Effectiveness of Public Participation Principle in the Protected Areas in China

QIN Tianbao
WEI Lele
LIU Qing
DUAN Weiwei

Wuhan University, China

SUMMARY OF THE EVALUATION

The evaluation team chose protected areas as its ‘natural resource governance issue’ and public participation as the “legal issue” to assess. The purpose of the present research is to evaluate the effectiveness of public participation for the management of protected areas in China. Protected areas, as instruments for safeguarding the integrity of ecosystems and biodiversity, also ensure the right of the local and traditional population previously existing in or nearby the protected areas. These areas raise challenges in terms of their governance and implementation of public participation but both elements could help in overcoming the issues raised in the process of protected areas management.

By the end of 2011, China had established a total of 2,640 different types of nature reserves, covering 14.9 percent of the country's land territory. Generally, based on their relative importance, each type of protected area can be further graded into three levels - national, provincial and prefectural/country.

In order to analyse to what extent the public participation principle has been implemented in protected area management, the authors recognise that the public participation principle has many different components.

“Public participation” refers to a variety of participatory mechanisms including:

- Innovative deliberative democracy experiments at the local level
- Lawsuits, complaints or petitions, against or to the State, to request information from government agencies pursuant to China’s recently promulgated government information disclosure regulations
- Online activism by China’s “citizens”
- Various kinds of protest.

The authors chose some objective indicators of public participation in order to analyse to what extent the legal principal has been implemented. Participation can be divided into three

---


main components: information disclosure, participation in the decision-making process and access to justice. Although Chinese laws include the principle of public participation, their effectiveness is limited. Action should be taken to improve the provisions and implementation of the public participation principle in the management of protected areas in China.

The public participation principle in the field of protected areas is being built and improved in China, step-by-step. There are a growing number of laws and regulations that have included the public participation principle. Some action has been taken to implement the principle of public participation in protected areas. In China, some managers of protected areas have established their management rules for these regions. Adequate access to the Internet is not available in all regions of China and not all offered data is up to date. As a consequence, this can be a barrier to public participation. NGOs in China have played an irreplaceable role in encouraging public participation in protected areas management. Nevertheless, tensions and conflicts still exist in these areas, reflecting the problem of ineffective public participation. In summary, public participation is still in its infancy in management of protected areas in China.

To reach these conclusions the research team used the following objective parameters:

1) The existence of a management department.
   a. Who is responsible for the protected areas management?
   b. What is the justification and how is the management of the area undertaken?

2) The effectiveness of the public participation
   a. What measures have been taken to ensure public participation?
   b. The extent of the implementation of public participation.

The authors faced difficulties in accessing documents, in particular the case law involving public participation in protected areas, and finding up-to-date information on the Internet.

In order to evaluate the effectiveness of the public participation, the authors undertook following steps.

1. The three main components for the public participation were determined.
2. A search for relevant case law and other documents (including material found on the Internet) was undertaken. The authors found several cases, legal documents and relevant data on the public participation in protected areas.
3. The analysis of the existence of legal provisions for public participation in protected areas management, using the Internet and conducting field research was conducted.
4. The team outlined their idea of how public participation should be incorporated into the law and also tried to use the case law as an example of the actual effectiveness of the principle. The authors also considered the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998) to evaluate participation principle from a tangible aspect.

The research team learned a lot from the evaluation process. This research led us to reflect on the method used in an attempt to analyse objectively how the legal principle is implemented. The data analysis and determination of objective criteria was useful to establish the appropriate actions that need be taken to ensure effective public participation in protected area management.
THE NATURAL RESOURCE GOVERNANCE ISSUE

Covering approximately 9.6 million square kilometers China's landscape is vast and diverse, ranging from forest steppes, deserts in the arid north, to subtropical forests in the wetter south. As a consequence of its size, varying nature and complex geological history, China has a wide range of habitats and large numbers of animal and plant species. China is recognised by Conservation International (CI) as a mega-diverse country because of its rich vertebrate and other zoological wealth. China has seen a rapid increase in both number and square kilometer coverage of protected areas over the past couple of decades, and improving the success of existing reserves is currently a focus of management. By the end of 2011, China had created a total of 2,640 different types of nature reserves, covering 14.9 percent of the country's land territory. Based on their relative importance, each type of protected area can be further categorised into three levels; national, provincial and prefectural/country.

Guan Zhong, the Prime Minister of the State of Qin, around the time of Confucius (551-479 B.C.), placed a great emphasis on the management of mountains, rivers, and forests. He promoted the principle of “prohibition of exploitation at the proper time”. Prior to 1979, protected areas were designated centrally with minimum participation from lower-level governments in a straightforward process that aimed to reduce logging and hunting in high-value natural areas. In December 2001, the State Forestry Administration (SFA) implemented the Wildlife Conservation and Nature Reserve Construction Project, which aims to establish 2500 nature reserves covering 172.8 million ha (18% of China’s land area) by 2050. The program supports 48 national protected areas and aims to improve their management with 0.15 billion Yuan.

Many protected areas are created in regions that are home to well-established rural communities who depend on the natural resources found in these areas to live. However, China’s strict nature reserve regulations greatly limit human activities in protected areas, and thus create direct conflict between the need for conservation and the requirements of the local people. In recognition of these issues and to help mitigate conflicts, the Chinese government mandated that all protected areas should be divided into three zones, a core zone where strict nature conservation is enforced, and buffer and experimental zones where more intensive human presence and activities are allowed. The basic objective of conserving protected areas in China is not only to preserve natural ecosystems and biodiversity, but also to guarantee the economic development of the surrounding areas. Specifically the aim is to:

- Protect the basic biological processes and ecological systems
- Save the genetic diversity, namely by maintaining the biodiversity types of genetic material

---


• Ensure the sustainable utilisation of plant and animal species and biological systems, especially fisheries, wildlife, forest and pasture.

THE LEGAL PRINCIPLE BEING EVALUATED

The management of protected areas is best handled with the participation of all stakeholders, at the relevant level. Based on the research team’s definition of the public participation, this evaluation analysed the following three components: information disclosure, participation in decision-making and access to justice.

Information Disclosure
Access to environmental information is a prerequisite to effective public participation in decision-making and to monitoring governmental and private-sector activities. The first official statement on government transparency appeared in 1988, when the Secretariat of the CPC (Communist Party of China) Central Committee proposed the disclosure of all administrative regulations, procedures, and decisions in preparation for democracy. More recently, the newly modified “Environmental Protection Law of the People’s Republic of China” (2014) provides an independent chapter on “information disclosure and public participation”. Notably, Article 53 states

Citizens, legal persons and other organizations shall have the right to obtain environmental information, participate and supervise the activities of environmental protection in accordance with the law. The competent environmental protection administrations of the people’s governments at all levels and other departments who burden with environmental supervision responsibilities shall disclose environmental information pursuant to the law, improve public participation procedures, and facilitate the citizens, legal persons and other organizations to participate in, and supervise, environmental protection work.

Among the regulations concerning protected area conservation, only the “Land Management Approach in Nature Reserve” (1995) specifically refers to public information. Article 13 states that the People’s government, which approves the establishment of protected areas, determines the scope and boundaries of protected areas. The establishment of a protected area should and its boundaries should be announced to the public. Article 14 points out that any dispute because of an unclear scope or boundary of a protected area should be resolved by the People’s government as they approve the establishment of protected areas. The environmental protection authority can cooperate with the department in charge of protected areas and other relevant authorities to submit their advice to the People’s government. In addition, Article 7 of the “Regulations on the Adjustment of National Nature Reserves” (1994) indirectly approves that the public can view some important documents on protected areas, if they are changed or adjusted.

In 2011, a key case concerning the right to information and protected areas was heard in China. In order to obtain more information about the national protected areas for rare and


special fish in the upper reaches of the Yangtze River, “Friends of Nature”, one of the well-known environmental NGOs in China, asked the Ministry of Environmental Protection to release some important information. Friends of Nature was of the opinion that according to Article 7 from the “Regulations on the Adjustment of National Nature Reserves” (2013), if the national protected area needed to be changed or adjusted, some important documents should be accessible. These documents include the application report for the adjustment to the protected area (the reason for the application, the report on the environmental impact assessment), the comprehensive research report on the adjusted part in the protected area, the comments made by the Evaluation Committee of the National Nature Reserve in the 2010 annual meeting and the general planning map for adjustment. Only the general planning map for adjustment was available on the website of the Ministry of Environmental Protection. Friends of Nature asked the Ministry of Environmental Protection to provide the missing documents mentioned above and the 2010 annual meeting cahier to the public. The Ministry of Environmental Protection adhered to all the requirements. However, China shoulders heavy responsibilities in the construction of information disclosure laws.

**Participation in decision-making**

Access to information is a prerequisite for effective participation. The community’s involvement in decision-making is also important and an area where more attention is needed.

There is little mention of any right to information or right to participate in the development of laws and regulations concerning protected areas. Article 7 from the RPRCNR (1994) states:

> People’s governments above the country level shall strengthen the power to lead the development of protected areas. Every unit or individual has the obligation to protect the natural environment and natural resources and the right to report or accuse any unit or individual who destroys or encroaches protected areas.

Nevertheless, it is necessary to incorporate environmental democracy into legislation. In particular the right to information and the right to participate in protected areas management, for all stakeholders, including NGOs is important. Public participation should include:

1. **Pre-planning participation.** The public has the opportunity to participate in the discussions or negotiations before drafting environmental policy or legislation, or preparing construction projects.
2. **Process participation.** The public can participate in the process of implementing the environmental law, regulation, policy or programs.
3. **Action participation.** The public has an awareness of “protecting environment by ourselves” and put the awareness into real behaviour.
4. **Final participation.** The public can access the legal system and receive a legal remedy.

Only through these four kinds of participation can the public be deemed to have played a holistic and meaningful part in the participation process to achieve the final environmental goal. Simply, it is better to change “passive participation” to “self-mobilisation participation” or “active participation. Since 2010, some improvements have been made in new regulations and policy. For example, Article 13 of the IMMSMPA (2010) states that before establishing marine protected areas, the authority shall inform the public and allow the public to provide suggestions and comments.
Public participation in China consists of legislative hearings, meetings, workshops, and notice and comment procedures. The first public hearing ever convened by the former State Environmental Protection Administration (SEPA) took place in April 2005 in response to a public outcry over a water conservation project in Beijing’s historic Yuanmingyuan Park where there was an intention to line lakes with plastic. The project had not obtained the required environmental impact assessment approval, and academics and conservationists argued that if it were to go ahead it would negatively impact Beijing’s underground water systems. There were 120 participants in the hearing and different views were highlighted. An assessment was conducted, and the recommendation was that the plastic lining should largely be replaced with clay. The SEPA then issued interim processes that dealt specifically with public participation in environmental impact assessments. These came into force on the 18th March 2006 in an attempt to ensure greater disclosure of environment-relevant information and provide guidance on different mechanisms that should be used to obtain public input into the environmental impact assessment process.

**Access to justice**

Broadly speaking, environmental public interest litigation contains civil and administrative elements. Civil public interest litigation aims to prevent or stop any activities harmful to the environment and administrative public interests litigation urges administrative agencies to take effective measures to safeguard the protected areas.

Article 6 of the *EPL* (2014) is regarded as the basic provision in the current legal system about access to justice in environmental matters. It states that all units and individuals have an obligation to protect the environment and the right to report, or sue units or individuals that cause pollution or damage to the environment.

Further, Article 41 says that a unit that has caused an environmental pollution hazard has the obligation to eliminate it and pay compensation at the request of the parties. The administration section of the department of environmental protection or another department vested by law, with the power to conduct environmental supervision and management must settle the matter. If either party refuses to accept the decision, they may bring a lawsuit in the People’s Court. The party also has the option of bringing the lawsuit directly to the People’s Court instead of trying to settle the matter.

Article 42 states that the limitation period for prosecution with respect to compensation for environmental pollution shall be three years, counted from the time the party is aware, or should be aware of loss caused by the pollution.

Article 64 says, “those who cause damages due to environmental pollution and ecological damage shall bear tort liability in accordance with the *Tort Liability Law of the People's Republic of China*”.

Article 55 of *Civil Procedure Law of the People's Republic of China* (2012) states that relevant bodies and organisations prescribed by the law may bring a suit to the People's Court against acts such as environmental pollution, harm of the consumer’s legitimate interests and rights and other acts that undermine the social and public interest.
Instead of pursuing access to justice in environmental matters through the *EPL* (2014), citizens prefer to solve disputes through a more efficient channel. Vulnerable groups and local communities would like to find an easier and more efficient way to solve conflicts regarding protected area conservation and their own interests.

The efficiency of the system is perceived to be more important than anything else in China. In the *EPL* (2014), Article 57 states that citizens, legal persons and other organisations are entitled to report and complain against entities and individuals that cause environmental pollution and ecological damage. These complaints should be made to the competent departments for environmental protection or other departments with duties for supervision and administration over environmental protection. Citizens, legal persons and other organisations that discover the failure of the

- local people's governments at any level, or
- departments for environmental protection at or above the county level, or
- other departments with duties for the supervision and administration over environmental protection at or above the county level

to perform environmental supervision and administration duties in accordance with the law, may report the situations to the authorities at a higher level or supervisory authorities. The departments receiving the report must keep confidential the relevant information and protect the legitimate rights and interests of the reporters. Article 58 states that any of the social organisations satisfying the following conditions may file lawsuits with the People's Court against acts that pollute the environment, cause ecological damage and harm public interests. To be eligible, the organisation must be

1. Registered with the civil affairs department of the People's Government at or above the level of city with districts in accordance with the law; and
2. Engaging especially in the public service activities in environmental protection for five consecutive years without any record of violation of laws.

Where a social organisation satisfying the provisions files a lawsuit with the People's Court, the People's Court will accept the lawsuit in accordance with the law. The social organisation that files the lawsuit should not do so to seek economic benefits. However, the authors could not find many cases that addressed public participation in protected areas management.

China has established a legal framework that incorporates public participation in protected areas. Information disclosure is significant to allow the public participation process to occur. The laws and regulations surrounding the disclosure of information have made great progress. However, there are still some shortcomings. One is that there is no clearly defined scope for information disclosure. The ability for the public to access information is limited. The awareness related to protected areas and availability of the public to participate in protected areas management is weak. This in turn it has a negative impact on the rate of public participation in protected areas management, with the level of participation observed in China relatively low. In practice, the governments and their competent authorities tend to focus only on whether the public participates in the process, and the feedback provided is often overlooked. Therefore, public participation is often a one-way situation. The administrative departments lack the correct understanding of public participation. They often see the public
participation in the decision-making process as a procedural requirement rather than encouraging active participation. This has contributed to a low level of efficient public participation in protected areas. China's current legal documents have provided provisions for the support of public participation, but in practice it does not always occur. China's laws provide limited ways for access to justice when public participation does not occur. The legal restrictions found in the law contribute to only a few cases being filed and a smaller number of cases being successful. The restriction on the plaintiff’s standing has formed an obstacle for cases concerning protected areas conservation.

THE METHOD OF EVALUATION

The analysis of how effective public participation is in protected areas management is noted in the following methodological procedure.

First of all, data and information available on the Internet about protected areas in China was gathered. The authors then made a table showing the laws and regulations on protected areas, highlighting the provisions on public participation in protected areas. The authors also collated the cases in China on protected areas. Based on this data it was possible to develop an objective idea on how public participation in protected areas is being implemented. The legal provisions to be objectively analysed were chosen during this first stage. In the second stage, the authors identified where these provisions had being implemented in practice.

Using the case law that exists in China, the research team decided to conduct field research about information disclosure, participation in decision-making and access to information in protected area management. This allowed the research team to use non-directive qualitative interviews to determine the advantage and disadvantages of the legal provisions.

The research team then compared the information available on the website to that obtained during the interview process as transparent access to information is fundamental for effective participation. The authors took into account the Aarhus Convention (1998) and attempted to evaluate the participation principle from three aspects: information disclosure, participation in decision-making and access to justice.

Due to limited resources it was difficult to fully evaluate the public participation principle in protected area management. The authors used the “Types and Grades of Nature Reserves Principles” released by the State Environmental Protection Administration and the State Bureau of Technical Supervision.

DETAIL: HOW EFFECTIVE IS THE LAW?

In China, there are some laws concerning protected areas (mainly nature reserves), such as the Constitution, the EPL (2014) and the RPSCNR (1994). These documents form the legal framework for protected areas in China.

In China, the RPSCNR (1994) plays the fundamental role in governing nature reserves. It has established the regulations on the protected areas. There are the provisions in the RPSCNR (1994) on governmental responsibility, nature reserve administrative agencies, the
establishment of nature reserves, management of the protected areas and legal liability. The authors found many provisions on the establishment and management of the protected areas and the prohibitions that can lead to a violation of the law. However, there are no specific provisions on public participation in protected areas. That is, there are no particular provisions related to information disclosure, participation in decision-making process and access to justice as instrument for public participation in protected areas. The Constitution and EPL (2014) have provided some regulations for public participation in protected areas. Although they have outlined the procedure for public participation, the provisions are not specific to public participation in protected areas. The design of the law is not adequate and therefore does not sufficiently provide for public participation in protected areas management. The RPSCNR (1994) pays more attention to “strengthening the construction and management of nature reserves and protecting the natural environment and resources” than public participation. The current laws and regulations pay more attention to the natural environment, resource protection and the economical development but have not included provisions on the public participation in protected areas.

In the Chinese environmental administration system there are 10 different ministries or administrative departments managing protected areas. In 2008, the State Environmental Protection Administration was upgraded to the Ministry of Environmental Protection (MEP), which emphasises the increased prioritisation of the environment, by the central government. The administration system includes the China Meteorological Administration, State Forestry Administration, Ministry of Agriculture, Ministry of Housing and Urban-Rural Development of the People’s Republic of China, Ministry of Land and Resources, Ministry of Water Resources, Ministry of Science and Technology, Ministry of Finance, Ministry of Foreign Affairs, National Development and Reform Commission, China Global Environmental Facility and State Oceanic Administration. In China, these administrative departments bear the burden of conservation work in protected areas. Their responsibilities with regard to protected areas include the disclosure of information, providing the public the opportunity to participate in the decision-making processes and developing plans for conservation in protected areas. In practice, the governments distribute a broad range of information about activities they deem to be of particular interest to the public, through a variety of channels including public libraries, government offices and the Internet. Even prior to the RPSCNR (1994), government agencies were releasing and posting on their websites an ever-increasing amount of information. Currently many government websites have special OGI columns, leaders’ mailboxes and chat-room capabilities. Local governments have played (and are still playing) an important role in building the foundations of government transparency. Although some information has been disclosed on protected areas, there are still some barriers that need to be overcome for this process to be more effective.

There are few Articles that mention information disclosure or participation in decision-making concerning protected areas in existing legal documents. Article 7 from the RPSCNR (1994) states that

People’s governments above the country level shall strengthen the power to lead the development of protected areas. Every unit or individual has the obligation to protect the natural environment and natural resources and the right to report or accuse any unit or individual who destroys or encroaches protected areas.”
As discussed above public participation should include pre-planning participation, process participation, action participation and final participation. There have been several cases on the public participation in China. From these cases, the authors determined that public participation in China is mainly in the form of final participation, and there is little pre or process participation. To a great extent, the main administrative department decides the scope and effect of public participation, and the local people often fail to recognise that it is important they participate in protected areas conversation. Overall, there is lack of efficient mechanisms available to allow for effective public participation in protected areas conservation.

Article 6 of the *EPL 2014* states that all units and individuals have the obligation to protect the environment and the right to report on, or sue units or individuals that cause pollution or damage to the environment. Article 41 state that

> A unit that has caused an environmental pollution hazard shall have the obligation to eliminate it and make compensation may, at the request of the parties, be settled by the competent department of environmental protection administration or another department invested by law with power to conduct environmental supervision and management. If a party refuses to accept the decision on the settlement, it may bring a lawsuit in a People’s Court. The party may also directly bring a lawsuit in a People’s Court

Although, some laws contain provisions on access to justice for public participation in protected areas they are not clear and there is no case law on this topic. In practice access to justice in protected area management appears to be very difficult to achieve. The plaintiff’s standing forms an obstacle to the regulations on access to justice being well enforced by the People’s Court. The laws have provided some regulation to protect private interests in protected areas but they are also unclear. Cases on private interests in protected areas are also rare which may hinder the participation in the management of these areas.

**The reason for the ill effectiveness**

There are few regulations about information disclosure on the protected areas in the Chinese legal system. The *Disclosure of Government Information of the People's Republic of China (2007)* and the *Interim Rules on Disclosure of Environmental Information* are important documents regarding China’s laws and regulations on information disclosure. The National People’s Congress and its Standing Committee did not formulate them, which means that the regulations on information disclosure on protected areas in China cannot fully play their role in our country.

In spite of the progress on public participation in China, compared to some developed countries, there are still limitations. Firstly, the organisational form of participation is restricted in scale, with public participation in protected areas limited. Chinese environmental protection associations, especially the NGOs, have limited impact on governments’ decision-making. Secondly, the process of participation is not comprehensive as it consists of mainly post-participation, which is not adequate. Thirdly, the topics which public participation covers is limited, and participation in decision-making only occurs in the final stages. Fourthly, the

---

government mainly organises public participation and the system for public participation remains insufficient in China.

Achieving access to justice in protected area conservation is very difficult. Firstly, the defendant in this kind of case is sometimes unclear because the violators cannot be easily identified. As for citizens’ potential role in conserving protected areas, the court would reject their claim against some activities that would destroy protected areas as they lack legal standing. Vulnerable groups such as local people and communities would find it even more difficult to gain legal standing. Collecting evidence to use in the lawsuit will be difficult as the link between behaviour and environmental damage can often not be easily demonstrated. Secondly, environmental litigation is a lengthy process. Vulnerable groups, such as the local people and communities who live near or in protected areas have a right to access to justice. This allows them, with the support from appropriate legal system, to appeal to a court against a decision. However, the local people and communities are disadvantaged in the process of access to justice in terms of their legal standing and obtaining evidence, and this has been an obstacle for public participation. Lastly, all cases refer to environmental administrative litigation whether they are related to property rights, information disclosure or participation in decision-making. This can include private interests against public power or private interest against public interests. The defendant may be the local government or the management committee of protected areas. If several authorities issue a decision on a protected area, it is unknown whether the People’s Court would accept the case.

Effects of context on outcome
In general, information about protected areas will disclosed by the administrative agencies of the government and their subordinate departments of environmental protection, as they have obligation to do so. Private enterprises and other organisations can also be obligated to disclose environmental information as directed by the government and its competent department, or according to relevant laws and regulations.

China's relevant laws and regulations do not comprehensively specify the way in which environmental disclosure is to occur. The laws and regulations in place have being developed in accordance with the EID (2007) and provide a method for publishing information. The government plays an important role in making information available through government websites, bulletins, press conferences as well as through the media (newspapers, radio, television). However, these methods are not effective as if the community is not engaged in the issue, they may ignore information that has been released. The voluntary disclosure of information by private enterprises occurs through the media, Internet and various environmental reports.

Environmental protection departments can determine which institutions are required to disclose environmental information, and the quality of the information required, based on their functions, regulations, regulatory and planning documents. The methods in which material is published it not ideal. This is due to a lack of clearly defined laws and regulation on state and commercial secrets, personal privacy issues, which has led to a difficulty in determining which information, can be legally published.
Actual outcomes that were achieved
To further improve and promote public participation in protected areas, relevant legal provisions are currently being developed. China has not issued protected areas legislation at a national level. The public participation process outlined in the relevant legislation is being referred to as the national laws are developed. In China, the laws, regulations and other normative legal documents on protected areas provide the process of public participation provisions, and especially the requirements for information disclosure. They outline the reporting systems and other methods for detecting illegal activities as well as the establishment of protected areas, their development and protection. These documents also allow for “problem hearings, feasibility studies, submissions” to occur and allow for public participation in the protection, development and other activities in protected areas. These provisions however are too difficult to be enforced.

Side effects or other consequences
China's current legal documents do not clearly specify the provisions or principles for the reinforcement of public participation in protected areas management. According to the law, the appropriate access to justice generally only expects the public through reports to apply for administrative reconsideration. Administrative litigation filed to defend their rights to participate in environmental decision-making in practice is difficult. There have been cases involving China’s need to protect the land. But these cases in part have been disrupted while litigation occurs, because of contract disputes with the protected areas management agencies. For public participation, China's law provides limited ways for access to justice. The related legal restrictions leading to standing are absent and the efficiency is low.

RECOMMENDATIONS: IMPROVING THE EFFECTIVENESS OF THE LAW

To improve the public participation in the protected areas, China should take action from the three perspectives: information disclosure; participation in decision-making; access to justice.

Improvement for the information disclosure
Institutions do not disclose enough information to understand and monitor their decision-making processes. An improved information disclosure system will provide better foundations for public participation.9 The protected areas management institution must be the main organisation that bears the burden of the work associated with information disclosure. However, the protected areas management institution should not be solely responsible, and should cooperate with other relevant departments to undertake the work involved in information disclosure about specific protected areas. The authors suggest the following would also assist in improved information disclosure:

- MEP government website (www.mep.gov.cn)
- Environmental administrative services
- China Environment News
- Government environmental information disclosure guidelines
- Government information disclosure catalog

The language in the disclosed information should be as simple without the use of very technical terms to the public can easily understand its meaning. The information should also be available in the commonly understood languages, including those of the aboriginal people. The public should have access to technical assistance to facilitate their understanding of the relevant information. The scope and boundaries of information disclosure in protected areas conversation is contained in the relevant legal documents. This information includes the development, retention and management of nature reserves, the tenure of protected areas and their registration. For each of the different legal documents the specific provisions on these items is not the same and this may cause difficulties for the government to understand the scope and content of information disclosure laws across China. Aboriginal communities who live within the scope of the protected areas find it difficult to access clear and comprehensive information to allow them to participate in the management of protected areas. There are a number of government agencies that are not clearly required by the laws and regulations to disclose information and often refuse to release information. As the laws and regulations are not clear and comprehensive there is often no recourse when an agency refuses to disclose information. At a national level there is still a lack of dedicated legal documents on information disclosure in protected areas management. The community has been calling for the urgent introduction of a range of legal documents at a national level to manage protected areas. The introduction of new legislation on information disclosure in protected areas will play an important role in the process of public participation in protected areas. A feasible approach in the short term is to clearly define the scope of information disclosure in the existing legislation at the national level on protected areas. If this occurs the development of local legal documents on the scope of information disclosure in protected areas will be more straightforward. The number of organisations who burden the responsibility of information disclosure needs to be increased so a greater number of departments are required to fulfill this obligation.

**Improvement for the participation in decision-making**

Public participation in decision-making is particularly important and legislation should have an emphasis on

- Designating or amending protected areas
- Designating management authorities
- Developing and approving a management plan
- Designing and implementing a strategy for the protected area system plan
- Reviewing a draft environmental and social impact assessment of the proposed actions of the protected areas agency.

---

Participatory processes can occur at multiple levels (from small projects to national and international policy) and should not be exclusively led by the government or NGO. Community-led processes should also be supported and respected. Some NGOs have the capacity to serve as facilitators of communication and cooperation between governments and local communities, or between local communities or governments and the private sector. The key requirement is to empower local people and communities with the aim to enable them to access information, voice their opinion, share their local knowledge and assume a greater role in protected areas conservation activities. When this happens it often leads to positive changes concerning the guarantee of their livelihoods and the conservation for protected areas. China could adopt laws to safeguard the Chinese government’s positive obligation on protected areas conservation and guarantee peoples’ right in protected areas.

The authors suggest that a procedure that coordinates public participation is set up with trial organisations in their respective protected areas. China's relevant legal documents allow protection management departments to set up internal units to manage protected areas. In each organisation, the aboriginal representative will have a more comprehensive understanding of the issues arising from decision-making about protected areas management, provide timely feedback and relevant information to the public they represent. This way the public will have a clearer understanding of the contents and associated trends arising from the policy that is related to their interest in the protected area. The public will use these legal documents to safeguard their legitimate rights and interests in protected areas which will more effective than what has happened in the past. Under this mechanism, to a certain extent indigenous people can also act as a relevant policy maker.

The participation of aboriginals in policy development leads to greater feedback being given to the aboriginal community on policies that allow public participation in decision-making to be effective. This occurs through the distribution of comprehensive information found in reports, newspapers, other media and published information. To enhance the public's awareness of their rights their understanding of the relevant policies needs to be improved. This can occur through more direct and effective media, Internet and other facile propaganda.

The key is to enhance the ability of the public, particularly the indigenous, to participate in and increase their voice in terms of decision-making. To facilitate the process, experts in most sectors can act as a spokesperson for the aboriginal community to allow them to participate in decision-making. When aboriginals participate in decision-making for protected areas, they can invite experts to support their knowledge and technology to safeguard their own interests. Government and other administrative authorities are more willing to accept the professional opinion of experts to provide advice on issues as a basis for decision-making. Experts are considered one part of the public group and can also participate in the decision-making. But for the public protection in protected areas, their view on participation in decision-making is considered significantly stronger than other groups. If experts are aboriginal and fully participate in decision-making influencing public opinion of the aboriginal community, the impacts on decision-making will be more direct and feasible. In the future, experts are bound

to play an increasingly important role in decision-making, especially with regards to public participation in protected areas. This requires the establishment of a special system so that experts can utilise their knowledge to provide scientific and objective evidence for the protection of knowledge and technology to the government and the public who lack the understanding of this information. All the relevant parties could participate together in the decision-making process and take responsibility for implementing decisions.

**Improvement for the access to justice**

To improve the implementation of the access to justice principle changes to the legislation combined with other measures are required. This would allow the public to have a greater capacity to go to a court, which would at least guarantee an effective channel for the people to look after their interests. The future direction that the access to justice principle takes in the field of public participation needs further development to improve the law. Discussed from the perspective of a single issue, it is difficult to reflect on the effect the access to justice principle will have for public participation. It is possible to explore new remedies for access to justice in public participation if an entirely new legal document is developed.

When public participation in protected areas management is compromised, timely relief is required. Currently, the relevant laws and regulations in China outline the principle of access to justice however their practical operation and implementation is not strong. Therefore, to improve the effectiveness of the law in this area the following recommendations are made.

1. The legal provisions on environmental public interest civil litigation need to be improved. In particular these provisions need to confirm the eligibility of the people or organisations to bring public interests litigation. The subject of this litigation mainly concerns local residents whose livelihoods have a close relationship with the region and local environmental NGO.


3. The capacity of public participation in protected areas management activities needs to be improved. There are some key criteria that need to be considered:
   - There needs to be greater information disclosure on protected areas to the public. The scientific information related to protected areas needs to be easily comprehensible by the public.
   - To strengthen public participation in protected areas management activities, education and capacity building is required. This could occur through the wide dissemination of scientific, cultural and legal information to improve the community’s knowledge.

4. The security system for the public participation in protected areas needs to be expanded and improved. This will provide a greater ability for the public to access justice in protected areas management activities.
LESSONS LEARNED IN APPLYING THE EVALUATION METHOD

Steps to be undertaken for the evaluation method

1. In order to get the full background, the authors needed to classify the objective of the research before the cases were collected and filtered. This will allow the authors to ensure the evaluation is an accurate representation and comprehensive. The authors used a database to find out the laws, regulations and policies on protected areas and the public participation principle. Once the relevant laws and policies were determined, the authors then found any related provisions. In order to determine the level at which the public participation principle is implemented in China, the authors listed the case law related to public participation in decision-making on protected areas management and categorised them according to their different elements. The authors also found relevant articles, reports and books that have been published on protected areas and public participation. The authors used the China Knowledge Resource Integrated Database, Westlaw China and other databases to find the relevant articles, reports, cases and other related material.

2. Based on the material collected, the authors should evaluate the implementation of the public participation principle in protected areas. To better implement public participation in protected areas, the authors should determine the main components of successful public participation. In this report, the authors mainly evaluated these main components: information disclosure, participation in decision-making and the access to justice. The authors should consider paying attention to other components. The authors used various methods of collecting data and information. They should include the description of relevant organisations and individuals.

3. Evaluations must be undertaken. In this report, the authors listed the provisions related to the different components of public participation to find out whether the laws, regulation and policy in China have provided the regulation required. Based on this, the evaluation method should do the following research: evaluate the three main components and evaluate these based on current provisions and cases related to public participation in protected areas. The authors need to analyse and evaluate the results and reach conclusions based on the objectives of the research. Through this analysis, the authors can determine how effective implementation of the public participation principle in protected areas in China can occur. The authors can then improve public participation in protected areas of China.

Difficulties in evaluation
When the authors evaluated the public participation principle by case study, the first difficulty was getting the information first-hand. Due to time constraints, this evaluation did not use questionnaires or interviews to obtain relevant data. However, data obtained through these methods is important to guarantee the information is realistic and accurate. In order to overcome this difficulty, the authors tried to make good use of secondary data sources such as scholarly literature, network data and legal documents. Although this secondary data was not collected directly, most of the data is authentic. The authors believe the secondary data collected was an appropriate substitute for first-hand information. The authors selected some
representative nature protection areas as the object of the evaluation. Therefore, this evaluation will have inevitably have some omissions.

The following are the suggestions and insights how to improve evaluations:

1. In order to make evaluation accurate and comprehensive, the authors should increase the channels used for data acquisition. If the authors can expand data collection channels, their findings will more be comprehensive and accurate. When assessments are carried out in the future the authors should extend data collection channels.

2. It is important to understand and grasp the characteristics of various variables in the evaluation. In this evaluation the authors needed to try their best to make data more objective and accurate.

3. The authors needed to determine the evaluation methods key criteria and elements before they carried out the research. As the authors hadn’t determined the standards and elements of evaluation in advance, there was a lack of guidance in the process. The efficiency of the evaluation was low. In future evaluations the elements and standards need to be predetermined so that the evaluation method can be more valuable and the efficiency improved.

One of the obstacles the authors had to overcome to complete the evaluation was the numerous different laws, regulation and policy documents regarding public participation in the protected areas. The authors needed to find out all the different regulations on protected areas. The authors should have paid more attention to the duties and actual activities that occur for effective public participation in protected areas. Information disclosure related to public participation and protected areas is weak and the authors spent too much time collecting information and finding out whether the information was relevant. There are few cases on public participation in protected areas. When the authors evaluated public participation in protected areas, the evidence of implementation of this principle in protected areas is not enough and it was therefore an obstacle for the evaluation.

CONCLUSION

Through the case study, the authors found that most of China's protected areas' community co-management reflects the level of public participation that currently occurs. Combined with their investigation, the authors found that public participation in protected area has the following status. Firstly, there is a wide range of ways for the public to participate, such as forest scouts, village meeting and co-management committees. Therefore residents can be directly involved in protected area management activities. Secondly, the public can effectively participate in protected area management. Government departments want to educate and protect the rights of the public. Local residents can participate in the formulation and implementation of development plans of protected areas, such as land or other resource use planning. The status of residents in the protected area management has improved. A series of projects has improved the relationship between the communities living in protected areas and the management departments. In addition, residents of protected areas also receive support (funding, technical assistance) from government agencies, non-governmental organisations, and scientific research institutes to allow them to participate in protected area management.
The realisation of public participation in protected areas also has several disadvantages. There is a lack of mechanisms for simple effective public participation and it is difficult to meet the interests and needs of the residents. Based on the above laws, policy and practice in China, the authors undertook some research on the public participation principle used in the protected areas from three criteria. Based on the analysis, the authors found out that although some progress has been made, there are still some shortcomings, which need to be improved. These include information disclosure on protected areas, the way in which participation in decision-making occurs and the access to justice for public participation. The authors conclude that targeted measures are needed to improve public participation in protected area management. There is a need to be able to measure and analyse public participation in protected area management and this could be the subject of future research.