CHAPTER ELEVEN
THE RAPID DEVELOPMENT OF ENVIRONMENTAL PROTECTION LAW
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I. The Fastest Developing Area of Chinese Law

Thirty years have passed since the Standing Committee of the National People’s Congress approved in principle China’s first laws on environmental protection on September 13, 1979. During those thirty years, China developed modern environmental laws from the ground up, creating an independent area of law that holds an important position in the national legal system. It is worth noting that during China’s three decades of reform and opening, environmental law has become one of the most rapidly developing areas of law. This rapid development is due in part to the seriousness of China’s environmental problems and the urgency with which these problems must be addressed, as well as an inevitable result of the progression of China’s legal system.

A. China Begins the Journey towards Modern Environmental Law

On September 13, 1979, the Eleventh Meeting of the Standing Committee of the Fifth National People’s Congress approved in principle the historically significant Environmental Protection Law of the People’s Republic of China (Trial Implementation), which academics have deemed China’s fundamental environmental law. The law was separated into seven chapters including General Provisions, Protection of the Natural Environment, Prevention and Elimination of Pollution and Other Hazards to the Public, Environmental Protection Office and its Functions, Scientific Research & Propaganda and Education, Rewards and Punishments and Supplementary Articles, as well as a total of 33 other articles. This law served as the starting point for environmental protection laws in China and
provided the legal foundation for the rapid development of this area of law.

1. Environmental Legislation Created as a Result of International Criticism

In 1979, newly emerged from the turmoil of the Cultural Revolution (文化大革命), China was in the midst of tackling long-abandoned projects and creating much-needed legislation. The Environmental Protection Law became the first of seven areas of law passed by the National People’s Congress as the period of reform and opening began. One might ask why the formulation and promulgation of the Environmental Protection Law took precedence over the yet to be created laws on economic construction (经济建设). The answer lies deep within the context of China’s social history and political economy.

a. Even without a well-developed economy, China experienced severe environmental pollution and damage

In the early days of the newly formed People’s Republic of China (PRC), a relatively small population and a minimal scale of production meant that most environmental problems due to production were limited to localized ecological damage and pollution. Political economy and environmental protection were not yet at odds with one another. In the late 1950s and early 1960s, China began to experience serious pollution and ecological damage, particularly when large portions of the population were mobilized to produce steel in backyard forges and heavy industry was promoted at a national level. The nationwide political, economic, and social upheaval that predominant during the ten-year Cultural Revolution that started in 1966, clearly exacerbated China’s environmental problems. Economic construction focused on quantity rather than quality and the value of output received undue emphasis while economic efficiency was ignored. This resulted in wasted resources and serious environmental pollution. In an attempt to resolve food shortages, some regions pursued a policy known as “Grain is Key” (以粮为纲). This policy saw forests and grasslands destroyed and land reclaimed from lakes and coastal areas for agricultural use. Some regions experienced clashes and violence between villagers and factories because of the severity of the pollution.1 Fish

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1 Wang Canfa 王灿发, Huanjing jiufen chuli de lilun yu shijian 环境纠纷处理的理论与实践 [Handling Environmental Disputes in Theory and Practice], (Beijing: Zhongguo zhengfa daxue chubanshe, 2002), 4.