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## **Public Participation, EIA, and Environmental Disputes in China**

### **Abstract**

This article reconsiders the role that public participation in the environmental impact assessment (EIA) process plays in China. Whilst some commentators have found that public participation has largely failed to make an impact in China, this article argues that it has been an important focal point during environmental disputes over siting decisions. The principles of transparency and public participation embodied in EIA legislation have been prominent frames used to legitimize public action against locally-unwanted-land-uses when decisions are taken unilaterally without sufficient public input or notification. In this sense, the EIA becomes a lightning rod for citizen claims-making in relation to siting disputes. At the same time, these principles help depoliticize contention by channeling it within state-approved discourses and enable officials to buy time and defuse tension. Here, EIA serves as a shock absorber, helping contribute to social stability when disputes break out. By showing how public participation regulations are closely intertwined with contentious politics, this article highlights the paradoxical and contradictory nature of public participation in China.

## Introduction

Public participation has long been viewed as a fundamental pillar of good quality environmental governance and a vital element of the environmental impact assessment (EIA) process (O’Faircheallaigh, 2010). When properly implemented, public participation can enhance the quality and legitimacy of environmental decision-making by incorporating public concerns and valuable “lay knowledge” (Fischer, 1993; Beierle and Cayford, 2001; Fung, 2006; Dietz and Stern, 2008). Public participation can temper the confrontational politics often associated with “wicked problems” including the siting of LULUs (locally-unwanted-land-uses) such as waste treatment facilities (Beierle and Cayford, 2001). And it serves normative democratic goals by enabling people to learn political skills and educating them to become “good citizens” (Monnikhof and Edelenbos, 2001). According to O’Faircheallaigh (2010, p. 19), “the overwhelming view is that [public participation] is highly desirable and that the key issue for scholars and practitioners is to find ways of making it more effective.”

A closer examination, however, reveals considerable confusion and disagreement within the literature concerning fundamental issues such as what public participation is, its appropriate breadth, and what functions it serves. Recent studies have highlighted how public participation in EIA is a highly dynamic phenomenon that plays multiple and sometimes contradictory roles. For example, O’Faircheallaigh (2010) distinguished between public participation as input for decision makers, as an active element of decision-making processes, and as a means for empowering marginalized actors. More recently, Glucker et al (2013) identified nine public participation objectives based on normative, substantive, and instrumental rationale. So far, the vast majority of this debate has centered on liberal democracies. Much less is known about public participation’s role in EIA in illiberal regimes, and “more research is needed on the way in which the dynamic political processes within which EIA is embedded work out in specific contexts and influence the shape and extent of public participation in EIA” (O’Faircheallaigh, 2010, p. 26). This article addresses this gap through

examining the case of China. For well over a decade now, public participation and information sharing have been regarded as crucial elements of China's sustainable urbanization agenda, and these principles were written into the country's 2002 EIA Law and its implementing measures (Xue, Simonis and Dudek, 2007; Tang, Wong and Lau, 2008; Johnson, 2010). In accordance with this legislation officials are required to solicit public opinion as part of the EIA process and to disclose information about proposed projects (Zhao, 2010). Perhaps more importantly, this body of legislation established official support for the *principle* of public participation and transparency in EIA.

Much of the literature assumes, often implicitly, that the goal of public participation in EIA in China is to improve decision-making, and therefore defines public participation narrowly by focusing on "top-down" formal participatory mechanisms such as public hearings and questionnaire surveys (Xue, Simonis and Dudek, 2007; Sun, Zhu and Chan, 2016; Brombal, Moriggi and Marcomini, 2017). When viewed in this way, public participation is often found wanting. Problems identified in the literature include vaguely specified public participation procedures, China's hierarchical culture, and the public's apparent lack of capacity to engage with technical issues at the heart of decisions (Enserink and Koppenjan, 2007; Zhao, 2010; Li, Ng and Skitmore, 2012; He *et al.*, 2013; Chi, Xu and Xue, 2014; Chen, Qian and Zhang, 2015; Liu *et al.*, 2018; Zhou *et al.*, 2019). In a detailed study, Brombal and colleagues (2017) concluded that, when it comes to the implementation stage, the main function of public participation EIA in China is to legitimize decisions already taken. And in their assessment of two cases of public participation in EIA, one of which authorities presented to them as a model example, Enserink and Alberton (2016, pp. 14–15) commented that "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.""

However, an overly narrow definition of public participation obscures other important functions that it plays in China's one-party system. As Fischer (2006) pointed out, participatory

governance cannot be reduced to the structure and design of mechanisms — it also relies on social, cultural, and political factors. By adopting O’Faircheallaigh’s (2010, p. 20) expansive definition of public participation as “any form of interaction between government and corporate actors and the public that occur as part of EIA processes”, and drawing on literature from the field of contentious politics, this article shows how public participation plays an important role in China’s environmental disputes, which have become relatively commonplace in the past 20 years. According to one estimate, the number of environmental disputes in China increased by an annual average of 25 per cent between 1997 and 2006 (Hou and Zhang, 2009). This includes a new breed of high-profile “NIMBY” (“not-in-my-backyard”) conflicts in urban areas over the siting of infrastructure and industrial projects, which are perceived to bring negative environmental, health, and financial impacts to nearby residents (Li, Koppenjan and Verweij, 2016; Steinhardt and Wu, 2016). Since the 2007 demonstrations against construction of a paraxylene (PX) chemical plant in Xiamen, when thousands of protestors halted the project, urban conflicts have occurred in numerous cities across the country, constituting a “wave of environmental contention” (Steinhardt and Wu, 2016, p. 63). Many of these protests have been justified based on limited or non-existent transparency and public participation in the EIA process.

This article’s main aim is to theorize public participation in Chinese EIA by examining its functions and how it operates in practice, including its relationship to political contention. It argues that whereas public participation is conventionally seen as a precursor to decision making designed to enhance the quality of administrative decisions (Dietz and Stern 2008), in China it functions as a post hoc, reactive measure that is only brought into play when activated by disaffected citizens. Local officials’ reluctance to consult the public before siting decisions are taken — therefore violating the letter and the spirit of public participation rules — means that the EIA process has become a lightning rod for environmental contention, with aggrieved communities using the lack of public participation and transparency to justify their opposition

to “locally unwanted land uses” (LULUs). From the state’s perspective, rhetorical commitment to public participation provides a depoliticized buffer zone that provides a basis for mediated dispute resolution between the state and citizens (Hess, 2009). It can channel dissent into approved state discourses and defuse tension, operating as something akin to a shock absorber. However, contention surrounding siting decisions also reflects a weak institutional context that enables local officials to routinely ignore public participation rules without consequence unless communities protest. Paradoxically, therefore, public participation rules designed in part to limit unrest often embolden citizens to engage in contentious politics. Public participation becomes a zero-sum game that favors well-resourced communities able to engage in collective action. Rather than improving decisions, public participation functions mainly as a rather blunt blocking tool for expelling unpopular projects from the immediate vicinity.

### **Environmental Public Participation in China**

The functions of public participation in EIA are multiple, complex, and contested. O’Faircheallaigh’s (2010) analysis of the literature yielded three main purposes of public participation in EIA. First, public participation aids decision makers by providing additional (and more diverse) information about the likely social, environmental and political consequences of a project. Public participation is limited — the public conveys useful information to decision makers but remains detached from the actual decision-making process. Second, public participation can be used to empower the public to have “meaningful” influence over decisions, albeit to varying degrees. This allows for a wider range of views to be considered in the EIA process, and helps counter the problem of project proponents’ dominance of the EIA process. In its most extreme form this results in citizens effectively having veto power over projects. Public participation also serves a normative purpose through democratizing decision-making and enabling people to perform citizenship obligations. Third, public participation may be

introduced as a mechanism to generate more equitable distribution of political power, particularly by empowering socially marginalized groups. Because power holders are unlikely to willingly share their influence with other groups, it is usually necessary for the latter to “break into the process” using strategies including contentious collective action (Devlin and Yap, 2008, p. 19). These three purposes are interactive.

EIA was introduced in China in 1979 as part of the trial Environmental Protection Law (Gu and Sheate, 2005). Over the next decade EIA regulations were strengthened, culminating in the passage of China’s first EIA law in 2002, which entered into effect in 2003. This law was amended in 2016, with changes including increased penalties for violating the EIA process and attempts to make EIA more administratively efficient.

The Chinese government first recognized the importance of public participation in the early 1990s to help ameliorate growing environmental problems (Enserink and Alberton, 2016), and in 2002 the Environmental Impact Assessment (EIA) Law and its subsequent implementing regulations provided a legal basis for public consultation in siting decisions for the first time.<sup>i</sup> The central government also passed legislation to incorporate public participation into the administrative licensing process, and, in 2008, the Ministry of Environmental Protection (MEP) issued Temporary Measures on Environmental Information Disclosure to boost environmental transparency (Moore and Warren, 2006; Zhang, Mol and He, 2016). More recently, China’s updated Environmental Protection Law (2014) dedicated an entire chapter to “Information Disclosure and Public Participation” (Enserink and Alberton, 2016). All projects that require an EIA report should solicit public opinion, with the exception of projects that involve state secrets (Brombal, Moriggi and Marcomini, 2017). EIA reports are required to include a section detailing this public consultation. Public opinion can be solicited through a questionnaire survey, a public hearing, and through public comments submitted during a defined time period (He, Mol and Lu, 2016). Considerable latitude is afforded to those overseeing the EIA process. For example, developers can limit “public consultation” to discussions with experts, thus excluding ordinary

people who may be affected by the project.

One of the main stated aims of this regulatory framework for public participation was to improve non-state oversight of local officials. This corresponds to a substantive rationale, whereby the public can help improve decisions by inputting new knowledge and counterbalancing the influence of project proponents by creating contestability within the EIA process (O’Faircheallaigh, 2010, p. 21). The Chinese state is highly fragmented and decentralized (Landry, 2008), and lower levels possess considerable latitude for frustrating higher level directives (Lieberthal and Lampton, 1992). For example, local governments have tended to prioritize economic growth over environmental concerns, resulting in the weak implementation of environmental legislation (Ran 2013). The Chinese Ministry of Environmental Protection (MEP) publicly acknowledges that falsification of EIA reports is widespread. State media quoted an individual involved in producing EIA reports who said, “lots of things are taken for granted, a lot of statistics are false... all daily work involves is copying and pasting [content from other] reports” (Renmin Wang, 2017). It was therefore hoped that citizens and environmental NGOs could help the MEP hold polluters to account by strengthening EIA.

Another reason for introducing public participation in EIA was to promote social stability (Enserink and Koppenjan, 2007), although it is not clear exactly how this could be achieved. One MEP official explained that more public participation was required in the EIA process to,

... guarantee the smooth operation of large environmental protection construction projects and plans, lower social risk, reduce the likelihood of environmental mass incidents happening, decrease resource wastage, eliminate mutual suspicion and ensure that projects go forwards smoothly and uphold social stability and harmony (Ministry of Environmental Protection, 2014).

Government concern about environmental protests means that, since 2012, projects needing

National Development and Research Council or State Council approval must undertake social stability assessments and public consultation (Price, 2016). According to He and Warren, public participation in China is viewed more broadly as a way of “channeling political conflict... into “governance-level participation”” (He and Warren 2011, p. 270). It is part of a wider shift towards a more “responsive” or “deliberative” form of authoritarian governance, including greater attempts to involve the public in decision-making (He and Warren, 2011; Weller, 2012). It also reflects a trend towards subtler, less confrontational modes of protest control that rely less on overt repression (Su and He, 2010).

However, there is a gap between the central government’s support for public participation and its implementation. Local governments control the EIA process and unsurprisingly have zero incentive to subject their favored projects to public oversight. As a result, public participation is frequently either overlooked completely or is carried out in a tokenistic manner, with little if any scope for the public to affect decisions. In this sense, and as Brombal and colleagues (2017) argued, it corresponds to an instrumental rationale. In some documented cases, fake public consultation data has been inserted into EIA reports (Johnson, Lora-Wainwright and Lu, 2018). In other cases, public consultation channels are opened but are limited to carefully selected people, with local governments and developers controlling the process. According to one account, “in the planning process, it is common practice of project managers to seek the opinions of a few experts rather than the opinions of the public” (He, Mol and Lu, 2016, p. 3). In addition, in many documented cases citizens are unaware of new projects until after they have been approved (Grano and Zhang, 2016). Sun and colleagues (2016) documented a case in Shanghai where, of 40 people consulted, only six were local residents. Moreover, these residents were told that they had “better not tell other residents” about the project before the central government had formally approved it (Sun, Zhu and Chan, 2016, p. 214). It should be noted that, by limiting public participation to carefully selected groups, and by failing to adequately publicize new projects, local officials are not necessarily in breach of

EIA regulations. These practices can, however, put officials in conflict with the *principles* of public participation and transparency, both of which have been clearly articulated by the central government.

In liberal regimes, at least in theory, democratic institutions such as free media, independent courts and advocacy groups safeguard deliberative spaces (He and Warren, 2011). In contrast, Chinese citizens often lack adequate means for legal or administrative redress when officials fail to carry out their public participation duties responsibly (Enserink and Koppenjan, 2007; Zhao, 2010). The courts come under tight party control, as do advocacy groups and the media. Paradoxically, whilst the party-state needs public participation to check local officials, it also wants to uphold a high level of political control. As Enserink and Alberton (2016, p. 15) noted, when Chinese citizens are denied the opportunity to participate via formal channels, “except for resignation and withdrawal, public outcry is the only outlet for the public to express social and environmental concerns.” As a result, public participation is closely intertwined with more contentious forms of claims making. In most cases, citizens must resort to contentious collective action in order to break into the decision-making process. This includes protests against chemical plants, waste incinerators, transport infrastructure, and nuclear power plants (He *et al.*, 2013; Thomas Johnson, 2013; He, Mol and Lu, 2016; Steinhardt and Wu, 2016).

### **The Role of EIA in Chinese Environmental Protest**

The literature on contentious politics examines why protest emerges and how aggrieved citizens engage in claims-making. Protest is often explained through the concepts of political opportunity, which refers to features of the political system that facilitate or impede claims-making; mobilizing structures, which bring people together and facilitate collective action; and framing, which concerns how citizens understand a problem and how they justify taking action to remedy it (O’Brien and Stern, 2008; Tarrow, 2011). Actors engaged in contentious politics

frequently resort to extra-institutional tactics, particularly when political opportunity structures are relatively closed. It is therefore distinct from (and analysed separately from) public participation defined as occurring through officially mandated mechanisms (Beierle and Cayford 2002; Dietz and Stern 2008).

In China, the boundary between “state” and “non-state” is especially blurry, with some commentators suggesting that this distinction is largely redundant due to the former’s dominance (Guttman *et al.*, 2018). We know from the literature that much Chinese contentious politics occurs near the boundary of officially approved channels, utilizes official rhetoric (for example official support for environmental protection) to curb abuses of power, and is predicated upon exploiting divisions within the state (O’Brien, 2003; O’Brien and Li, 2006). Kevin O’Brien (2003, pp. 52, 53) refers to this as “boundary-spanning contention,” which exists “near the fuzzy boundary between official, prescribed politics and politics by other means... It exists in a middle ground that is neither clearly transgressive nor clearly contained.” In China then, this boundary between officially sanctioned public participation and popular protest is particularly fluid and fuzzy (O’Brien, 2003). Wronged citizens frequently make “rightful” claims based on the failure of grassroots officials to implement beneficial policies at the local level (O’Brien and Li, 2006). This helps legitimize these claims, obtain support from elite allies, and frame grievances as stemming from local official malfeasance rather than systemic problems (O’Brien and Li, 2006). Indeed, Wu and Dai (2014) argued that whereas “NIMBY” communities in liberal democracies try to appeal to third parties including NGOs for assistance Chinese citizens need to secure support from higher levels of government. Studies have shown that this can be achieved through personal connections and, more commonly, through creating a big disturbance that attracts societal attention thus compelling higher levels of government to intervene (Shi and Cai, 2006; Cai, 2010).

The following two subsections examine two key functions that EIA plays in siting-related environmental protest in China. First, I argue that from the public’s perspective it

legitimizes opposition to siting decisions by enabling citizens to portray themselves as obedient and rational actors. This is particularly so when, as is invariably the case, public participation is ignored or is carried out in a cursory manner. In this sense, public participation serves as a lightning rod when disputes over siting decisions break out. Second, I suggest that, from the government's viewpoint, promises to reconvene the EIA process with added public participation and transparency help defuse tension when protest emerges. Here, EIA serves as a shock absorber that buys time for officials confronted by community activists. It is important to state that not every siting dispute in China follows this pattern. However, an examination of the literature, media reports, and observations from my own fieldwork suggest that public participation in EIA is frequently invoked during siting disputes in China.

The cases discussed below are drawn from my own fieldwork and secondary sources that document contestation over LULUs. The first such cases to achieve dominance in China emerged in the mid-2000s, and there is now a significant number of empirical studies that examine these cases. In addition, between 2011 and 2016 I conducted approximately 80 interviews in several locations that were experiencing siting disputes. These were predominantly related to the siting of waste incinerators. The cases discussed below are not intended to be representative of all environmental disputes in China. My intention is to highlight how EIA is related to contentious claims-making in China and to show how a narrow focus on implementation of formal public participation rules misunderstands the role that this plays in China. The academic articles discussed below were chosen because they show how EIA featured in environmental disputes.

#### *EIA as Lightning Rod in Siting Disputes*

In Chinese siting disputes, public dissatisfaction is often manifested in complaints about the lack of opportunity for public participation in the EIA process. Simply put, people complain that they were not informed about, or consulted over, the decision to construct a facility in their

neighborhoods. This apparent disconnect between official policy to consult the public, and local level implementation of this policy, provides opportunity and justification for publics to oppose unwanted projects on the basis that their “rights” to participate were ignored. By framing their opposition to projects as a desperate plea to officials to implement official state policies related to public participation, communities legitimize their complaints against LULUs. In this sense, and as Deng and Yang (2013) have argued, EIA becomes an opportunity for expedient opposition to projects within boundaries set by the state. The EIA therefore becomes a lightning rod during environmental disputes.

Local officials’ failure to solicit public opinion according to proper EIA procedure has become a commonly used justification for public opposition to unpopular projects. Communities are often kept in the dark about incinerators and other similar projects slated for construction near their homes and are denied the opportunity to voice their concerns (see for example Lang and Xu, 2013; Sun, Huang and Yip, 2017; Johnson, Lora-Wainwright and Lu, 2018; Wang *et al.*, 2019). This then becomes a source of grievance. For example, Lu and colleagues (2018) found that the main reason for citizen opposition to large chemical plants was lack of opportunity for public participation. Another study of public protests against the construction of a high-speed rail line claimed that, “*closed decision-making and non-compliance with EIA procedures became the primary target of public protests*, in addition to concerns regarding real estate depreciation and safety issues” (He, Mol and Lu, 2016, p. 14, *emphasis added*). When denied the opportunity to participate in siting decisions citizens often invoke EIA rules and complain that their right to participation (*canyuquan*) and right to information (*zhiqingquan*) have not been respected. One recent study found high levels of public awareness about these issues (Zhou *et al.*, 2019).

There are two main reasons for this. First, and as Distlehorst (2017) has argued, the existence in China of quasidemocratic institutions such as public participation mechanisms enable communities to frame their dissent concerning unpopular projects in a relatively

technical, nonthreatening manner. As well as being an expedient way of framing a grievance in an authoritarian system, it also increases the chances for citizens to recruit elite allies to support their cause. This might include officials within the environmental with a vested interest in improving the EIA process (Johnson, 2010). In addition, media support can elevate disputes to a wider audience, increasing the probability that higher levels will intervene on behalf of the protestors (Cai, 2010). This is more likely to occur when disputes are framed in a way that resonates with the state authorities rather than explicitly criticising them (Zeng, Dai and Javed, 2018).

Amy Zhang (2014) has carefully documented this in relation to the 2009 Panyu anti-incinerator campaign. When local residents discovered plans to construct a large-scale incinerator in Panyu, which is located in Guangzhou, they took to the streets in opposition to the project. When the anti-incinerator dispute broke out, citizens worked closely with local journalists to publicize their story. In doing so they were careful to portray themselves as “rational” actors rather than troublemakers (Zhang, 2014). Part of this involved focusing on how transparency and public participation requirements in the EIA process had been overlooked (T. Johnson, 2013; Li *et al.*, 2016). In other cases, communities have linked up with environmental NGOs, which have helped “channel” their contention through the legal system. When villagers from Panguanying disputed the decision to build a waste incinerator, ENGOs from Beijing helped them challenge the project due to improper public participation procedures. This proved successful when during the course of a legal challenge they obtained evidence that public consultation for the EIA had been faked, leading to the project’s suspension (Bondes and Johnson, 2017; Johnson, Lora-Wainwright and Lu, 2018). Here again, framing of grievances is crucial. According to one NGO interviewee, whilst NGOs cannot support opposition based on NIMBY sentiment, they have found common ground with protestors who find fault with substandard public participation and transparency levels.

Second, the public sometimes discovers real problems with the EIA report itself, or with

the proposed project site. They can then contest the siting decision from outside the formal process by pointing out shortcomings. For example, in 2006 residents from Beijing's Liulitun questioned some of the EIA report's content, including the prevailing wind direction and distances between the site and residential areas (Thomas Johnson, 2013). In another case, in 2008 four retired cadres led opposition to a proposed nuclear power plant in Jiangxi Province's Pengze. They focused their campaign on the claim that the EIA report contained inaccuracies, including erroneous population statistics, whilst also complaining about the lack of public participation (Ramana and King, 2017). Alleged inaccuracies in the EIA report were also cited when Kunming residents opposed the construction of a paraxylene (PX) plant in 2013. They found "procedural deficits" with the report, including the absence of public participation as required by law (Sun, Huang and Yip, 2017, p. 542). On this basis a local ENGO filed a formal administrative review requesting revocation of the EIA report's approval (Sun, Huang and Yip, 2017).

Citizens often struggle to access EIA reports, however. Protests over siting decisions often, therefore, centre on demands for greater transparency. By law, the authorities only need to disclose an abridged version of the EIA report. Yet this does not prevent citizens from demanding more. A participant in the aforementioned anti-PX protests in Kunming was quoted as saying "we fear the refinery will destroy the city's natural environment, and we demanded to see the environmental impact assessment report of this project. But we were rejected by the government who told us it's a "state secret"" (Watson et al, 2013). Following another anti-PX protest at Ningbo in 2012 where citizens had been unhappy with the level of transparency, officials promised to "increase the strength of information release [in the future], offering more explanations and removing the doubts and concerns of the masses" (Bandurski 2012). The state-owned *Global Times* newspaper attributed protests in 2013 against a uranium processing plant in Jiangmen to an 'opaque and unreasonable' decision making process, whilst urging local officials to "establish a system that fosters consultations between officials and the public" (Zhu

2013). As long as siting decisions are shrouded in secrecy, aggrieved publics can highlight the discrepancies with the formal EIA rules and regulations.

### *Defusing Tension: EIA as Shock Absorber*

In common with other countries, protests have resulted in the costly delay and relocation of unpopular projects in China. However, for the Chinese Communist Party (CCP), environmental protests are primarily worrying from a social stability perspective (Gu, 2016). Maintaining social stability has become the main goal of the party-state, and large-scale protests are seen as posing significant potential political risk to the CCP. As a result, defusing tension and breaking up demonstrations is a major priority, regardless of the issue (Lee and Zhang, 2013).

After siting disputes break out, government officials have sometimes promised to implement public consultation as per public demands. This can help defuse tension and buy officials more time – in this sense, the EIA process can function as a shock absorber. In one detailed study, Grano and Zhang (2016) documented an environmental dispute that arose in response to the Nanjing Government's decision to transplant hundreds of historic trees to make way for a new subway line. Facing strong public opposition, the local government halted the transplantation and promised to carry out formal public consultation through a new "green assessment" system. According to Grano and Zhang (2016, pp. 172, 174), this "superficial" attempt to formally solicit public opinion was introduced "only after protest erupted and as a direct consequence of it." In the end, the project was significantly modified and two thirds of the trees originally slated for transplantation were left undisturbed. They characterized this as a case of "the local government 'muddling through' with a solution that safeguarded social stability" (Grano and Zhang, 2016, p. 176). According to this analysis, public consultation was invoked primarily as a mechanism for maintaining social stability and not as a means to incorporate public opinion into the decision-making process.

A similar outcome occurred in June 2007, when thousands of Xiamen residents protested

against the construction of a PX plant in China's highest profile environmental protest to date. When public disquiet about the project emerged, city government officials "maintained a do-nothing, non-accountable, non-transparent and non-responsive stance" (Chin-fu, 2013, p. 51). This included illegally withholding the project's environmental impact assessment (EIA) report, which had been approved in 2005 (Ansfield, 2013). The government's stance shifted in response to a protest involving thousands of concerned residents, with an announcement that the project would be suspended pending further investigation. As part of this, the local government promised to solicit public opinion. It convened a high-profile public hearing to collect public comment in December, several months after the protest occurred. By that stage, it is likely that the project's fate (it was moved to another city within the province) had already been decided, with formally mandated public participation having no impact on the result.

There are many other examples of officials citing further consultation with the public as a reason for suspending projects. For example, in 2013 local officials responded to large public protests against a proposed anti-uranium processing plant in the city of Jiangmen by announcing that they would extend the public comment period for the project by 10 days. The Kunming mayor responded to the mass anti-PX protest by promising to hold a public hearing and release the EIA report. He subsequently said "the government will call off the project if most of our citizens say no to it" (Liu, 2013). In yet another example, the Maoming Government publicly responded to protests against a proposed chemical plant by stating "we will definitely listen to public opinion via various channels before making a decision on the project launch... if a majority of residents object, we will not make a decision contrary to public opinion" (Sevastopulo, 2014). The local government soon scrapped the plant altogether because, according to a spokesperson, it had "decided to respect the public opinion" (Chan and He, 2013).

In these cases, public participation was cited and sometimes enacted in a post hoc manner to defuse tension and uphold social stability. Without public outcry, these projects would have

gone ahead smoothly. Once the public found out about these projects and engaged in large-scale collective action, the threat of social instability meant that continuing to promote the projects became politically risky for local officials. The EIA process functioned as a means to delay projects and defuse public protest.

## Discussion

By definition, public participation should occur before decisions are taken. Best practice dictates that post-decision participation is limited to influencing implementation and improving policy evaluation (Dietz and Stern, 2008). As the previous discussion has illustrated, public participation in China's EIA process is triggered in response to public pressure *after* decisions have been taken. In these cases, any public participation occurs on a post hoc basis. Absent an independent authority to enforce citizens' "rights" to be informed and consulted over new projects in their communities, protest serves as a corrective measure that can force open the doors. The framing of protest as an appeal to existing "rights" bestowed on the public to participate in planning decisions contributes to the depoliticization of disputes. Governments can backpedal and save face when they suspend projects to allow for further consultation. This is in line with CCP attempts to portray itself as a more "managerial" party that respects public opinion. However, there are also problems with this approach. First, the necessity of protest as an important ingredient in getting the voices of the public heard favors well-resourced communities. This echoes findings from Western literature on public participation (Lowndes, Pratchett and Stoker, 2006). However, the processes through which resources affect participation are different. This is especially so in light of Wu and Dai's (Wu and Dai, 2014) observation that protestors must appeal to the government for support. Middle class communities are especially well-placed to draw on pre-existing social networks to expedite this process (for example see Shi and Cai, 2006). Concern that public participation becomes the domain of those "with the loudest voice" has also been reflected in Western contexts (Callahan

2005, p. 915). A second problem, from the government's perspective, is that successful protests such as that witnessed in Xiamen may encourage other communities to follow suit — evidence suggests that the Xiamen case did indeed inspire other communities (Liu, 2016; Zhu, 2017). Third, it is doubtful whether there is any improvement to the quality of decisions, and, ultimately, the quality of governance in China. In the disputes examined in this article, public participation becomes a zero-sum game instead of a way of earning public trust and improving the content of decisions for a mutually acceptable solution (see also Li, Koppenjan and Verweij, 2016). This partly reflects the reality that community protests are mainly concerned with expelling unwanted risk from a locality rather than a genuine desire to participate in decisions.

Particularly in a liberal democratic context, protest is usually viewed as an extra-institutional means for excluded groups to influence policy (Tarrow, 2011). It is therefore distinct from (and analysed separately from) public participation through officially mandated mechanisms (Beierle and Cayford, 2001; Dietz and Stern, 2008). In China, protest is a vital catalyst for public participation in the EIA process. Limited oversight of local officials means that public participation rules and principles lie dormant until citizens invoke them — regulations are a starting point, not an end point, in the battle for public participation. They provide legal and moral justification for citizen opposition to development projects, allowing communities to participate in siting decisions after they have been made.

The China case suggests that establishing general principles for public participation in EIA can be just as important as the precise wording of public participation procedures. This also contributes to the durability, or “stickiness” (Steinberg, 2012), of institutional change in an illiberal political system. Environmental public participation was championed in the first instance by State Environmental Protection Administration (SEPA) Vice-Minister Pan Yue, an outspoken official who subsequently fell out of favor and was demoted (Watts 2009). Despite apparently declining support for environmental activism within SEPA, the principle of environmental public participation has endured, and has become a major framing device for

opponents of projects that could negatively affect their wellbeing. This continues despite the CCP's recent shift towards greater political control, including a turn against the rule of law and increased repression of activists (Fu and Distelhorst, 2017; Minzner, 2018). Environmental NGOs and community activists have also played an important role by embracing and consolidating public participation principles (Zhan and Tang, 2013).

This article also shows how widening the definition of public participation can shed new insight of how it is constituted. Protest tends to be excluded from definitions of public participation in a western context (for example see Beierle and Cayford, 2001, p. 6), with studies focusing on specific participative mechanisms (Callanan, 2005). Yet, as Fischer (2006) has pointed out, participatory governance is not simply determined by the top-down design of structures and mechanisms. Underlying social, cultural, and political contexts may facilitate the contestation, subversion, and even transformation of participatory rules (Fischer, 2006). This article's findings are consistent with a portrayal of Chinese political institutions as "amphibious", meaning that they can be at least partially appropriated by other actors (citizens in this case) and directed towards other means (opposing unpopular projects) (Ding, 1994). Although a genealogy of environmental public participation in China is beyond this study, different actors have appropriated, or "instrumentalized" (Fischer, 2006, p. 22) participatory rules for different purposes. In China, weak rule of law and vague public participation legislation has created a vacuum into which citizens have inserted their own "exaggerated" interpretations of public participation that go beyond the limited version embodied in legislation (Enríquez-de-Salamanca, 2018). Aggrieved communities have used it to justify their opposition to LULUs and depoliticize disputes. And local government officials have invoked the language of public participation and transparency to defuse tension and uphold social stability. Public participation in EIA therefore serves several functions in relation to dispute resolution and social stability maintenance in China.

## Conclusion

In his influential book on authoritarian politics Milan Svoblik (2012, p. 13) bemoaned the frequent depiction of authoritarian institutions such as legislatures and courts as “just less-perfect versions of their democratic counterparts”, finding instead that they serve their own “quintessentially authoritarian ends.” By drawing on insights from literature on contentious politics, this article has shown how this observation can also apply to public participation rules in the EIA process. If viewed as an institutionalized mechanism for incorporating public opinion into the decision-making process, corresponding to a substantive rationale, China’s environmental public participation framework leaves much to be desired. However, a closer analysis reveals that it performs important functions in relation to the regulation of environmental disputes. The state’s commitment to public participation helps maintain stability by regulating contestation and depoliticizing dissent. In addition, when local planners really do make mistakes and propose inappropriate sites for projects, protest can act as a crude yet effective means to alert higher levels who can then intervene (see Lorentzen, 2017). Instead of being an example of a Western idea imperfectly grafted onto the Chinese system, public participation in China should be viewed in its own terms—as a multifaceted social control mechanism that helps defuse tension and regulate siting disputes.

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<sup>i</sup> See Brombal *et al* (2017) for a detailed discussion of the laws and regulations underpinning public participation in China's EIA process.