify potential impacts on the local communities and improve viability of the project. In addition, the process of the public participation did raise public awareness of environmental protection" (EURAC, 2014b, p. 39).

The latter evaluation can be questioned; the questionnaire was heavily biased; the selection of respondents debatable and although the brief content of the EIA report was posted on both website and public areas, possible barriers for participation were not taken into consideration, like language, local culture, and internet (il-)literacy. For instance, the places for posting information were limited, many local people could not see them. In addition, internet access is limited and not popular in these remote villages. Public meetings or hearings were not organized either, which means the publicity was limited.

The copper smelting factory in Shifang, Sichuan

The Sichuan Hongda Molybdenum–Copper Project (SHMCP) is a major supporting project for revitalizing the industrial development of areas in Sichuan, which suffered from the devastating May 12 earthquake.[8] It is a key industrial project in the 12th Five-Year Plan period determined by Sichuan Provincial Party Committee and government. A state-level EIA has been performed for this project in accordance with the State's latest standards and highest requirement. It passed through the examination and approval of Ministry of Environmental Protection on March 26, 2012. After completion, the new smelter was expected to reach 50 billion Yuan of annual sales income and 4 billion Yuan of profit and tax, so it would play a role in increasing revenue, promoting employment and improving the livelihood of the local population.

In order to accurately assess its environmental impact, the project's EIA undertaker carried out an overall monitoring. The data monitoring of the

[8]The 2008 Sichuan earthquake measured at 8.0 Ms and occurred at 02:28:01 p.m. China standard time. The epicenter was 80 km west–northwest of Chengdu, the provincial capital of Sichuan province. Official figures stated 69,197 people confirmed dead, 374,176 injured, and 18,222 left missing. 4.8 million people were left homeless.

environmental assessment covered a total of 58 points involving air, water quality, sediment, soil, and plant samples. After completion, the assessment report revealed this project would be a key pollutant source of Shifang Municipal EPB.

The information on the SHMCP's EIA report has been released to the public twice. The second release took place during the period of May 9–20, 2011. During this period, the public was entitled to obtain a concise version of the project's EIA report through e-mail, phone calls or by going to General Office of Sichuan Hongda Molybdenum–Copper Co., Ltd. for inquiry. The publicity of the project before the examination was made on the website of Ministry of Environmental Protection on February 28, 2012 and an official reply was given on May 26. The released content on February 28 was: "the main construction contents of the project include three parts, i.e. 40,000tpa molybdenum smelting system, 400,000tpa cathode copper smelting system, and self-provided power plant. The actual total investment for the project is 6.724 billion Yuan." Apart from this, no information concerning EIA was published.

In practice, very few local people in Shifang knew about this key project. For example, the residents of Yujiang Residential Quarters, only 100 m away from the project's site, did not know about its existence until the date for laying the project's foundation.

After Sichuan Hongda Group inaugurated the project on June 29, 2012, a small number of civilians gave their comments on the project's environmental protection

Fig. 1. Shifang residents protest against government plans to build a copper plant in the south–western Chinese city amid environmental concerns. Photograph: Reuters. http://www.theguardian.com/world/2012/jil/03/chinese-cancels-copper-plant-protests.

issue on the website, evolving from watching as onlookers, complaining, and verbally attacking, to online link-up and organizing of protests, etc. In the morning of June 30, a dozen civilians collectively visited the Shifang Municipal Party Committee to make appeals. They left after working personnel persuaded them and cleared up their doubts. In the evening of July 1, nearly 100 students and over 100 civilians gathered in front of Shifang Municipal Party Committee office building and the Hongda Plaza for petition and demonstration, requesting to suspend the construction of the project. The gathering civilians signed their names on banners with slogans. In the morning of July 2, some civilians gathered in front of office buildings of Shifang Municipal Party Committee and Government successively, demonstrating and opposing the construction of the molybdenum–copper project.

While reviewing this event, the chief of the Sichuan Provincial Department of Environmental Protection noted that for such a key sensitive project, public acceptability should be an important prerequisite. He stated that "All the work, including the EIA at an earlier stage, shall allow the public to get fully involved in it in line with legal procedures and make the work in relevant aspects open and transparent, such as about the pros and cons of the project, which shall not only mention the advantages in promoting employment and increasing tax but also mention the problems arising from pollution". Moreover, in regards to what pollutants will be produced and what is the degree of pollution, the local government shall give a clear explanation and accept the inquiries from various sides.

Analysis

(i) The cases of Lincang and Shifang both reflect that these projects have undergone a systematic and scientific EIA but the initiators attach little importance to public involvement. Public involvement is implemented in a symbolic way and the attitude of government organs is one of indifference or of just "going through the motions".

(ii) The results of public involvement in EIA are poor; the simple way of dialogue between the environmental protection department, construction unit, or EIA agency and the public does not allow the public to express its concerns. This results either in withdrawal and resignation like in Lincang or in the public taking massive action to force the government to seriously consider the adoption of the public opinions through hearings and other approaches as in Shifang. Moreover, during public involvement in hearings in Shifang and other places, the public doubts that the EIA is fair or scientific. The Chinese

system for public involvement in EIA not only lacks a channel for both sides to effectively express their opinions and carry out inquiry and debate but also lacks effective procedures for explaining the basis, proof, and reasons for environmental decisions, resulting in failure to reach agreement even if a hearing is held.

(iii) The disclosure system for information on public involvement is unsound. Judging from the above cases and the experiences reported by workshop participants, in practice, the government mostly evades critical points for disclosure of environmental information. It lacks the awareness to disclose information, which results in the public having no channel to learn about and get involved in EIA information, and makes the public lose trust in the government. The incomplete disclosure has directly restricted the effectiveness of public involvement in EIA.

(iv) The procedural design for public involvement makes it difficult to safeguard and satisfy the right for the public to participate and know. For example, the EIA of SHMCP explicated the advanced technologies and the high-end pollution control equipment, which would guarantee for rigorous control of the industrial waste and pollution. But due to inadequate disclosure of information by the government and the enterprise, few people had access to this information. If the local authorities had released this information in advance and had allowed the public to engage, the public upheaval that occurred later might have been avoided.

Looking at the two cases described here, one overarching impression is that except for resignation and withdrawal, public outcry is the only outlet for the public to express social and environmental concerns. The contradictions and problems that have arisen from land relocation, compensation, etc., have been a main reason for the public to oppose EIA projects and are also a fundamental reason for confusion in EIA. The latter findings corroborate the work by Li *et al*. (2011b, p. 65) who compared three cases of environmental activism in China and conclude that despite the promises, one finds in the letter of Chinese laws, a meaningful institutional framework to allow public participation is lacking, even in the area of environmental protection. Chen *et al.* (2015) although presenting the establishment of Environmental Community Consultative Groups as an innovative means to successfully engage a community in environmental management, contest that this will only work in small scale projects in rural areas. They also conclude that due to the relatively scarce knowledge on environmental protection, public awareness, and enthusiasm of participation is not high. Chi *et al.* (2014) exploring the issue of non-participation by focusing on the attitude and capacity of the

citizens affected by the Wuhan–Guangzhou High Speed Railway project, came to comparable conclusions: passive attitudes and low capacity were observed just like Lincang. Their conclusion though had a deeper layer; while some respondents considered participation in government-owned projects unthinkable, most of them were discouraged by the absence of a sense of security and significance.

It is therefore recommended to introduce in China a public involvement system into the decision-making process of land use planning itself and in many other departments in the form of a law or regulation or work out unified public involvement measures for decision-making on construction projects or special planning, clearly stating the right of civilians to participate in government decision-making and social management, and by safeguarding this right through detailed rules of implementation.

The asymmetric information among the public, enterprises and EIA participating units is an obvious problem but in the problem lies an opportunity: due to a lack of information and environmental knowledge, the public seemed to panic about the pollution likely to arise from the project and thus tends to resist it. Moreover, the public knows little about the relevant provisions on public involvement and is not able to put forward appeals through legal and reasonable approaches, which is causing frustration and is a key factor causing the current chaos and contestation. Timely information disclosure and meaningful participation can prevent occurrence of such counterproductive events.

Conclusion and Future Developments

In China, in general, and in the specific provincial cases considered, growing acknowledgement of the importance of EIA as a tool for promoting sustainability, transparency and participation of the public in decision-making has pushed the legislators, as well as local authorities and practitioners, to identify procedures and methods for guaranteeing earlier, more open, and more determinant public involvement. However, this analysis reveals the existence of some gaps and weaknesses still affecting current legislation and rules. Accordingly, some amendments are hereby recommended:

- The EIA Law should be revised in accordance with the new EPL by clearly defining the responsibilities and obligations of project units, EIA agencies and EPBs, in order to improve public participation in terms of transparency and accountability.
- It should be established what exactly is environmental information (e.g. a list), what kind of environmental information should be published, and what kind of

information should be given upon specific request, and the timeframe for such disclosure. Sanctions should be determined for authorities not providing requested information in the timeframe established by law. Without such provisions, it will not be possible to obtain information in practice. Moreover, information is mostly published on the websites of relevant environmental protection agencies and daily papers of relevant provinces and cities. However, few citizens consult environmental protection agencies' websites, while daily papers cannot be considered as public media since they are not available at newsstands. Thus, law amendments should include the publication of information in local daily papers, evening papers, or the city news with the largest distribution, and on popular local portal websites or community websites.

- Public participation should be shifted to an earlier stage, when all the options are still open and to be discussed. Moreover, the timeframe for the submission of public opinion is too short (7–20 days) — particularly for those living in remote areas. Thus, it is suggested to extend the timeframe to a suitable period to allow expression of interest of all parties.
- The EIA approach can be defined as "exclusive", i.e. it defines the area of impact of a project, the directly and indirectly impacted population, the NGOs that can be involved, etc. It is suggested that EIA adopts an "inclusive" approach, with no restrictions on the distance or on directly/indirectly impacted population and on registered NGO.
- The law states that the public participates in EIA by means of symposiums, workshops, and hearings. However, according to this law, the decision on modes to organize public participation lays on the construction unit or its EIA agency. It is suggested to require explicitly that the construction unit or its EIA agency organizes public participation by means of symposiums, workshops and hearings instead of employing questionnaires, at least for relevant and potentially contested projects.

Bearing in mind that the EIA process not only concerns the normative framework but also comprises practices that can be developed differently in different territorial contexts, even if based on the same or similar legislative and administrative grounds, an effort has to be made to improve national and provincial experiences and practices that have consolidated over time. In fact, regulations alone are not determinant if they are not enforced and followed by a favourable implementing environment, i.e. public authorities and project developers, civil society organizations and society at large. This is the lesson learned in recent Chinese experiences like those of Yunnan and Shandong. Therefore, regulations shall be clear and detailed, comprising all key elements listed, but the attitude of the public

authorities, project developers, and EIA agencies applying them is crucial, as practices make the difference.

In particular, the nature of the public involved by project units and EIA agencies plays an extremely important role: the inclusion of different stakeholders, directly or indirectly affected communities living around the project site, interest groups, NGOs, etc., strongly influences the effectiveness of public participation. Similarly, different forms of participation provide for different degrees of power and impact that stakeholders can exercise on decisions taken as a result of the procedure. As revealed by the in-depth analysis, some passive modes of participation give the least power to those who are participating, while the techniques for active participation allow for greater influence. In fact, means such as questionnaires give little space for proactive participation and discourage citizens from contributing when compared to more complex forms of interactive participation like public hearings, roundtables, debates, and workshops.

As far as timing is concerned, it descends from the experience that participation should be conducted as early as possible, e.g. during the scoping stage, rather than when an EIA report is prepared, since only at an early stage is a real contribution of the public feasible and useful. However, adequate timing alone does not guarantee meaningful participation, if, for example, the information necessary for making comments is scarce or not accessible, participation will be flawed too. Moreover, the transparency of decisions and the possibility to contest them is crucial; not only for guaranteeing formal accountability of the procedure but first and foremost for strengthening citizens' trust into institutions and their motivation to participate. Thus, another important acknowledgement emerging from the analysis is that these key factors for public participation need to be considered and guaranteed jointly with the "*ex ante*" and "*ex post*" environmental procedural rights: the rights of access to information and of access to justice. These two rights are conditions — as the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters signed on 25 June, 1998 in the Danish city Aarhus underlines — for effective public participation, as participation is based on the information provided and enforcement of the law.

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