

# Institutional Transition in Environmental Governance in China

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# Outline

- Set the context
- Market failures
- Government failures
- Empower the public to execute their rights to control pollution
- Further discussions

# Setting the Context

- Regime values
  - Equality
  - Freedom
  - Property
- Government authority
- The authority and responsibility to protect the environment was mainly with government

# Regime Values in China

- *“All citizens of the People’s Republic of China are equal before the law”* (Article 33)
- *“Freedom of speech, of the press, of assembly, of association, of procession and of demonstration”* (Article 35)
- *“Freedom of religious belief”* (Article 36)
- *“Freedom of the person...inviolable”* (Article 37)
- *“The state protects the right of citizens to own lawfully earned income, savings, houses and other lawful property”* (Article 13, Chapter I, “General Principles”); BUT NO mention in Chapter II, “Fundamental Rights and Duties of Citizens”

# Government Authority

- “The people administer state affairs and manage economic, cultural and social affairs through various channels and in various ways in accordance with the law” (Article 2, Chapter I)
- State Council (Article 89, Chapter I)
  - “formulate the tasks and responsibilities of” and “exercise unified leadership over” national “ministries and commissions”
  - “formulate the detailed division of functions and powers between the Central Government and the organs of state administration of provinces, autonomous regions, and municipalities directly under the Central Government”
  - “exercise unified leadership over the work of local organs of state administration at various levels throughout the country”
- National People’s Congress (Article 62, Chapter I)

# Environmental Protection Law 1989

- *“This law is enacted to protect and improve the living environment and ecological environment, to prevent and control pollution and other harm to the public, to protect public health, to facilitate and ensure the modernization of socialist China”* (Article 1, Chapter I)
- State Environmental Protection Administration under the State Council and local governments above a county level are responsible for environmental protection in their jurisdictions (Article 7, Chapter 1)
- Responsibility of every work unit (including corporations) and individual citizen to protect the environment and their right to report to the government or sue polluters in the court (Article 6, Chapter I)

# Market Failures

- Residual control rights of pollution
  - Pollution as a negative asset and residual property
- Inadequate private enforcement by the public

# Residual Control Rights of Pollution

- Locke: allocate the right to pollute by force?
- Information asymmetry
- Undersupply of knowledge and information about pollution and potential health damages
- Implicit contract between government and the public
- Environmental regulations and standards as compulsory contracts between government and industry
- The public incurs the health damage as residual negative property derived from pollution

# Inadequate Private Enforcement

- Public-interest groups or public-interest lawsuits are not encouraged
- Customers are not sophisticated enough or willing to favor “green” products
- Inconsistency between public environmental awareness, interest, knowledge, attitude, legitimization, and practice
- Trust in and rely on government to solve environmental problems

# Government Failures

- Architecture of environmental governance
- Lack of credible commitment to protecting the environment by local governments
- Inadequate capacity to enforce environmental standards and laws
- Capture of state

# Regulations on Pollution Prevention & Control

1979	PRC Environmental Protection Law (amended 1989)
1982	Marine Environmental Protection Law (amended 1999)
1982	Ordinances on Collecting and Managing Pollution Discharge Fee (amended 2003)
1984	Water Pollution Prevention and Control Law (amended 1996)
1987	Air Pollution Prevention and Control Law (amended 1995, 2000)
1996	Environmental Noise Pollution Control Law
2002	Environmental Impact Assessment Law
2002	Cleaner Production Promotion Law

# Regulations on Natural Resources and Ecosystem Integrity (1)

1984	Forestry Law (amended, 1998)
1986	Grasslands Law
1986	Land Administration Law (amended, 1998)
1986	Fisheries Law
1986	Mineral Resource Law (amended 1996)
1988	Wildlife Protection Law
1988	Water Law (amended 2002)

# Regulations on Natural Resources and Ecosystem Integrity (2)

1991	Water and Soil Conservation Law
1993	Water and Soil Conservation Law Implementation Regulations
1994	National Park Regulations
1996	Natural Flora Protection Regulations
1997	The Energy Conservation Law
1997	The Flood Prevention Law
2001	Law on Desertification Prevention

# A Web of Pollution Control Instruments (I)

Preventive	<ul style="list-style-type: none"><li>•Three simultaneous</li><li>•Environmental Impact Assessment</li><li>•Cleaner production</li><li>•Circular economy</li></ul>
Direct regulation I (administrative)	<ul style="list-style-type: none"><li>•Limited time treatment</li><li>•Discharge permit</li></ul>
Direct regulation II (economic)	<ul style="list-style-type: none"><li>•Pollution levy/Pollution discharge fee</li></ul>

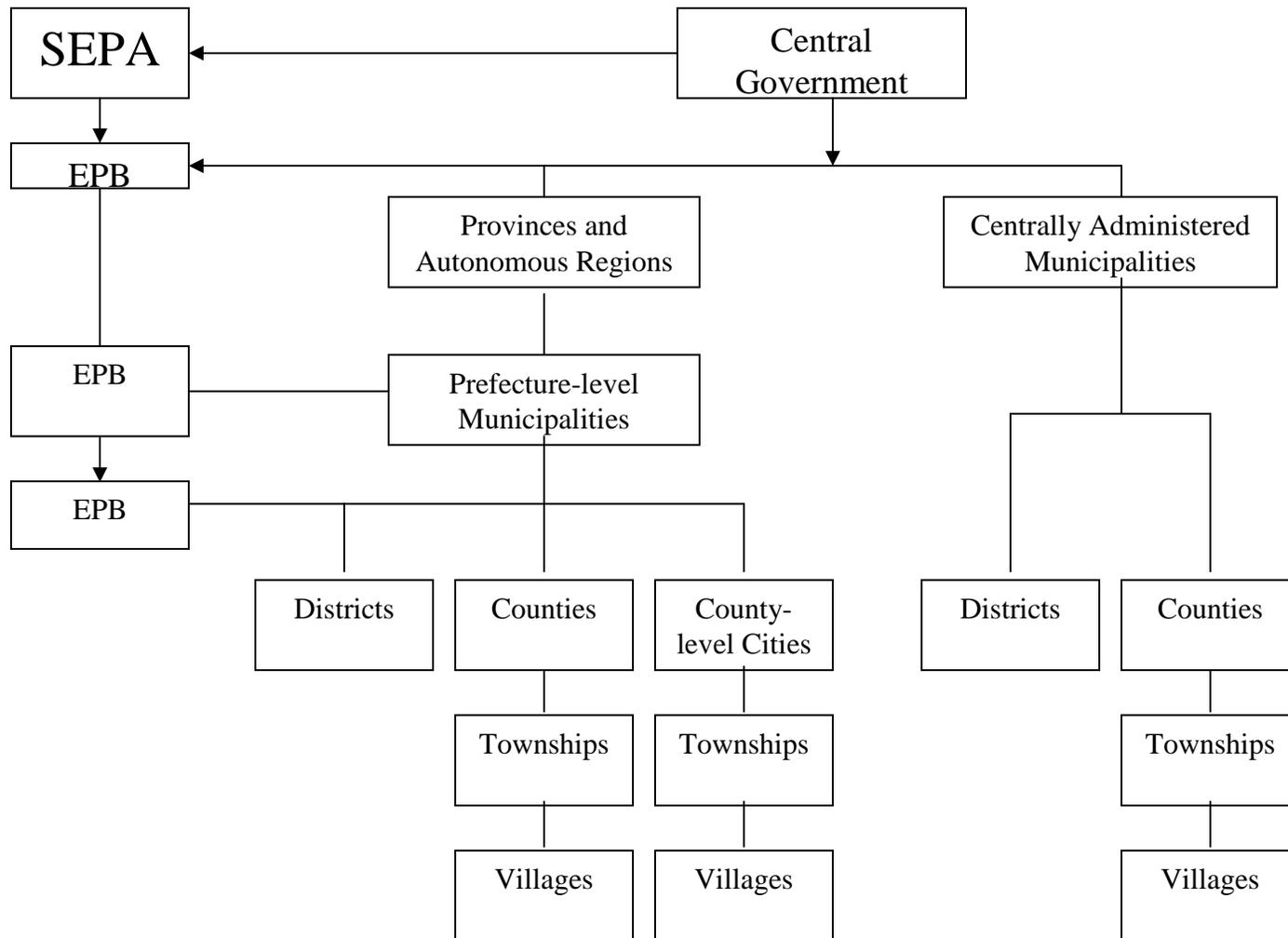
# A Web of Pollution Control Instruments (II)

Incentive mechanism I (economic)	<ul style="list-style-type: none"><li>•Tradable emissions permit</li></ul>
Incentive mechanism II (informational)	<ul style="list-style-type: none"><li>•Color rating &amp; disclosing of environmental performance of firms</li><li>•Disclosing important pollution sources</li></ul>

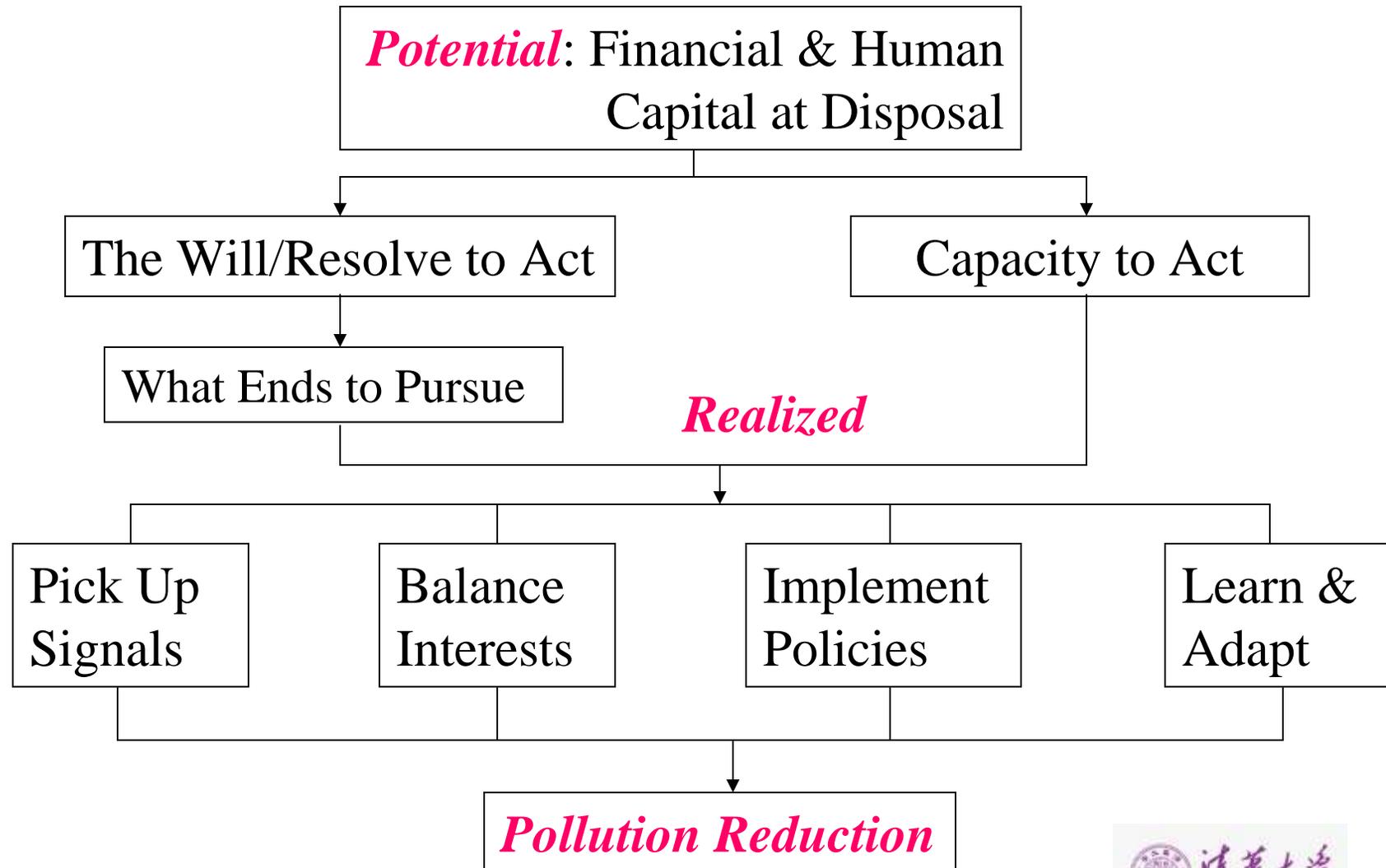
# A Web of Pollution Control Instruments (III)

Incentive mechanisms III (political)	<ul style="list-style-type: none"><li>• Comprehensive evaluation of city environmental protection</li><li>• Environmental responsibility system</li><li>• Model city/township/village for environmental protection</li><li>• National model eco-park, eco-village</li></ul>
Voluntary approaches	<ul style="list-style-type: none"><li>• Nationally environmental friendly enterprises</li><li>• ISO14000</li></ul>

# Sub-national Implementation of Environmental Policies



# Analyze Environmental Protection Agencies

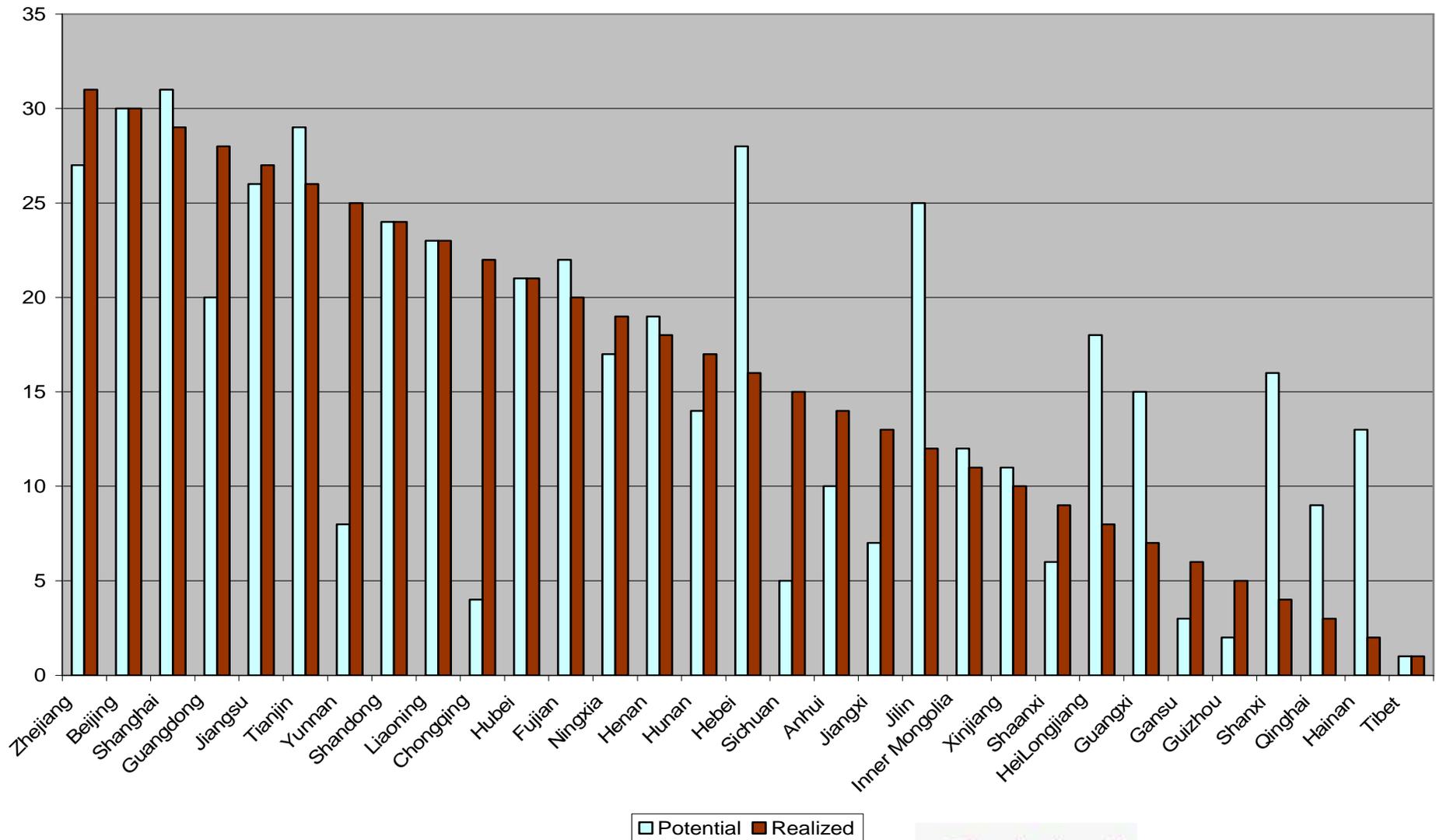


# Commitment to Protecting the Environment

Example: operating budget of the Zhenjiang Environmental Monitoring Station	
1998-2002	4 million RMB
2003	4.8 million RMB
2004	7 million RMB
2005	9 million RMB

Why? In 2002, the Zhenjiang city government decided to compete for the national “model city for protecting the environment” award.

# Capacity of Local EPBs in 2002



# Capture of State

## Example: Pilot Information Disclosure Program

- To protect industry, government chose not to disclose environmental information: Hohhot
- To improve the capacity of EPBs to manage industry and better put them on defense by disclosing and allying with the public: Zhenjiang

# Empower the Public to Execute Their Rights to Control Pollution

- Cleaner Production Promotion Act 2003
  - Local governments publicize important pollution sources within their jurisdictions
- SEPA ordinance #35 (April 2007)
  - Both government and industry make publicly accessible environmental information
- Environmental Impact Assessment Law 2003
  - Project developers themselves or hire third parties to seek comments from neighborhoods that might be affected

# Further Discussions

- Allocation of right to pollute
  - Set environmental targets that are binding on industry: reasonableness, processes, etc.
  - Emissions trading
  - Waste discharge and disposal by individuals and households
- Environmental equity in a context of regional disparity
  - Preferences and affordability
  - Environmental standards in practice
  - Who balances efficiency and equity, and how