

The Environmental Protection in Urban Planning in China: A Comparative Perspective from Canada

Xiang Zhang

Law School, Lanzhou University, Lanzhou, 730000, China

E-mail: zhangxiang@lzu.edu.com

Abstract: This article aims to answer the question of whether China's planning law effectively accounts for the objectives of environmental protection. The analysis integrates insights from Canadian law and practice to provide a comparative perspective. The answer is based on, first of all, the reform of system of land ownership (direct link of the development of urbanization). This article cracks the problem by two approaches: the state and collective property right. The first part of the analysis is macro-perspective, i.e., the course of land reform and the land users. In general, the state remains the sole owner of all the land and delegates the local governments to manage the use of land in China. However, the high interest undermines their roles, and degradation of environment in the process of urbanization continues. Based on this observation, we analyzed their administration, i.e., who are the actors and how the powers are shared. The lack of transparency and independence is in its structure, i.e., they have ambitions to have a good protection but the conflict appears frequently. In the further part, micro-division was employed. We focused on the regulations of planification, procedures and formalities that is deeply involved. In fact, we find that the volume of law was expanded and a need of consolidation is urgent for the coherence, accessibility and understanding of law. Then it follows the analysis of two typical procedures: the procedure of environmental assessment as well as participation. These procedures are the practical implementation of the consideration of the environment. The fact is that rapid urbanization resulted in a reconfiguration of the urban space, and the appearance of a variety of interests. The degradation of environment, coupled with the importance of urbanization has become a challenge to governance. People realized more and more issues related to housing, welfare and citizenship. This forces the government to change their policies and acts. From different points of views- historical, political, administrative, legal and social- this research determines how a better environmental protection can play in law of planification. The reforms are envisaged, and there are still problems: the harmonization and consistency of the regulations, the clarity of the law for his efficiency and law security, the improvement of the process. Contrary to what is received, the government has intention to solve this question, as demonstrated by his consistency to innovation and reform in the field. At the present, planification, rather than a method of protection, works for the growth of the economy. Due to the lack of effective regulation, the real consideration of environment is still very limited. And Canada's law and practice needs to be further studied and emulated integrated with China's status quo.

Keywords:

Land reform; Urbanization; Urban governance; Environmental evaluation; Participation

1 Introduction

In rural and urban areas, China's economic reform can be achieved through profound reform of the land tenure system and re-evaluation of the land use right. This has also had a profound impact on the phenomenon of urbanization.

The purpose of the first part is to describe the process of land reform, which is the direct link of China's urbanization

development, and to understand the particularity of China's urban management with reference to the overall framework of environmental protection.

In order to effectively protect rare and important land resources, the goal of the Chinese government is to place all land under the public property system and establish a priority system for the management of these land. However, due to decentralization and the fragmentation of the government in this regard, the government's ambitions are considered to be severely constrained.

2 Land reform, the development and the challenge of Urbanization

This paragraph will introduce the progress of China's land reform, and explain how local governments use the transfer system in a pragmatic way to promote local economic growth. The urbanization rate in China has increased from 60.60% at the end of 2019 (Zhang Yi: The growth rate of the total population is slowing down, while the level of urbanization continues to rise - National Bureau of Statistics) to 66.16% by the end of 2023 (Statistical Bulletin on National Economic and Social Development of the People's Republic of China 2023 - National Bureau of Statistics). This rapid urbanization has led to economic prosperity; however, it has also been accompanied by a deterioration of environmental issues.

If the urban planning law can be defined as "a set of rules of spatial distribution and spatial planning" (Jacqueline ,2014) If it wants to provide a framework for the physical transformation of urban organizations (Henri,2015) , It is evident that all issues related to land policy, whether it is the status of land, the right to use or all procedures involving land, fall within the purview of the Commission and are priorities. However, the precondition for any issue is the identity of the land rights holder. As long as we study the history of China's modern urbanization process, it is obvious that this phenomenon is mainly due to the separation of land use rights. The most famous example of China's new political and economic urbanization direction is the establishment of a « special economic zone » (SEZ). "The urban world did not immediately benefit from China's reform," said Chinese scholar Thierry sanjuan in a book on the close relationship (and necessary link) between rural land ownership and urban development, This is because "priority is given to agricultural exploitation, followed by special economic zones (such as Shenzhen) established in 1980, and finally economic and technological development zones around coastal cities opened in 1984" .(Thierry,2010)

Compared with many other countries, land is a strategic asset. The scarcity and natural talent of land are more worrying in China than in other countries for many reasons. On the one hand, the importance of land lies not only in that it is a prerequisite for people's food self-sufficiency, but also in that it is one of the important pillars of the socialist regime policy in the first place .(LiBin,2011) So it's no exaggeration to say that land is an ideological motive. On the other hand, China's rapid economic growth in recent decades, at the same time, governments at all levels have almost confiscated arable land to meet the demand of increasing urbanization building heat. According to the latest data from the Ministry of Natural Resources of China, in 2023, the area of arable land approved for construction nationwide reached 127,000 hectares, accounting for 27.8% of the total arable land. (Interpretation of the "2023 China Natural Resources Bulletin") This phenomenon primarily stems from the rapid advancement of urbanization, which has consequently led to issues of land resource waste and environmental degradation. Therefore, the development of the city is shocking and chaotic, occupying too much land, especially arable land, causing serious waste. As a precious and rare property, it is not surprising that China's top political body regards land as a strategic asset.

3 Governance of urbanization

As shown above, Then we will analyze the urban management, the way of power distribution, the administrative structure and its organization, in order to understand its complexity and dysfunction.

Considering the relationship between these issues and our current issues, as well as the "governance" or "good governance" issues in urban planning (Chinese: 'you xiao zhi li' 有效治理 ou 'shan zhi' 善治), it is very important to think about these issues. Improving urban environment can solve some problems in the process of urbanization, such as environmental degradation. However, in the context of social and economic changes, what does urban management mean in China? What is the distribution of power ("who is doing what")? If urban planning requires permits and institutions, how

are they organized? Who decides who has priority? Is the structure transparent and effective?(Wu, H., and Zhang, X. 2020.) Has the government considered the new rights and environmental protection objectives of urban planning? Can the French experience inspire us?

These are issues that are often raised in urban management and legislation, so the key issue of decentralization cannot be ignored. Because, a priori, "when all or part of the authority of urban planning is delegated, the size of (...) basic units varies from state to state (for French towns; for Chinese towns)." (Henri Jacquot, 1998) Not only the economy, but also the whole society needs to breathe within the policy framework, and decentralization is essential. But can decentralization of urban management be so widespread in countries like China? Do we have to do this? What will be the consequences of such decentralization and its future prospects? In fact, China has never implemented a system of local autonomy similar to that of European countries.

On the basis of this series of problems, and considering the impact of these problems on environmental decision-making, we will discuss two aspects: how to allocate the authority of urban planning and the administrative structure of this aspect.

As for the distribution of authority (vertical), the first thing we need to discuss is the territory / administrative organization, that is, the 'physical context' of urbanization influenced by Confucius' theory. In recent years, the system has been characterized by concentration and classification, with major adjustments (such as a significant increase of SEZ). After the decentralization of the year 1980s, local authorities, especially urban and regional authorities, gained power transfer in urban planning. Decentralization has, to some extent, facilitated the development of local economies; however, due to the lack of effective oversight mechanisms, local governments often prioritize economic gains over environmental protection. This has resulted in the marginalization of environmental considerations in planning decisions, making it challenging to fundamentally address issues of environmental degradation. In addition, in order to protect the territory from the impact of informal urbanization, short-term private interests can damage public interests (such as environmental protection). We believe that the distribution of authority between state and local governments in this area is particularly important.

Secondly, the administrative structure of urban planning ("actors of urban planning"). Due to the high level of government structure, reflecting the core idea of the government - peripheral Confucianism, these institutions have experienced some changes at different levels, and stakeholders still lack transparency and clear commitment. The issue of "big government" involves both the central government and the local government. Cooperation between these levels exists, but does not prove its effectiveness, and the environment is not heavy in decision-making.

4 Urban planning regulation

Land use planning and spatial use and projects impact can only be carried out in a forward-looking and progressive manner. In fact, land use and building placement are related to specific urban regulations at the national and local levels, which aim to ensure environmental protection in line with sustainable development. Although, the complex deposition, sometimes repetitive and sometimes contradictory texts forces users to decrypt laws and hinders the improvement of the quality of urban planning rights.

With regard to urban planning procedures related to environmental protection, including assessment and participation procedures, which are provided for in legislation that takes into account legal, social and economic issues related to sustainable development. (Zhou, X., and Wu, J. 2019.) However, in our research, we can consider the gap and complexity between the formulation and implementation of these rules.

The regulatory framework for urban planning in China is extensive and intricate, encompassing multiple laws such as the Urban and Rural Planning Law of the People's Republic of China, the Land Administration Law of the People's Republic of China, and the Environmental Protection Law of the People's Republic of China, along with numerous administrative regulations and local statutes. This complexity can lead to overlaps and contradictions among the regulations, complicating enforcement and compliance efforts. For instance, since its promulgation in 1981, the Urban and Rural Planning Law has undergone several revisions; however, the significant autonomy granted to local governments during implementation has resulted in marked disparities in regulatory effectiveness across different regions. Consequently, the integration and simplification of these laws have become an urgent necessity to enhance regulatory efficacy. In recent years, they try to

integrate land planning, urban planning and the others into territorial spatial planning.

Furthermore, an analysis of two typical systems in China reveals a current inadequacy in the effectiveness of environmental impact assessments and a weakness in public participation mechanisms. (Tang, J., Wang, Y., and Li, L., 2019.) Environmental Impact Assessment (EIA) is a crucial component of urban planning, aimed at evaluating the potential effects of planning projects on the environment. However, in practice, the EIA process exhibits several shortcomings. Firstly, there is a lack of uniformity in assessment standards and methodologies, which results in low credibility and comparability of the evaluation outcomes. Secondly, the assessment process lacks transparency, with limited public and stakeholder engagement, thereby constraining the achievement of environmental protection objectives. In recent years, although the Environmental Impact Assessment Law was revised in 2018 to enhance public participation and information disclosure, local governments often prioritize economic interests in actual implementation, leading to a limited real influence of environmental assessments in decision-making processes.

In recent years, to enhance the quality of environmental impact assessments (EIAs), the Ministry of Ecology and Environment has issued several normative documents that emphasize the scientific nature of EIAs and the importance of public participation. The latest document, titled "Notice on Further Deepening the Reform of Environmental Impact Assessment," was released in September 2024 and aims to further optimize the tiered approval process for construction project EIAs. However, the implementation of EIAs still faces numerous challenges that require further improvement.

Public participation is a crucial mechanism for achieving sustainable urbanization and environmental protection. Nevertheless, there remains significant room for improvement in China's urban planning regulations in this regard. Although current regulations outline the procedures and channels for public participation, in practice, public involvement often remains superficial and lacks substantial influence. This is particularly evident during the approval process for major projects, where public opinions are frequently not effectively considered, resulting in planning decisions that lack broad social support and legitimacy.

Therefore, to enhance the effectiveness of public participation, it is crucial to improve the transparency of information disclosure, broaden the channels for public involvement, and ensure the public's right to know and participate. The revised Regulations on the Disclosure of Government Information of the People's Republic of China, updated in 2019, provide a legal framework for information disclosure; however, active promotion at all levels of government is still required for effective implementation.

In recent years, the Chinese government has recognized the shortcomings of urban planning regulations in environmental protection and has initiated a series of reforms. (Li, Q., and Yang, M. 2021) In 2019, the Urban and Rural Planning Law of the People's Republic of China was revised again, strengthening the environmental protection clauses and clearly establishing the priority of environmental protection in urban planning. Additionally, the "Guidelines for Carbon Neutral Urban Construction" were introduced to promote the integration of urban planning with green development. At the local level, several provinces and cities have also formulated local regulations and standards to meet the environmental protection needs of different regions. For instance, in 2021, Shanghai implemented stringent green space protection policies in the "14th Five-Year Plan for the Utilization and Protection of Natural Resources in Shanghai," which restrict unreasonable land development and promote the construction of urban ecological civilization. (Notice from the General Office of the Shanghai Municipal People's Government on the issuance of the "14th Five-Year Plan for the Utilization and Protection of Natural Resources in Shanghai") In 2024, the Guangzhou municipal government issued the "Overall Urban Environmental Planning of Guangzhou (2022-2035)," which is positioned as a foundational plan for environmental participation in comprehensive decision-making, a structural plan for environmental involvement in land spatial planning, a comprehensive plan for implementing environmental system management, and a strategic plan guiding urban ecological environment governance. (Chen, S., Xu, L., and Zhao, Y. 2020) This document serves as a strategic and programmatic framework to further optimize environmental protection and ecological construction in Guangzhou.

These reform measures have, to some extent, enhanced the integrity and enforcement of regulations; however, achieving genuine environmental protection goals still requires ongoing efforts in areas such as regulatory integration, implementation oversight, and public participation.

5 *Diverse Perspectives: Land Reform and Governance, Regulations, Procedures, and Participation between China and Canada*

China's land ownership system—where the state retains sole ownership of all land and delegates land use management to local governments—presents challenges for sustainable urbanization. The delegation of powers to local governments often leads to conflicts of interest, as high economic incentives undermine environmental considerations. Urbanization processes frequently result in environmental degradation, and governance structures lack transparency and independence. These issues contrast with Canada's federal system of governance, where provinces hold substantial power over land use and environmental management. For instance, Canada's provincial and municipal governments are guided by frameworks like the Canadian Environmental Protection Act, 1999 (CEPA) and provincial land-use planning laws, such as Ontario's Planning Act, which emphasize sustainability and public engagement.

In Canada, environmental protection is integrated into land-use planning through mandatory environmental assessments and strong public participation mechanisms. These requirements are enforced through independent environmental tribunals and courts, ensuring a balance between economic growth and environmental sustainability. China's centralized approach lacks a comparable mechanism to ensure the impartiality of land-use decisions, exacerbating conflicts between development objectives and environmental protection.

China has expanded the volume of planning laws, creating a complex and fragmented regulatory landscape. This complexity calls for consolidation to enhance coherence, accessibility, and understanding. By comparison, Canada employs integrated planning frameworks that streamline environmental regulations. For example, the federal Impact Assessment Act (2019) establishes a unified procedure for assessing the environmental, health, social, and economic impacts of proposed projects, fostering clarity and efficiency.

Two critical aspects of planning law in China—environmental assessments and public participation—highlight gaps in practical implementation. While China has introduced environmental impact assessments (EIAs) as part of its urban planning processes, the enforcement remains inconsistent, and public participation is often limited or tokenistic. In contrast, Canada's EIAs include mandatory public consultations, as seen in the review processes under CEPA and provincial statutes. The public's role is further strengthened by access to information and the ability to challenge decisions in courts, fostering greater accountability.

5.1 *Challenges and Reforms*

Rapid urbanization in China has led to the reconfiguration of urban spaces, creating competing interests among stakeholders. Issues related to housing, welfare, and citizenship have compelled the government to revise policies and enact reforms. However, the effectiveness of these reforms is hindered by inconsistencies in regulations, ambiguity in laws, and weak enforcement mechanisms. Canada's experience demonstrates the importance of harmonizing environmental and planning laws to address such challenges. For instance, British Columbia's Environmental Management Act integrates pollution control with land-use planning, providing a model for coherent and enforceable regulation.

China's government has shown intent to address these issues, as evidenced by ongoing innovation and reform in planning laws. However, planning in China remains primarily an instrument for economic growth, with environmental considerations taking a secondary role. The Canadian model illustrates the potential of integrated governance, where environmental protection is a cornerstone of urban planning.

5.2 *Comparative Lessons*

From a comparative perspective, China could benefit from adopting several aspects of Canadian law and practice:

Independent Oversight: Establishing independent bodies to oversee planning and environmental decisions could mitigate conflicts of interest and enhance accountability.

Public Participation: Strengthening mechanisms for public engagement and providing legal avenues for citizens to challenge decisions would ensure broader stakeholder involvement.

Integration of Regulations: Streamlining and harmonizing planning and environmental laws could improve coherence and reduce administrative inefficiencies.

Enforceable Standards: Introducing clear, enforceable environmental standards within planning laws would prioritize sustainability alongside economic development.

Conclusion

In conclusion, while China's planning law has evolved, its effectiveness in addressing environmental protection remains limited. Drawing on comparative insights from Canada's integrated and participatory approach could inform reforms to achieve a balance between urbanization and environmental sustainability. This article explores the role and challenges of relevant planning laws in urban environmental protection in China from multiple dimensions, including land reform, urbanization processes, urban governance, and planning regulations. Although the government has demonstrated an intention to strengthen environmental protection at the legislative and policy levels by implementing numerous reform measures, in practice, the relevant planning laws still face issues such as insufficient regulatory integration, weak enforcement oversight, and limited public participation in achieving urban environmental protection goals. Furthermore, local governments, driven by economic interests, often prioritize economic development, which leads to the marginalization of environmental protection objectives. Moving forward, to truly realize sustainable urban development, it is essential to further optimize the regulatory framework, strengthen enforcement and oversight mechanisms, improve environmental impact assessments and public participation processes, and enhance coordination between central and local governments to ensure effective implementation of environmental protection within planning laws.

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