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Pollution Victims in China

CSOs formulate requests to mitigate pollution and protect human health

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In China one source of harm to human health and the environment is the continuous visible and invisible pollution by heavy metals, persistent organic pollutants (POPs) and other chemicals that results from weak laws, lax enforcement, and the strong voice of the chemical industry. An additional harm is the social marginalization of pollution victims (mainly economically and culturally) and the lack of attention paid to resolving their issues. Social marginalization leads to a situation where pollution victims have little power to improve their situation. This multiplies the negative effects of environmental pollution.

Environmental organizations should effectively intervene by launching campaigns and submitting policy recommendations. This briefing paper illustrates two pollution cases, where Nature University, Green Beagle, IPEN and Arnika civil society organizations (CSOs) watch-dogged events on the ground and formulated policy recommendations in an effort to overcome barriers to establishing a pollution victim aid system in China.

Toxics-Free Future
Skillshare, Kunming

2 cases – 2 sets of requests for social and ecological justice

Victims of chemical pollution have to bear both the burdens of being harmed by pollution and the inadequacies of regulatory and social systems that seemingly cannot help resolve their problems. In order to mitigate the negative effects of chemical pollution it is essential to address sources of pollution and at the same time the social marginalization aggravating the situation of pollution victims. In other words, supporting the development of civil society and promoting the inclusion of marginalized actors needs to be included to mount an effective strategy for mitigation of chemical pollution and protection of public health.

In China, regulations and enforcement to protect environmental health remain weak. Although there are tools such as the Environmental Information Release Regulation, Integrated Control of Heavy Metal Pollution, Guidance for Strengthening Dioxin Prevention and Control or Emission Standards for Air Pollutants for Municipal Solid Waste, the whole approach can be considered fragmented and not sufficient to deal with the scale of the situation.

Case 1) Metals pollution in Liuyang: The Liuyuang case study provides opportunities for improvements in several areas

– Vigilance about fulfilling Environmental Impact Assessment (EIA) planning: The company violated its EIA
– Enforcement of waste management laws: Rigorous enforcement of Chinese law would have identified this problem much sooner
– Information disclosure: Public right to know is a key principle of chemical safety but the community was blocked from knowing about the initial cleanup and high level pollution
– Effective remediation: In this case, contracts were provided to companies that did not actually perform adequate cleanup. This made a bad problem much worse
– Liability and compensation: Fines did not come close to the economic and human damage.

Case 2) Industrial dumping: The Tuoketuo case study provides opportunities for improvements in several areas

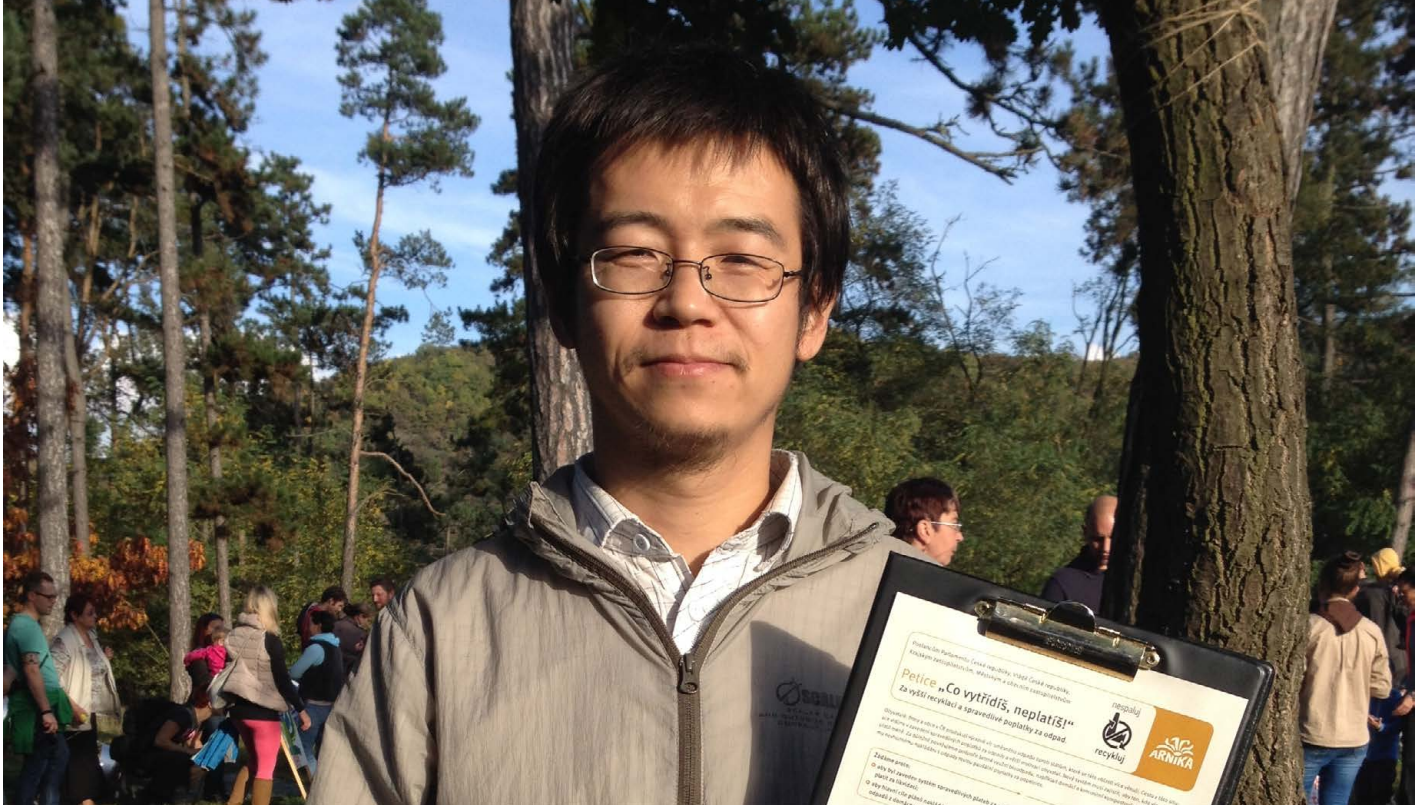
– Private sector waste management practices: Manufacturers should take responsibility for the full lifecycle of their operations – and that includes wastes generated during industrial processes.
– Enforcement of waste management laws: Rigorous enforcement of Chinese law would have identified and addressed this problem much sooner rather than letting journalist and Project activities reveal the extent of the contamination.
– Information disclosure: Community was never informed about the identity or possible danger of tons of toxic solvent waste openly dumped in vast evaporation ponds.
– Effective remediation: Companies should take responsibility for contamination resulting from manufacturing activities at the Park including financial support for independent assessment of pollution.

Detailed background information

Environmental organizations should intervene by informing politicians, promoting media communication, initiating legal cases, holding seminars, facilitating medical assistance and conducting analyses for pollutants, etc. However all these activities need to be based on grassroots principles, reflect specific needs and constraints of the groups affected or endangered by chemical pollution and ensure the active involvement of target groups.

Case 1: Metals pollution in Liuyang, Hunan Province

Hunan Province is a major metals producer and smelter operations have resulted in rice contaminated with high levels of cadmium.[1] This case study focuses on metals pollution from a factory near Liuyang city in Hunan Province which links a small village to the global electronics industry.[2] The case study illustrates how violations of



siting, illegal operations, and a botched cleanup have resulted in a complicated pollution problem that caused harm to the community and will be costly to resolve. The case study also illustrates the broader issue of metals pollution in China. According to the Ministry of Agriculture, farming on land almost the size of Belgium has been stopped due to metals contamination and approximately 12 million tonnes of grain are polluted by metals every year in China.[3]

The Liuyuang case study provides opportunities for improvements in several areas

Vigilance about fulfilling Environmental Impact Assessment (EIA) planning

One of the sad features of this case study is that the company violated its EIA almost from the beginning of its operation and started producing indium with tragic consequences. In addition, the siting of the plant violated Chinese law from the beginning and any serious review of the EIA[4] would have prohibited construction and operation of the plant due to this violation. These problems appear to be common in China.

If there is no vigilance about a company fulfilling its EIA, then the assessment process and the manufacturing permit become meaningless exercises in paper work without relevance to actual practice that safeguards human health and the environment.

Enforcement of waste management laws

Rigorous enforcement of Chinese law would have identified this problem much sooner rather than letting it continue for nine years. One relevant law is the Solid Waste Law, which requires that hazardous waste must be shipped to qualified disposing facilities and strictly monitored by the Environmental Protection Bureau for the whole disposal process. Going forward, rigorous enforcement of dumping laws should lead to criminal prosecution. In June 2013, the Supreme Court of China updated China's criminal code to include environmental crimes involving illegally dumping two tons or more hazardous waste. Enforcement of this new law will be important to help provide justice for communities and a deterrent for cases like this one.

Information disclosure

Public right to know is a key principle of chemical safety but the community was blocked from knowing about the initial cleanup and no information was provided about high levels of toxic metals polluting both the land and water. Public access to plant emissions including wastes should be regularly provided via an accessible, free, pollutant release and transfer registry. Another key aspect to information disclosure is the Environmental Impact Assessment (EIA) report of the Xianghe facility. According to Chinese law, this report should be freely available to the public, but no one from the community has the report.

Mao Da, Pollution Control Program Director, Nature University

Effective remediation

In this case, contracts were provided to companies that did not actually perform adequate cleanup. This made a bad problem much worse and resulted in dispersing the original pollution much further. Sampling at the site after the »cleanup« showed it was still highly contaminated. Effective remediation requires careful evaluation of the site, professional methods for removal, sampling to insure cleanliness of the remaining soil, and sound management of the wastes.

Liability and compensation

Liability and compensation is a key principle of chemical safety. In 2010, the Governing Council of the United Nations Environment Programme (UNEP) developed guidelines for national legislation on liability and compensation. China participated in the meeting and its consensus decision to endorse the guidelines. The decision acknowledges Rio Principle 13 and seeks to operationalize Rio Principle 16, the polluter pays principle. Company responsibilities include strict liability for damages either by commission or negligence. The Guidelines grant both individuals and public authorities the right to claim compensation including for damage to property and economic loss. According to Chinese Civil Law, for environmental pollution cases if the plaintiff can prove the existence of polluting activities and damage to property and health, then the defendant should take the responsibility to disapprove the causal relationship between the pollution and damage. In this case, the ¥100,000 fines did not come close to the economic[5] and human damage inflicted on the community by company practices – both in production and cleanup.

For more information about the case visit the webpage: <ipen.org/sites/default/files/documents/Case%20Study%20Report%20Liuyang%202014r.pdf>

Case 2: Industrial dumping at the Tuoketuo Pharmaceutical Industrial Park

This case study examines pollution from an affiliate company of China Shijiazhuang Pharmaceutical Group (CSPC) – a mega pharmaceutical enterprise with approximately 10 affiliates, 20,000 employees, ¥11.5 billion in assets (€ 1.39 million, and ranked as the second most profitable pharmaceutical company in China.[6] At issue is waste dumping of chemical solvents that illustrates key problems with industrial parks, waste management, information disclosure, and the role of local government in enforcement of environmental laws. In the Tuoketuo Pharmaceutical Industrial Park, dumping occurs by direct discharge to vast evaporation ponds – resulting in a direct threat to groundwater. The practice violates Chinese law which requires that all waste water should be treated before release into evaporation ponds. Ironically, the local government built the ponds after receiving payment from the companies for the land to store the wastes. Unfortunately, the scale of pollution has resulted in deep resentment in the community that sees local government officials as primarily protecting the continued dumping of toxic chemicals.

The Tuoketuo Pharmaceutical Industrial Park is part of a larger trend in China in which polluting facilities are moved from Eastern China, where they are highly visible, to other parts of China in the west and north where they are less visible and enforcement is even weaker. Since Tuoketuo is far from economically developed information centers, the affected community cannot readily publicize their situation or seek solutions guaranteed to them under Chinese law. In addition, the case study highlights the conflict between enforcing pollution laws and economic benefits to local governments. At Tuoketuo, the local government does not monitor pollution. In fact, local residents indicate that government officials even help companies operating in Tuoketuo to avoid monitoring. In addition, instead of economic pressures of fines and other measures forcing less pollution, local government officials receive an economic benefit for facilitating pollution with the unprotected evaporation ponds.

The Tuoketuo case study provides opportunities for improvements in several areas

Private sector waste management practices

Manufacturers should take responsibility for the full lifecycle of their operations – and that includes wastes generated during industrial processes. In the Tuoketuo case, the companies do not appear to

comply with Chinese law and pollute the surrounding communities with impunity. These activities violate the Water Pollution Prevention and Control Law, National Standards, and the environmental monitoring responsibility of the local EPB. Companies should also take aggressive measures to prevent formation of wastes in the first place. Finally, China is a Party to the Basel Convention which obligates Parties to take appropriate measures to ensure that the generation of hazardous wastes and other wastes is reduced to a minimum.

Enforcement of waste management laws

Rigorous enforcement of Chinese law would have identified and addressed this problem much sooner rather than letting journalist and Project activities reveal the extent of the contamination.

These relevant aspects of the law should be enforced:

– Illegally discharge, dumping and disposal of at least three tonnes of hazardous waste;
– Pollution that results in functional or permanent damage to at least 5 mu (3,333 m²) of basic agricultural fields, protected forest or special forest land, or at least 10 mu (6,666 m²) of other types of agricultural fields, and at least 20 mu (13,333 m²) of other types of land.

Information disclosure

Public right to know is a key principle of chemical safety but the community was never informed about the identity or possible danger of tons of toxic solvent waste openly dumped in vast evaporation ponds. Public access to data about plant emissions including wastes should be regularly provided via an accessible, free, pollutant release and transfer registry. Finally, companies should comply with Chinese law surrounding EIA requests. Project personnel EIA requests filed under lawful procedure have been ignored.

Effective remediation

Companies should take responsibility for contamination resulting from manufacturing activities at the Park including financial support for independent assessment of pollution to air, land and water, and subsequent cleanup. A cleanup fund should be established at the Park as a requirement for continued operation. This fund would be used to pay for independent assessments and cleanup so that the financial burden does not fall on the local governments.

For more information about the case visit the webpage: <ipen.org/sites/default/files/documents/Case%20Study%20Report%20Tuoketuo%202014r.pdf>

Anmerkungen

1 <www.chinadialogue.net/blog/6972-Taxpayers-to-bear-costs-of-polluted-Hunan-soil/en>
2 <j.map.baidu.com/KMk6T>
3 <www.theguardian.com/environment/2014/jan/23/china-lose-millions-hectares-farmland-pollution>
4 <lvshi.gz.bendibao.com/news/2009811/28451.shtm>
5 <lvshi.gz.bendibao.com/news/2009811/28451.shtm>
6 <www.e-cspc.com/english/profile.aspx>

Testing Lead in Paint

Jitka and Mao Da
at heavy metal
polluted site

Imprint

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