



## The Breakthrough on the Legality Plight of Environmental Control in China

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### Abstract

Due to the particularity of environmental problems, the environmental control of government exists an inherent tense relation of rule-governed and administrative discretion. After confirmed the following two points: Government is not value-neutral during the process of environmental control, the public interest of the environment is not a certainty and objectivity existence, legality plight of environmental control is then appeared in China. The way to breakthrough is that adopts the method of “self-legalization”, by adding a large number of democratic factors to gain the legitimacy in the environmental control of modern society.

**Key words:** Environmental control; Legitimacy; Self-legalization

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After environmental issues become the prominent social issues, the government should experience three periods at environmental control of the formed environmental issues: Environmental control of the first period have the main features of government becoming fully involved and adopting coercive means. In this period, government almost arrange all of the environmental pollution control. This is determined from the obligations of the state which bear the protection of life, health and property of the people away from harm in the whole region. In this period, government has not taken a proactive approach

to deal with the environmental issues. Rather, for timely processing of problems, it has not taken the attitude of active prevention. The reason why is because “Modern administrative law and its theory, made the freedom of civil society as the ideal, it focuses on trying to avoid exerting too much interference to civil society and inhibition of citizens freedom. Due to this focus, it has formed the jurisprudence of restrictions to administrative rights launched” (Harada Naohiko, 1999, pp. 59-60). Based on this, government in the face of environmental control object, that is the source of environmental hazards – encourage companies do not know how to start with this issue, “In the field of free enterprise, suddenly using the precautionary principle will cause a big political difficulties”. (Kurokawa Tetsuji, 2008, p. 25) If the government takes the tough measures, it may incur strong opposition from enterprises. Therefore, government hopes to take some effective measures to promote enterprise considering the environmental impact spontaneously. Thus, the environmental control of government can moved toward to second period, which is the government introducing market mechanisms for environmental control. Due to the consideration of the long-term strategy, enterprise will pay attention to the environmental impact of its own during operation. The most sensitive thing for enterprises is the market trends, however it cannot completely expect that the enterprise will wholeheartedly consider those behaviors in need to invest a lot of money on environmental protection. Government still needs to take some specific environmental economic means to promote enterprise. For example, via the fee or tax, financial subsidies, credit offers, rate difference and other methods, via the change on the costs and benefits of the corporate structure to change the enterprise’s choice (LI, 2006). In the 1990s, environmental control has entered the third period. The characteristic of environmental control in this period is that advocating broad participation. The role of government in the environmental control

has a bid change: On the one hand, government has strengthened the government involvement in the environmental protection functions, changed in the past of negative attitude which only focus on the regulation of “fragmentation”<sup>1</sup> (Kurokawa Tetsuji, 2008, pp. 11-18) on the stop-gap measures of environmental issues. While, it is breakaway from the preservation of the environment control law and turned to contain artificially management environment and plan to take advantage of the system of environmental management for development (Harada Naohiko, 1999, p. 63); On the other hand, government has abandoned the initial order in the aspect of environmental management – regulatory means of control-oriented, it has taken the means based on the voluntary cooperation. For example, the government uses a lot of market-oriented, cooperative and voluntary environmental measures, encourage public participation of sociality and complexity based on the environmental issues, play a role of social support and the checks and balances.

In the process of performing environmental governance and the implementation of environmental control, government has experienced the 3 periods. Initially, management style of country unilaterally control has implemented in the national environmental governance, and then followed by two periods, they are market-oriented and social forces respectively. These few periods contain many differences in the way of environmental control. Then, what the reasons to make this changes on the way of environmental control? Also, in what ways that legality plight of environmental control in China is being breakthrough?

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## 1. LEGITIMACY OF ON ENVIRONMENTAL CONTROL

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What is the reason that makes the changes on the way of environmental control? Before answering that question, it needs to investigate the background of environmental affairs control. In the beginning of the capitalist development, the status and function of government is mainly influenced by Adam Smith and other people who is on behalf of the liberal government theory. They claim that government is the smaller the better and as little as possible to intervene in the operation of the market and society. At the same time, they emphasize the constraints on the rights of government. Adam Smith limits the role of government in his “Wealth of Nations” as: (1) The protection of society, which makes it is not violated by other independent communities; (2) As much as possible to protect everyone in the society, which they won’t be violated and oppressed by any other person in society. This means that, it should set up a solemn

national authorities and legal system; (3) Establishing and maintaining some public affairs and public facilities, this kind of functions of government which is very limited. (LI, 2006, p. 1) “Negative administration” can generalize the status and function of government mentioned above, but even the most narrow sense of government function include the environmental protection. Due to the non-exclusive of environmental goods, anyone can use them. Thus, the environmental pollution caused belongs to public issues. Naturally, it needs to provide eliminating the pollution of public service from government. During the “negative administration”, the conduct of the government shall not be arbitrarily. The so-called legal proverbs of “no law that is no administration” also shows that there is no legal authorization, administrative action has no legality. In the theory of representative democracy, the legality of administrative action is from the higher level of political authority, which is legislature (generally refers to the representative bodies) to establish clear rules. It makes the executive to comply with legislative rules via the administrative procedures. Finally through the review of administrative decisions by the court, it guaranteed the administrative organ without going beyond the rules enacted by the legislature. In this series of processes, representative bodies set up clear and unambiguous standard. At the same time, when the administrative organ execute these standards, it has no discretionary space too. It reflects in the environmental protection activities of the government. That is representative bodies set up clear standards, and the government execute these standards, government “mainly focus on the microscopic pollution control”. (LI, 2006, p. 2)

Along with the development of the history, the end of the liberal government, the extension of executive powers of the country, the end of conservative government, the theory of government intervention from Keynesian has become the dominant theory. At this time, “negative administration” has turned to “positive administration”, the government has changed from “small government” to “big government”. This kind of extension of government functions perform as “welfare state”, executive power penetrates in all aspects of all-round, its social forces have become increasingly prominent. In this case, legislature may find it difficult to formulate clear legal rules which make administrative authorities to strictly be followed. The causes of legislation authorized lack of clarity is multifaceted. According to the conclusion from Stewart professor, it includes the following six areas: (1) In the place of new government affairs, it is impossible to specify very precise policies which must be followed; (2) Lack of sufficient legislative resources which makes

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<sup>1</sup> Fragmentation is proposed by Kurokawa Tetsuji, the environmental law scholars in Japan. It refers to the government wants to have the entirely regulation through the vertical administrative structure, from the experts who are proficient in various regulatory areas of the business to conduct business efficiently. However, this sub-field of regulatory permissions assigned has brought the fragments of environmental risk regulation. That is, the performance for the executive staff of the narrow field of vision, and there is no overall plan of action, lack of coordination.

specifically of legislative directive; (3) Lack of sufficient legislative motivation which makes specifically of broadly legislation; (4) Legislators may evading the issue of controversial policy and its specific solutions; (5) Experience has its internal variability, which needs to leave some flexibility; as well as (6) the limitations of language. (WANG, 2007, p. 13) Due to lack of clarity in legal or authorization formulated by legislature, it has caused the proliferation of administrative discretion. From the historical reality view, the increasing expansion of administrative authority, the administrative discretion has been already inevitable. Thus, it generates the crisis of legitimacy of administrative control. That is, the discretion of the administration has not obtained the clearly defined of legislature and expressly authorized, which cannot be tolerated in the Rule of Law. Form of Legalism, “emphasized that the power of the government controlled by the legal rules which are laid down in advance and clearly announced, its basic idea can be summarized as: through a ‘model of law’ from the combination of clear, reasonable legal principles and rules to achieve ‘model of government’” (WANG, 2007, p. 16). Thus, rule-governed and administrative discretion emphasized in the form of legalism has appeared tense relations. However, from the social point of view of the reality of the rule of law, administrative Discretion is a widespread fact, which means that the rule of law and the discretion coexist. Roscoe Pound through empirical summarized proposed that: “there is no legal system can be able to do merely by the rules without relying on the discretion to achieve justice. No matter the system of rules of the legal system is much tightly and specifically. All process of implementing justice are both involved the two aspects of rules and discretion.” (WANG, 2007, p. 18)

## 2. CHANGE OF LEGITIMACY OF THE ENVIRONMENTAL CONTROL

A wide range of discretion exists in the process of administrative control, this does not comply with the requirements of form of legalism. Therefore, it needs to seek the legitimacy. “There is a hypothesized: public administration exists precise and objectively goals. Therefore, it can equal the role of administrative organ as the manager planner with the pursuit of the precise management objectives. Legislative directive can be divided into two types: Rules and goals. Rules can guide the administrative authorities to deal with certain types of cases without the aid of any intermediary; whether goals require the realization of a setting state and realization of maximization of value. In order to make decision for a certain case, it is necessary to consider the impact of various options on the target, and determine which option is most conducive to the realization of the goals.” (WANG, 2007, p. 19) This kind of hypothesis promotes the

legitimacy to a certain extent. Because, if the legislature provides clear rules, of course it does not exist the discretionary. If the legislature authorized administrative organ to realization a goal, then it will involve the issues of administrative authorities in the various options to choose the best one for realization the goal. View from the surface, administrative organ has the discretion, but actually the administrative authority is only a tool for rational attitude to treat the selection of the best solution. It has strict logical inference and the objective reality restrictions in the selection process. Therefore, it is not suggested that the executive is discretion. It could be seen that, through achieving specific objectives limited by the public administration, through the instrumental rationality inference of goals achieved, the modern administrative control has seek the legitimacy to certain extent.

Due to environmental protection is closely related to people’s lives, one of the responsibilities of the government is environmental governance and implementation of environmental regulation. National environmental law stipulates the functions of the state environmental protection. Some countries have also stipulated the functions of the countries to protect the environment at the constitutional level. For example, in 1975 Greece has promulgated the provisions of Article 24 of *The Constitution of the Republic of Greece* “Protection of the natural and cultural environment is the duties of the state. The state should formulate special preventive or enforcement measures on environmental protection.” In 1982 China has promulgated the provisions of Article 26 of *The Constitution* “The state shall protect and improve the living environment and the ecological environment, prevent and control pollution and other public hazards.” In the environmental protection basic law of countries, basically there are provisions of the duties of the administrative organ to protect the environment. Legislature have set some “goals” for the administrative organ, such as protecting the public interest, promoting the public welfare, etc.. In summing up the difference between environmental law and other sectoral laws, Chinese scholars believe that environmental law has a wide range of social and public welfare. (JIN, 2003, p. 54) The goals set by the environmental law provides the legitimacy for government to implement environmental controls. People want the government can use the powerful information, experience of the professionals, technical expertise to make a correct selection for the realization of specific environmental objectives. In this process, it contains several steps. At first, the government has to embody the big goal of Protection of environmental public interest as a number of small targets, that is goals specific process; Secondly, it should list various options for the realization of specific goals; Thirdly, it should achieve its objectives to effectiveness via the thinking evaluation of tool rationality; Fourth, selection of the goals of the program which can be maximized to achieve.

(WANG, 2007, p. 54) However, to do these few steps is definitely not as simple as imagination. Even it is seemed to be somewhat unrealistic in the face of complex reality. At first, it needs to confirm the goals, there is many small goals under the big goals of protection of environmental public interest, and between these small goals are likely to conflict with each other. Then, it is a tough job faced by selecting which one to achieve first, perhaps it also needs to be reconciled with the other goals; Secondly, The possibility of achieving goals means or programs is likely to be a variety, or even is numerous kinds; Lastly, it needs to make an accurate judgment to evaluate its effectiveness for each program. It can be said that, it needs to prejudge the final result of each program. The above reasoning is entirely based on the foundation of the tools of rational thinking, in other words, empirical knowledge and logical deductive ability mastered by government is the basis of the above reasoning. When government is doing so, goals selection and target implementation process is actually viewed as technical problems to be processed. If it does not consider the value bias problem of government environmental control, then, the legitimacy of the environmental control of the government can be indeed established by tool rationality. People do not need to plunge into the complex environmental affairs and do not need to have the technical expertise, but only the requirement of trusting the government's environmental control, reached the public interest in order to promote the preservation of the environment.

Apparently, as long as confirmatory of the two issues, government environmental control will have the legitimacy. One is the whether the government is value-neutral in conducting environmental control, that is administrative organ only does not contain value bias in the environmental control so that target selection and implementation is guaranteed to meet the goals mandated by legislative bodies. Once the administrative authorities has value bias in the environmental control, it is difficult to guarantee the value of setting goals and legislative bodies is consistent; Second is whether the public interest of the environment is a certainty and objectivity existence, that is environmental public interest acts as the goals for the administrative bodies established by the legislature, it should possess certainty and objectivity. If the goals are uncertainty and cannot be measured objectively, then administrative organ will inevitably have discretion, and this is contrary to the legitimacy of environmental control.

For one. Value neutrality of government environmental control.

1. First, it should speak from the government environmental control background. Administrative organ experienced a process of "negative administration" to "positive administration", the administrative organs no longer act as a "night watchman" role, which actively involved in such environment, labor and other areas, via the control of the economy, the protection of the

welfare of the people to achieve the state functions. This means that the administrative needs a proactive and positive way, "it is no longer simply to enforce the law, but it should face a variety of competing interests and values and make selection." (WANG, 2007, p. 25) In the regulation of a variety of competing interests and values, could it be there is no value orientations for government? Different environmental interest entities compete for its environmental benefits in environmental friction. Environmental policy showed its ongoing choice, for example, environmental protection standards, tolerance limits settings, etc.. These instructions, environmental is the trade-offs of control environmental benefits and value. "For example, assuming that the environmental protection agencies do not impose sanctions for behavior of a power plant about emissions of pollutants, then, this omission of itself can be seen as an option, that is, there is a decision after the tradeoffs between the interests of the protection of the environment and the interests of electricity consumers." (WANG, 2007, p. 30)

2. The phenomenon of "regulatory capture" in environmental control.

The so-called "regulatory capture" refers to administrative organ "tends to these controlled or protected interests in the decisions and policy formulation, and sometimes even it regulates them in order to protect the interests of the regulated." (WANG, 2007, p. 78) The reason why "regulatory capture" phenomenon appeared is due to organization of interest groups, that is the regulated objects in order to obtain the maximum benefit, so that they exert influence to the regulatory authority. In this case, control authorities have not become a spokesman for the public interest, they turned out to be the tool of interest groups to obtain benefits. Government administrative decisions are often weighed and coordinated against different interests and the different aspects of interests of. Actually, The one who influence government decision-making is often the interest groups in a strong position in a country. When it exists the tripartite conflict of interest of the government, enterprises, public, the government out of the pursuit for achievements, it may select the economic development interests and environmental interests and sacrifice the disadvantaged position of masses.

It can clearly be seen that, either from the environmental control needs to coordinate the interests of different interest entities and value, or the "regulatory capture" phenomenon may occur in the environmental control, they both illustrate that it is difficult to achieve value neutrality in environmental control which must contain a certain value bias.

For second, whether the public interest of the environment is a certainty and objectively existence.

The legitimacy of the environmental control expects the maintenance and promotion of the environment public interest as a goal. This means that the environmental public interest as a goal should be a

certainty and measurable existence, only the existence of such objectivity environmental public interest and administrative organ, so that it can be a technology-oriented way to achieve the goals of the environmental public interest. However the foregoing has been described that, government reconciles a variety of environmental interests in the environmental control, environmental public interest is not definite motionless, but variety of a balance of interests. Moreover, the “regulatory capture” in environmental control also eroded of environmental charity which acts as a kind of objectivity belief.

In environmental law, there are also disputes in the existence and form of environmental public interest. Some scholars believe that: “The legislative purpose of the environmental law is not in maintenance of a specific class, hierarchy, group or individual interests, but a public interests of society as a whole under certain conditions, and the scope of this society is not for the administrative divisions and even the national boundaries.” (XU, 2005, p. 32) Here to emphasize the environment as a whole and its unique interests form, “a prosperity, a loss for both” in the overall environment of the region. This illustrates the integrity and indivisibility of environmental benefits of human. Some scholars believe that, environmental protection laws in the protection of the environmental interests should not only protect the environment but also the public welfare, and protection of the environment of private interest too. (WANG, 2006, pp. 56-57) The reason why there is a different understanding of environmental public interest, it is due to the different understanding of environmental interest entities. Environmental interest entities can be largely divided into several levels of individuals, groups, human. The idea that there is only the environmental public interest without the presence of the environment of private interest is due to the neglect of the level of environmental interest entities. Environmental interest entities enjoy the environmental benefits according to their activity space. For example, individuals enjoy a good working environment at work in the work unit, and they can enjoy quiet space after returning home. Its different activities in space, its enjoyment of the environmental benefits are not the same. Therefore, Environmental Public is an uncertain range of interests. Moreover, environmental interests are not presence alone in society. The purpose of the pursuit of environmental law is to protect the environmental interests, however, different legal department will pursue different legal interests. To a certain extent, which requires “maintaining moderate tension between environmental interests and other interests, via the overextended restrictions manifested from the pursuit of other legal purposes, to maintain the environmental benefits” (LU, GAO, & YU, 2001, p. 82). It can clearly be seen that, environment interests also needs to consider the relationship with other interests, so that it can maintain the environmental benefits in the interaction with other interests. Therefore,

the environmental public interest performs as a result of interaction with other benefits, expresses as different levels and in different regions of the range of interests. It can be seen that environmental public interest cannot be determined and objectively measured.

Environmental public interest may be a more abstract concept, which is difficult to visually perceived. However, when government performs the process of environmental regulation, how is the extent of environmental pollution control counted as successful control? This problem is a more intuitive one. Specifically, government “constitutes a hole of maintaining the environmental conditions, as a environmental administration goals to be set to specific values. In order to achieve these values, all administrative policies has become intensive process to be implemented.” (Harada Naohiko, 1999, p. 69) Achieving environmental Public is the need for these specifically determined values. “This type of specific value which is set as the target value on the environmental administration is the environmental standards.” (Harada Naohiko, 1999, p. 69) It should deal with the environmental problems and try to solve a very important step which is to set the environmental standards. Then, it should issue to the local governments to be implemented step by step according to the environmental standards, trying to control various areas of environmental value to be below the environmental standards. This shows that, the settings of environmental standards is located in a core role during the process of the government’s environmental control.

The question now is that, who should set the environmental standards? And will this set of environmental standards could be able to protect the people’s environmental safety?

Environmental standards are mainly decided by the government based on scientific judgment, and its primary reference standard is according to the people’s health and people’s living environment. For the specific values on healthy environmental standards, which performs scientific judgment setting from the point of view of the epidemiology. For example, air quality standards which is according to the special committees of the 1963 WHO atmospheric pollutants. As environmental standards should be based on the standard to list the following four levels: 1. The combination of concentration and exposure time cannot see any impact on human health directly or indirectly. 2. Stimulation of sensory organs, the combination of concentration and exposure time may bring the harmful effects on plants. 3. The combination of concentration and exposure time may induce chronic illness and life-shortening. 4. The combination of concentration and exposure time may cause the possibility of group of disease or death in the sensitive populations. (Harada Naohiko, 1999, pp. 71-72) According to the environmental standards set by epidemiology, and the judgment of environmental pollution on human health damage, these are the things that government should

commission scientists to make a decision based on its own expertise. In addition, as in the specific case, such as pollution at what level, whether it exceeds the limits of the environmental law prohibited, the identification and judgment is needed from technology experts. Ultimately, This is the belief that the objectivity of scientific, Environmental problem can be solved along with the development of science and technology.

However, whether it will be able to make the recognition from people about the environmental standards set by the government? From a different perspective, environmental standards set by the government just like those science and technology experts providing the government an acceptable values of scientific pollution. This results in the limits of environmental laws prohibited, as long as it does not exceed the standard, then that is approved by government. The expected level of environmental standards are sufficient to prevent the adverse effects on health or other lifes. However, what kind of standards are safe? Would environmental standards be entirely on the science setting without any other factors?

From Becker, environmental standards is only an “acceptable values” in the combination of political, economic and technical aspects. Moreover, this kind of “acceptable values” are known as “hypocritical deception”. This kind of “acceptable values” exist two dangerous traps. The first trap is that the result of “acceptable values” are often create on the basic of “average value”. The peak of the worst-affected residents pass near the average of the value of the forest inhabitants, which will be offset. The actual situation is that, if the children stay within the average, they won't be sick. The second trap is that formulation of “average value” itself implies the permission of poisoning. What scientists made is to determine an acceptable level. However, how the scientists make the right judgment? At first, the acceptable level set by scientists is only for a single pollutant which is a fraud. It is because releasing countless types of other harmful substances while scientists do not research for the synergistic effect of these substances. Secondly, scientists are both drawing erroneous conclusion on the results of animal experiments to reflect on human. However, the reaction of the human has never been inference from the reaction of the animals. The next corollary makes people feeling ridiculous, however it is the actual situation. That is the effect on people ultimately can only be conducted reliable research on human, the society will become a large-scale laboratory. In addition, the difference from the animals experiment is that, the appropriate data are recorded during the animal experiments. When the human experiment is indeed performing, but it is not visible. There is no scientific verification and scientific measurement. No statistics and no related analysis, everything have taken place in the case of the victims who had not been informed.

In the above case, whether environmental standards are objectively and purely from scientific judgment which is without any doubt. In the past that setting environmental standards are only the judgment from scientists, and there is no room for public opinion. Nowadays, environmental issues have high technology background, the setting of environmental standards are ridiculed as the pollution permits. Then, environmental decision-making by the government technology experts and those environmental risks borne by the people seemed very outdated. Realistically speaking that, “The decision of environmental standards, it can be said that it is largely based on the composition of the specialized scientific judgment, but at the same time, policy alternative is also very large too. Therefore, the settings of environmental standards. It is necessary to reflect the public opinion through the process of democratic discussion, so that it can grant the proper legitimacy.” (Harada Naohiko, 1999, p. 73)

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### 3. THE BREAKTHROUGH ON THE LEGALITY PLIGHT OF ENVIRONMENTAL CONTROL

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The legality plight of environmental control relies on two conditions: 1. Government is value-neutral in environmental regulation; 2. Environmental public is interest objectivity, measurable. These two basic premises have been shown that is nonexistent. Then, environmental control is facing a crisis of legitimacy, it needs to seek for new sources of legality.

The foregoing of seeking legitimacy for environmental control efforts are all failed, the fundamental reason is that administrative authorities are not elected by the people. The administrative authorities are not responsible for voters, the legality of the exercise of executive powers has been questioned in this case. In order to seek legitimacy, the above efforts are trying to solve the legitimacy problem by the people's representative body, which is the legislative body authorized to administrative agencies. At the same time, it needs to ensure that such authorization cannot be too broad, so that the discretion of the administrative authorities will not be flooding. If the executive has too much discretion, it will also make the exercise of administrative organ executive power facing the problem of legitimacy questioned. However, due to the increasing expansion of the administrative functions is already a fact, the presence of positive administrative makes that the legislature sought to determine the authorization has been unrealistic. Therefore, the executive should give up this authority to safeguard their own behavior for the legislature sought to determine the legality. Through the public participation in the administrative process, it can makes the government to obtain the legitimize pluralism approach of “Self-legalization”. (WANG, 2007, p. 33)

Due to the environmental control process is actually the process to reconcile the different environmental benefits, if the environmental interest entities affected by the environmental control are incorporated into the process of environmental decision-making and environmental policy implementation. That is providing participation opportunities for different environmental interest entities, it provides the opportunity for consultation and discussion for them. On the basis of dialogue and exchange to reach a compromise, then, the environmental control process will be the expression of a variety of environmental benefits, communication, consultation democratic process. Environmental regulation can obtain the recognition of the people by the public participation, thereby obtaining the legitimacy. Of course, when environmental control absorbs the public participation, it needs to ensure the genuine participation rather than formal participation. "Public participation is the fully expression of achieving a variety of benefits to, performing meaningful exchange and consultation process of system compromise, its legalization mechanism will be based on the equality and rational negotiation." (WANG, 2007, p. 41) Therefore, it needs to provide Fair, justice and openness participation program for each environmental interest entities to participate in environmental controls, and it should provide necessary and sufficient information. Finally, it also needs to protect the parties can equal exchange. In this way, it can conduct meaningful exchanges, rather than they are forced to compromise because of administrative pressure or strong interest groups pressure.

It would appear that, only by taking the way of "self-legalization" and adding a large number of democratic factors can acquire legitimacy of the modern social environment control. It can be seen that, the legitimacy of the environmental control has occurred an alternation. It has turned from the government unilateral coercive as a source of legitimacy to the current of building on the basis of public agreement as a source of legitimacy. This make us have reason to believe in real life that, the design of the legal system must provide appropriate and well-recognized system of public participation and protection for management of environmental affairs of the direct participation of the general public. Thus, it gives the legal rights of public participation in environmental matters to make up the lack of legitimacy of the government environmental regulation which becomes quite necessary.

Public participation in environmental affairs, both it is the need for satisfying its own environmental safety and environmental interests, but also intended to make up for the lack of control of the government environment. Moreover, at the same time of public participating in environmental affairs, they can also realize that certain matters related to itself which has a certain amount of control over. Through the way of "self-legalization" to break through the legality plight of environmental control, at the same time, it can also combine the government administrative and public participation, thereby establishing a new mechanism of checks and balances. The ultimate aim have several as follows: At first, raising public environmental awareness; Secondly, raising the scientificity and accuracy of the environmental policy, environmental planning and project decisions; Lastly, making the conflict of interest between the objects to form a communication and exchange, thereby reducing conflict and increasing the environmental decision-making and social acceptance.

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## **BRIEF INTRODUCTION TO DR. TANG MENG**

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TANG Meng, Male (1974. May- ), was born in Changchun City, Jilin Province, China. Dr. TANG gained his bachelor degree (LLB) in Jilin University of Technology, China (1993.9-1997.7), master degree in Jilin University (2002.9-2005.7), and Ph.D. in Jilin University (2006.9-2009.12). He studied legal sociology during his Ph.D. courses and is especially interested in environmental sociology. Dr. TANG wrote his Ph.D. dissertation with the purpose of answering the following questions: what can people do when face increasingly deterioration of human daily living environment and situations that environment issues are becoming more and more obvious? In what degree can people take control of their

own living environment? Does individual have influence upon environment decisions? In which circumstance can people influence it and to what degree? By using the relation between system and actions in sociology, a fact could be found out that people's daily behaviors' changes have influence on the world that people living in. On the other hand, the suppressive power that system itself has is also a restriction for people's initiative. Life is changing and active. People's actions are always faster than the change of systematic structure which reflects that people's innovative ability and systematic structures are in an imbalanced situation. Therefore, in order to resolve the above mentioned problems, we need to construct an interactive public participation system in environment law and let the public participate and decide their own fate and public matters.