

The background of the slide features a serene pond scene. In the foreground, there are several large, dark green lotus leaves and a vibrant pink lotus flower in full bloom. To the right, two goldfish are visible, one larger and one smaller, swimming in the water. The sky above is a clear, bright blue with soft, white clouds. The overall aesthetic is peaceful and natural.

# **Sustainable Development through a Rights-based Approach to Conserve Protected Areas in China**

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***“The IUCN AEL”, Baltimore July 1-5, 2012***

# Overview

**Background Information**

**The Existing Legal and Policy Instruments in China**

**Why a Rights-based Approach(RBA) is a Better Method**

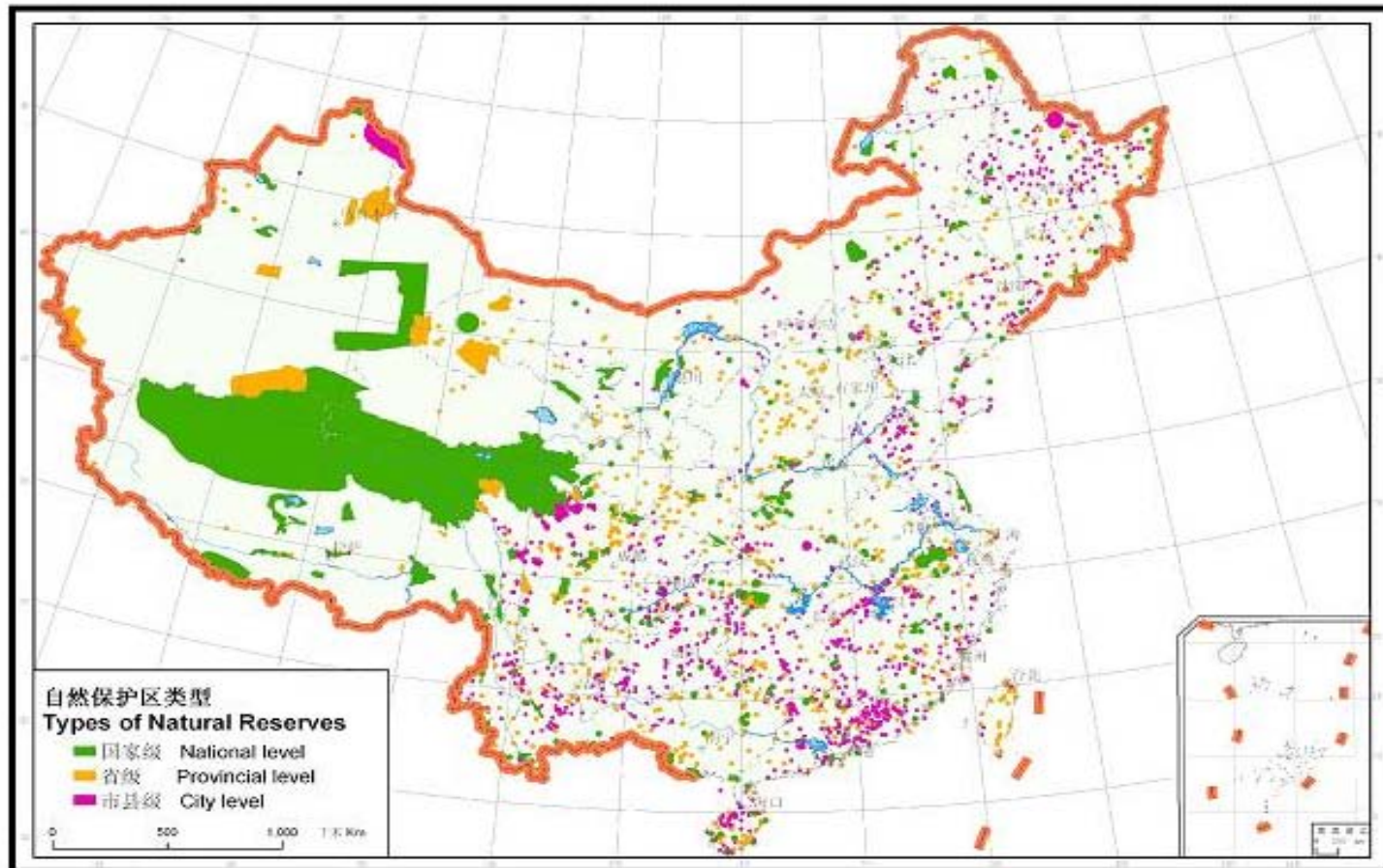
**How to Adopt a RBA to Conserve Protected Areas in China**

**Conclusion**

## Background Information



## Background Information





## The Examples of Conflicts in China

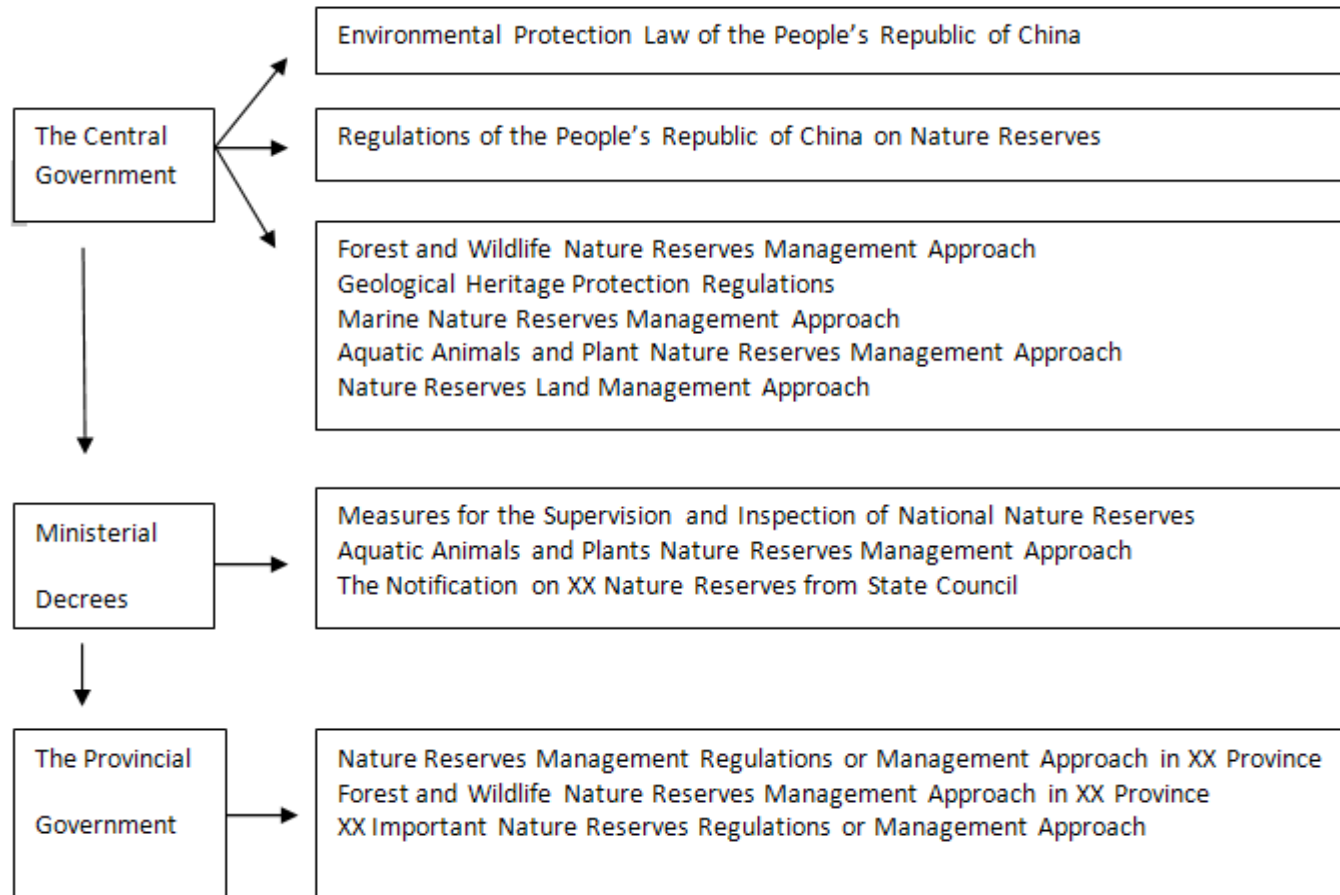
- ✧ Yu Long Xue Shan protected area
- ✧ Binzhou Marine Nature Reserve



The question arises:

What channels of representation could guarantee, or at least help, local people to influence the decision-making?

## The Existing Legal System for Protected Areas in China



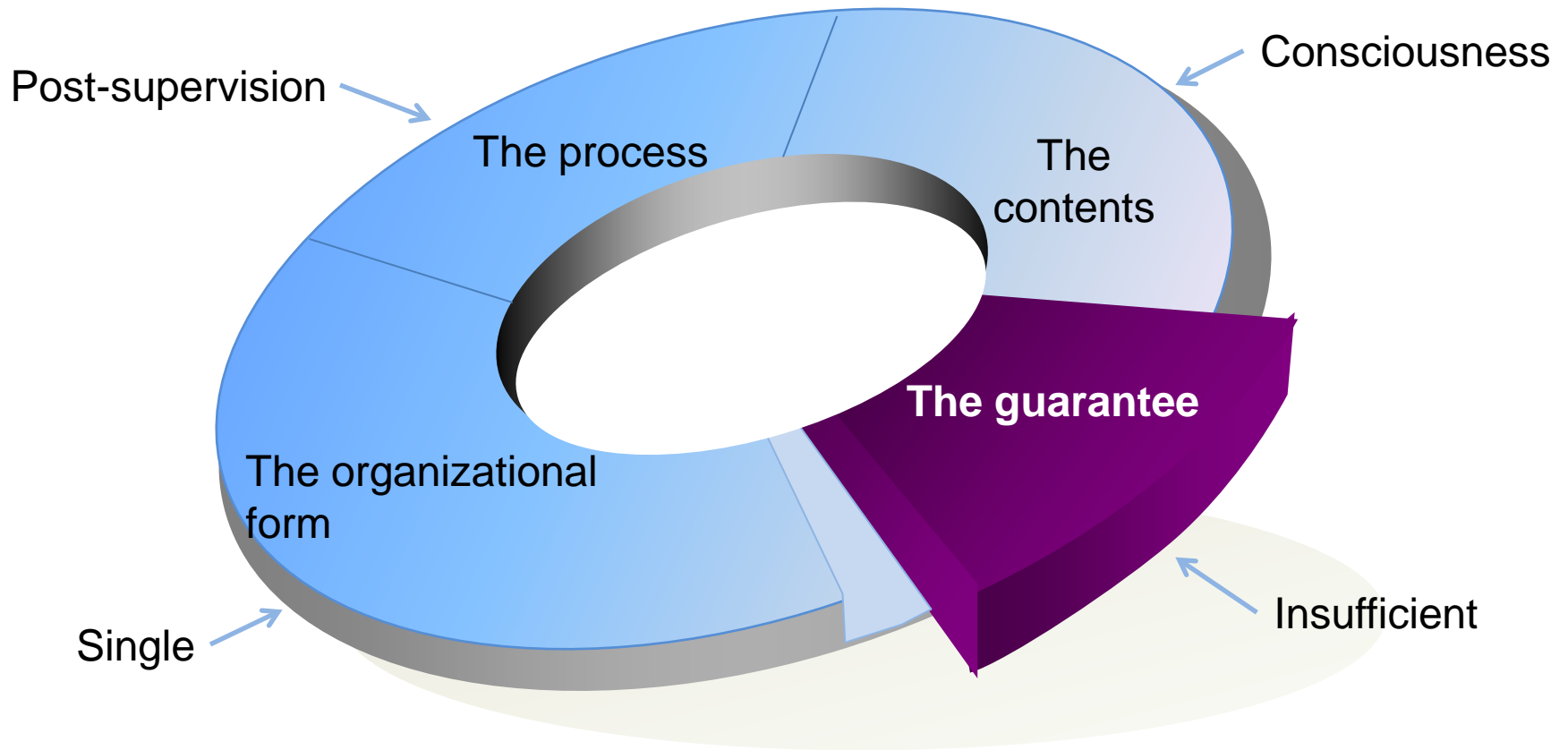
## **The Existing Legal and Policy Instruments Referring to the Right to Information**

- The Regulation of the People's Republic of China on the Disclosure of Government Information (2007)
- The Environmental Information Disclosure (Trail) (2007)
- The Nature Reserve Land Management Approach(1995) ---Article 13
- The National Human Rights Action Plan (2012-2050)

## **The Right to Information ?**



## Some Limitations for Public Participation in China



## The Existing Legal and Policy Instruments Referring to the Right to Participation

- Constitution of the People's Republic of China (2004)

--- Article 2

- The Regulation of the People's Republic of China on Nature Reserves (1994) -

-- Article 7

- Chinese Agenda 21 (1994)

- Water Pollution Prevention and Control Law of the People's Republic of China (2008)



## Some Improvements in the Existing Legal instruments for Public Participation

- Special Marine Protected Areas Management Approach (2010) --- Article 13,17
- China Biodiversity Conservation Strategy and Action Plan (2011-2030) --- Action 29
- The National Human Rights Action Plan (2012-2050)
- Notification on Further Strengthening the Hydropower Construction for Environmental Protection (2012)
- The “Enshi Tujia and Miao autonomous prefecture of Hubei Xingdoushan National Nature Reserve Management Regulation”





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# The General Theory of a Rights-based Approach to Conservation

What is Rights-based Approach(RBA) to conservation?



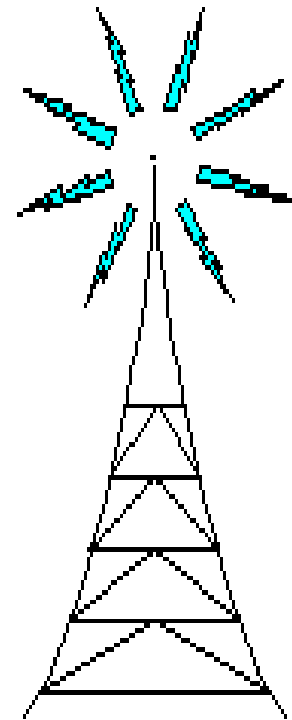
Source: Greiber T. et al. 2009



# The General Theory of a Rights-based Approach to Conservation

## Some important added-values of a rights-based approach to conservation

- ❖ Clarifying rights and duties
- ❖ Responding to increasing demands from NGOs
- ❖ Focusing on the most vulnerable
- ❖ Forming the earliest basis for international cooperation
- ❖ It is a holistic approach to achieve a long term goal



# The General Theory of a Rights-based Approach to Conservation

A rights-based approach is a better method but not a panacea

Challenges:

## Challenges from outside

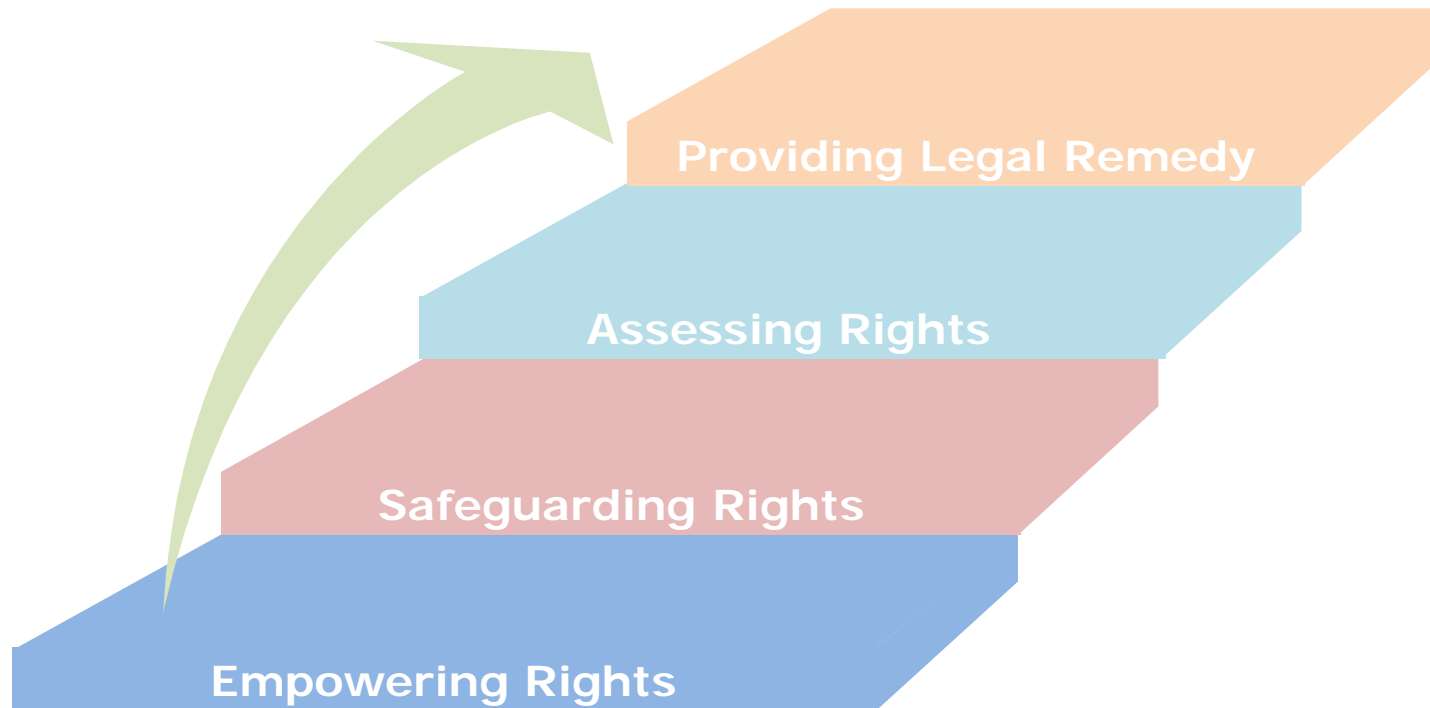
- Challenge from governments' efforts
- Challenge from global or regional human rights texts

## Challenges inherent to the RBA itself

- Competition between rights
- RBA requires substantial resources of time, expertise, information, and funding to build capacity



# How to Implement RBA to conservation in China



# How to Implement RBA to conservation in China

## ❖ Step 1: Empowering Rights in Legislation on Protected Areas

- 1) analyzing the related parties
- 2) dividing the power or interests for the different related parties

## ❖ Step 2: Safeguarding rights in the enforcement of legislation on protected areas

- 1) providing information to the related parties
- 2) ensuring participation
- 3) stimulating the enthusiasm of the related parties



# How to Implement RBA to conservation in China

❖ **Step 3 : Assessing rights when evaluating the enforcement**

❖ **Step 4 : Providing legal remedy**

1) Compensation

2) Prosecution where violation amounts to a crime when it is necessary

3) NGO's role



## Conclusions

- ★ China has made some progress in solving the conflicts, but some problems still exist.
- ★ A RBA can contribute to meet the need of the Chinese contemporary situation
- ★ How to specifically implement a RBA in China needs further research
- ★ To achieve sustainable development between protected areas and human rights need the efforts from various parties





# Q & A

Welcome any suggestions or comments to Email: [miao.he@ugent.be](mailto:miao.he@ugent.be)