

New York Times

December 26, 2005

Seeking a Public Voice on China's "Angry River"

By JIM YARDLEY

XIAOSHABA, China - Far from the pulsing cities that symbolize modern China, this tiny hillside village of crude peasant houses seems disconnected from this century and the last. But follow a dirt path past a snarling watchdog, sidestep the chickens and ducks, and a small clearing on the banks of the Nu River reveals a dusty slab of concrete lying in a rotting pumpkin patch.

The innocuous concrete block is also a symbol, of a struggle over law that touches every corner of the country.

The block marks the spot on the Nu River where officials here in Yunnan Province want to begin building one of the biggest dam projects in the world. The project would produce more electricity than even the mighty Three Gorges Dam but would also threaten a region considered an ecological treasure. This village would be the first place to disappear.

For decades, the ruling Communist Party has rammed through such projects by fiat. But the Nu River proposal, already delayed for more than a year, is now unexpectedly presenting the Chinese government with a quandary of its own making: will it abide by its own laws?

A coalition led by Chinese environmental groups is urging the central government to hold open hearings and make public a secret report on the Nu dams before making a final decision. In a country where people cannot challenge decisions by their leaders, such public participation is a fairly radical idea. But the groups argue that new environmental laws grant exactly that right.

"This is the case to set a precedent," said Ma Jun, an environmental consultant in Beijing. "For the first time, there is a legal basis for public participation. If it happens, it would be a major step forward."

China's leaders often embrace the concept of rule of law, if leaving open how they choose to define it. For many people in China's fledgling "civil society" - environmentalists, journalists, lawyers, academics and others - the law has become a tool to promote environmental protection and to try to expand the rights of individuals in an authoritarian political system.

But trying to invoke the law is risky. Chinese nongovernmental organizations, few of which existed a decade ago, have taken up the Nu as a major cause. But the activism on

the Nu and other issues has provoked deep suspicions by the Communist Party even as a broader clampdown against such NGO's has forced some to shut down. The government knows China has a drastic pollution problem and has passed new environmental laws. But top leaders also demand high economic growth and need to increase energy supplies to get it. The "green laws" are becoming a crucible to test which side will prevail and whether ordinary people can take part in the process.

The closed process that led to the Three Gorges Dam is what opponents of the Nu dams most want to avoid. In the late 1980's, a wide range of intellectuals and others tried in vain to force public hearings to discuss the environmental and social costs of a project that has flooded a vast region and forced huge relocations. Ultimately, opponents could only muster a symbolic victory as the final vote in the National People's Congress included an unusually high number of abstentions or nay votes.

The central government is still deliberating how to proceed on the Nu. Domestic media coverage has been banned in recent months. Three central government ministries refused interview requests, as did provincial officials in Yunnan. Local officials along the Nu River, after initially agreeing to an interview, failed to reply to a list of written questions.

Out in the jagged mountains along China's remote southwestern border, villagers in Xiaoshaba gather information about their future from rumors. In early December, a team of surveyors inventoried property and measured the narrow terrace of village farmland along the Nu. Several villagers say local officials have told them that everyone would be relocated around the upcoming Lunar New Year holiday, which ends in early February - even if the dams have not yet been approved.

"If they tell me to move," said one villager, Zhang Jianhua, "I have no other choice."

A Legal Reprieve

In the spring of 2003, a slender, studious man named Yu Xiaogang learned that the hydropower industry was eyeing the rivers of southwestern China. Mr. Yu, an environmental resources manager, knew that China believed that hydropower was a cleaner alternative for its energy shortages and that the Nu was considered one of the country's richest, untapped resources. But he and others believed that the Nu would be untouchable.

The Nu, which translates as Angry River, roars out of the Tibetan Plateau east of the Himalayas and plunges through steep canyons just inside the border with Myanmar, formerly Burma, as it careers south before crossing the border.

In China, it passes through a mountainous region with more than 7,000 species of plants and 80 rare or endangered animals and fish. Unesco said the region "may be the most biologically diverse temperate ecosystem in the world" and designated it a World Heritage Site in the summer of 2003.

"We were very happy because we thought the Nu would be protected and would have no problems," said Mr. Yu, who also led Green Watershed, an environmental NGO.

But not long after the World Heritage designation, a state-run provincial newspaper announced that a public-private consortium planned to build 13 dams on the river. The project would be the largest cascade dam system in the world, and it appeared politically unstoppable.

The majority partner, the China Huadian Corporation, was a state-owned goliath; the local government was a minority partner. In Beijing, the State Development and Reform Commission, a powerful government ministry, had approved the dams in August and planned to present the plan to the State Council, or the Chinese cabinet, for final approval. Construction would begin in September 2003.

The environmental community was blindsided. More than 50,000 people, most of them from ethnic minority hill tribes, would be relocated. The Nu also was one of only two free flowing rivers in China. The State Environmental Protection Administration, or SEPA, the country's environmental watchdog, criticized the project in its official newspaper. But SEPA was considered one of the weakest ministries in the central government.

Then, a snag arose - a bureaucratic delay, hardly uncommon in China. August became September and the proposal had not yet been presented for final approval. During the delay, a new environmental law took effect on Sept. 1. Based on an American model, the China Environmental Impact Assessment Law required comprehensive environmental reviews in the planning stages of major public and private development projects.

Decades of relentless economic growth had left China with dire pollution problems and squandered natural resources. President Hu Jintao had made "sustainable development" a new government mantra. The assessment law gave the environmental agency new powers to handle and approve environmental reviews before a project was approved. It also called for public participation, including hearings, as part of the review, though it did not detail specific guidelines.

But it would take public pressure to force action on the Nu case. Despite its uniqueness and natural beauty, the Nu was not well known, largely because of its isolated location.

In September 2003, an environmental conference in Beijing brought together academics, government environmental officials and NGO's to discuss the Nu. A month later, Pan Yue, the outspoken vice minister of the environmental agency, organized China's first "Green Forum," a public relations event that included Chinese music and film stars.

One person at the forum was a woman named Wang Yongchen, a member of Green Earth Volunteers, an environmental NGO in Beijing. Initially, the Green Earth Volunteers had concentrated on tree planting and teaching children about the environment. But in recent years, the group had participated in efforts to stop a dam proposal in Sichuan Province.

At the forum, Ms. Wang persuaded 62 celebrities and film stars to sign a petition in support of "natural" rivers. She would later donate money to build 30 libraries in poor villages along the Nu.

By early 2004, the controversy had attracted worldwide interest as 60 international organizations agreed to lobby the Chinese government about the Nu. Hundreds of volunteers in China called Unesco to protest the dam proposal. The country's most prominent NGO, Friends of Nature, embraced the cause, while an environmental group in Sichuan collected more than 10,000 signatures to stop the project.

But the crucial factor was the Sept. 1 law. As the project appeared to be nearing approval, biologists, academics and environmentalists all argued that the government had not properly conducted an environmental review.

In late winter, as Ms. Wang guided a tour of Chinese journalists, her cellphone rang. A friend informed her that Prime Minister Wen Jiabao had temporarily suspended the project so that it could be "carefully discussed and decided on scientifically."

Ms. Wang began to cry with joy. Later, some Chinese newspapers speculated that Mr. Wen's edict meant that the project was dead.

Mr. Yu thought otherwise.

"I thought this was the first success of public participation," he said.

"But I did not think the decision was final."

Opening a Closed Process

Located a short drive from the city of Liuku, Xiaoshaba is like countless poor villages along the Nu. Peasants live in crude homes, some under the same roof as their livestock and chickens. Some villagers have never gone farther than Liuku; some have never left the village. But on a May afternoon in 2004, a bus arrived. Inside was Yu Xiaogang, and he wanted to take villagers on a trip.

The prime minister's order to suspend the project had stunned developers and provincial officials. A delegation had hurried to Beijing to try to restart the process. At the same time, the government's environmental agency focused on the assessment review.

Mr. Yu was anxious to get villagers involved because the law had highlighted public participation. Most villagers knew nothing about the project or how it would change their lives.

"I thought we must let the Nu River people have their voice," Mr. Yu said.

So he offered to take a small group of villagers to the site of the Manwan Dam on the upper reaches of Mekong River in the southern Yunnan. In 2002, Mr. Yu had written an assessment of the social costs of the Manwan project, a report later endorsed by the prime minister at the time, Zhu Rongji. Leaving from Xiaoshaba, Mr. Yu took 14 peasants on a daylong journey to the Manwan, where they found many people living as scavengers.

"They heard how the government made promises but didn't follow through," Mr. Yu said. "Ten years later, nobody cared about them. The Nu River people were shocked."

Mr. Yu later led a small group of peasants to a Beijing hydropower conference jointly sponsored by the United Nations and China's National Development and Reform Commission. As several speakers extolled the virtues of dams, the dusty group of peasants sat in the upper reaches of the auditorium. Mr. Yu was allowed to speak at a sub-session of the conference. The villagers had practiced giving speeches but were not granted a speaking slot.

Meanwhile, momentum seemed to be shifting in favor of dam supporters. Prime Minister Wen had visited Yunnan to confer with provincial officials. Two prominent scholars toured the Nu - on a trip sponsored by dam developers - and attracted wide public attention by attacking the environmentalists.

But that criticism was insignificant compared to a broader governmental crackdown under way against nongovernmental organizations.

In the spring of this year, President Hu ordered an intensive examination of NGO's because of concerns of the role that environmental groups had played in helping to topple governments in Central Asia. In a secret speech to top officials, Mr. Hu warned that the United States was using such groups to try to foment social unrest.

Before, NGO's had hoped that onerous licensing restrictions were about to be repealed. Instead, environmental groups and other NGO's across the country were closely scrutinized, with some losing their licenses. Some groups began to fear that the "legal space" granted to the civil society would be tightened, or closed.

In Yunnan, officials began to pressure opponents. Mr. Yu would not comment about whether he had come under pressure. But acquaintances say he that has been forbidden from traveling to international conferences and that officials have put pressure on him.

In Beijing, the environmental assessment report was finished by this summer. But the Ministry of Water Resources, noting that government reports about international rivers were considered proprietary information, declared a small section of the assessment to be a state secret and forbade its release.

Dam opponents said the section could remain secret but argued that publicizing the rest of the report was essential for public discussion of the project. The government still had

not outlined the potential environmental risks or explained what would happen to relocated villagers.

So on Aug. 31, opponents mailed a letter to the State Council and later posted it on the Internet. It cited Chinese law and said any decision without public participation "lacks public support and cannot tolerate history's scrutiny."

Nearly four months later, the government had not responded.

An Uncertain Future

A traffic sign on the narrow, unpaved road that passes through Xiaoshaba carries a propaganda message: "A Model Village for Democratic Rule of Law." A short walk away, beside the concrete block marking the proposed first dam, Guan Fulin, 55, said she had spoken to the surveyors who measured the village land in early December.

"The officials told us it is definitely going to happen," Mrs. Guan said.

She trusted that the government would take care of her but admitted that she did not yet know how she would be compensated or where she would go.

Pointing to the village, she said, "All these people will be moving."

If so, it would likely signal the start of a hydropower gold rush in Yunnan Province. One study estimated that China might build enough new dams, most of them in Yunnan, to double its hydroelectric output in the next five years. One plan would inundate one of the most popular tourist attractions in China - Tiger Leaping Gorge.

Part of the frenzied hydropower development is driven by the thirst for new energy supplies. But part of it is caused by the breakup of the state monopoly that once controlled electrical generation in China. That breakup left regional state-owned energy giants who were each assigned "assets" - like rivers or coal deposits. Each faces competitive pressures to develop new power plants quickly in order to claim market share.

Mr. Ma, the environmental consultant in Beijing, said environmentalists understood that China faced a complex challenge in developing new energy sources even as it must reduce pollution. But he said this intense pressure to develop was why laws that provide oversight and public review must serve as safeguards.

"Before the Nu River proposal, you would hear about opposition to certain projects," Mr. Ma said. "But it was all based on the tremendous courage of individuals. This time, we see progress in Chinese law that makes it possible for a more systemic challenge."

He added: "There is now more awareness of environmental rights and the rights of people as citizens. For such a major problem, they believe they have the right to know about it and at least have their views heard."

The dispute over the Nu seems at a standstill. Ultimately, the decision on holding hearings may fall to the prime minister. Earlier this year, Unesco issued a statement expressing its "gravest concerns" about the potential damage to the World Heritage Site. In October, environmentalists boycotted a dam conference linked to the National Reform and Development Commission. Organizers had promised to show parts of the assessment report, but environmentalists believed it was an effort to avoid full public hearings.

Ms. Wang, of the NGO Green Earth Volunteers, described the dilemma in simple terms.

"If the law is not enforced, what shall we do?" she asked. "We have this law. Why doesn't this law work?"

Copyright 2005, The New York Times Company