

Introduction to

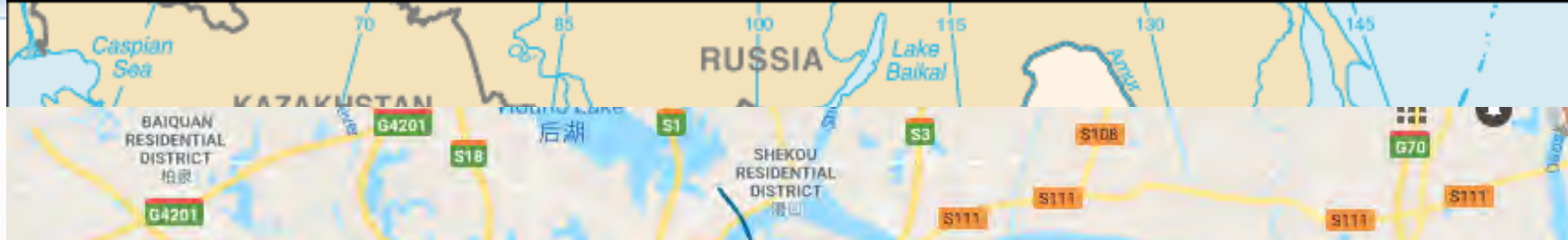
Wuhan Law School

Research Institute of Environmental Law

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QIN Tianbao





Wuhan University

Established 1893, One of Top 10 Universities in China



◆ **Students**

Full-time undergraduate students 31,886

Full-time master degree candidates 16,625

Ph.D candidates 6,741

International students 1,577

◆ **Programs**

Undergraduate programs 124

Master's degree programs 347

Ph.D programs 243

Centers for postdoctoral studies 42

◆ **Faculty and Staff**

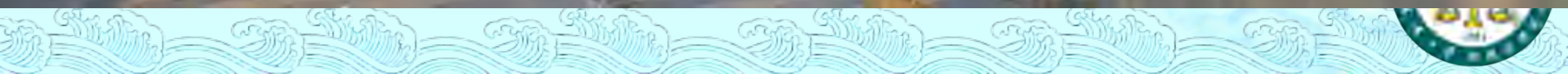
Members of full-time faculty 3,737

Professors 1,344

Associate professors 2,056









Research Institute of Environmental Law (RIEL)

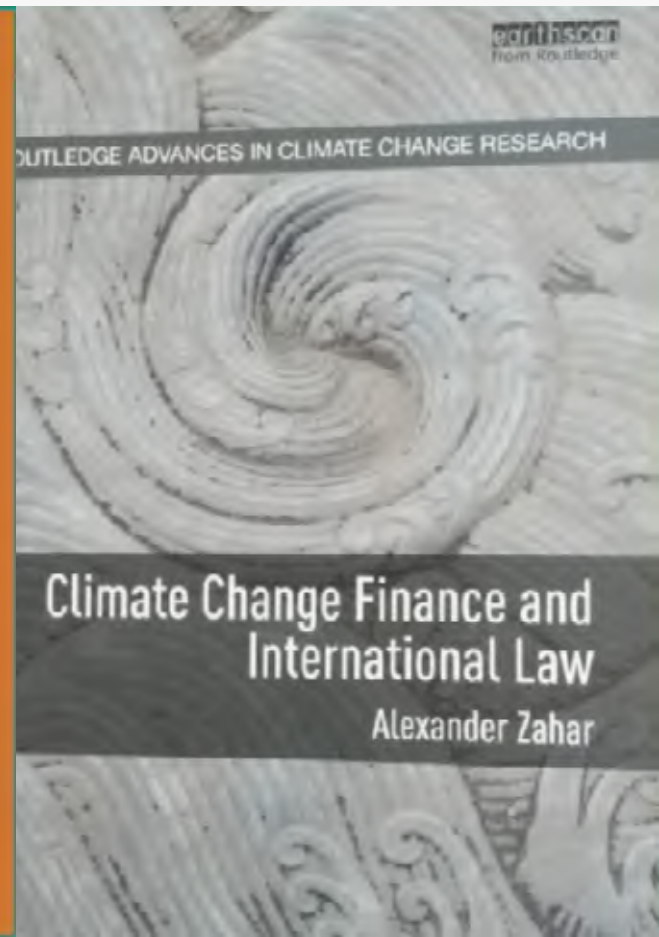
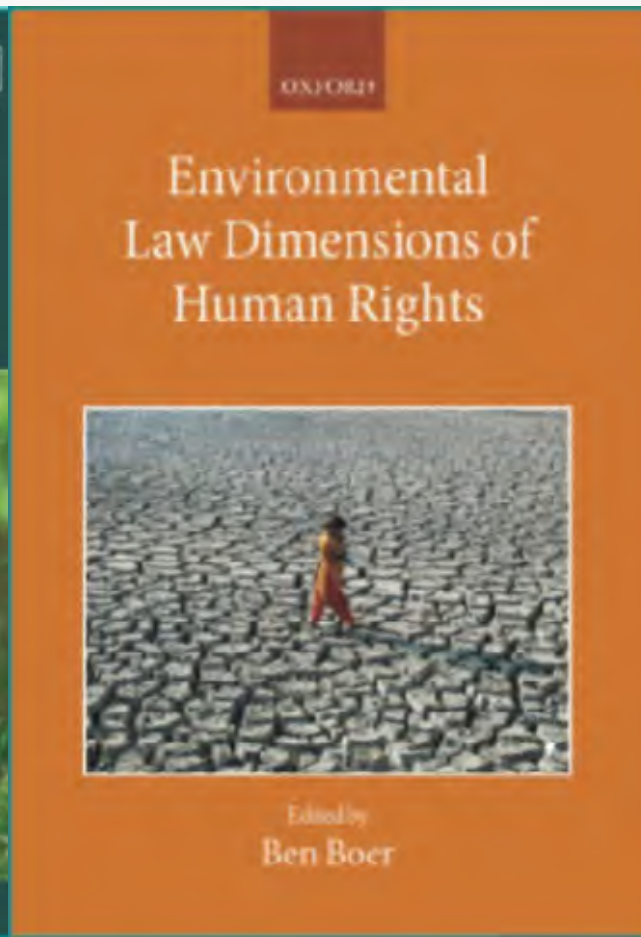
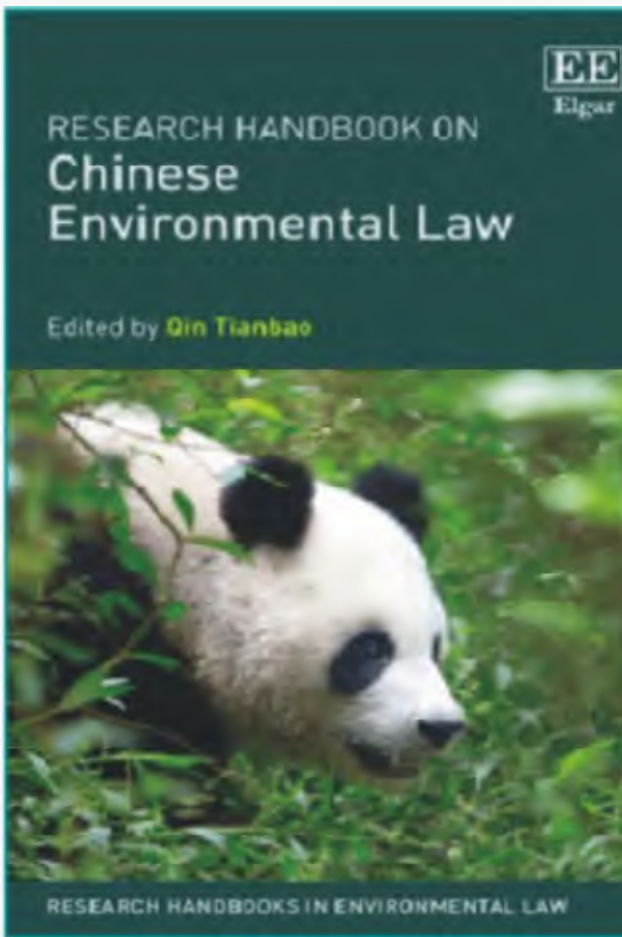


The Research Institute of Environmental Law (RIEL) of Wuhan University, co-founded by the former National Environmental Protection Agency (NEPA), the Chinese Research Academy of Environmental Sciences (CRARS) and Wuhan University in 1981, is the premier institution in China and in Asia-pacific region dedicated to the study of environmental and natural resources law and policy. RIEL was designated as a National Key Research Institute of the Humanities and Social Sciences in 1999. In 2001 and 2007, the environmental law program of RIEL was designated as the sole National Key Discipline by the Ministry of Education of the PRC.

- ◆ First Environmental Law Master Program, 1986
- ◆ First Environmental Law Doctor Program 1997
- ◆ RIEL has produced more than 1000 graduates, including distinguished experts and scholars, senior governmental official, well-known entrepreneurs, outstanding practicing lawyers, as well as influential legal practitioners for civil organizations.



- ◆ In the last 5 years, RIEL, with its scientific research funds 2 million USD, has published over 30 Chinese and English monographs and textbooks, more than 100 papers in important journals at home and abroad.



- ◆ Since its very beginning, RIEL has been the focus for academic exchanges on environmental law nationally, with the establishment of top academic platforms, such as the “Luoja Forum on Environmental Law”, “Luoja Lecture Series of Environmental Law” and the “RIEL Alumni Salon”. Dedicated to building a boutique platform for exchanges in environmental law, RIEL has attracted a large number of domestic and international leading experts and scholars to carry out series of academic activities.



- ❖ RIEL is thus becoming one of the global centers of academic exchanges, enjoying great reputation in the world.
- ❖ RIEL has established long-term and stable partnership with the IUCN Academy of Environmental Law and has close ties with well-known universities and institutes such as those in Australia, Belgium, Canada, France, Germany, the Netherlands, UK and the US. It also has links to the UNEP, UNDP, ADB, and other international organizations.



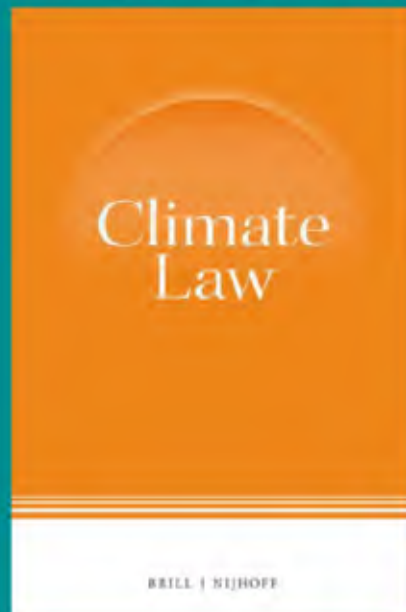
- ◆ RIEL a think tank for China's Parliament, Ministry of Environmental Protection, Ministry of Foreign Affairs and Supreme Court, and their local branches.



RIEL published the first journal in environmental law in China, *Chinese Journal of Environmental Law* (CJEL). In addition, RIEL also published two other journals, *Climate Law* (in English) and *Environmental Law Review* (in Chinese).

RIEL has created and maintained the website of China Environmental Law (www.riel.whu.edu.cn/english/) and periodically updates its English version. It is also responsible for the maintenance of the Chinese version of the website of IUCN Academy of Environmental Law (www.iucnael.org/zh/).

To keep pace with the times, RIEL has opened a WeChat official account, regularly publishing academic information, research trends and Latest news and reports.





- ◆ Editors-in-Chief:
Qin Tianbao, *Wuhan University* and
Ben Boer, *Wuhan University and University of Sydney*
- ◆ Individuals are eligible for **free access** to the *Chinese Journal of Environmental Law* until 31 December 2018, using access token **CJEL4U**.



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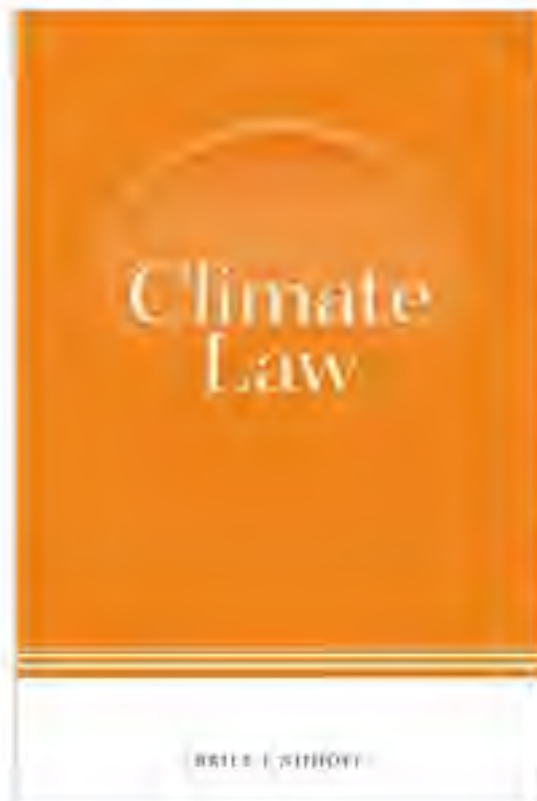
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Climate Law

A Journal on Climate Change and the Law



Editor-in-Chief, Alexander Zahar, Wuhan University

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A complex legal regime has evolved to frame climate governance, encompassing interconnected public international law, transnational law and private law elements. At the core of the international effort are the UNFCCC, the Kyoto Protocol and now the Paris Agreement, the first two of which have spawned innovative features such as carbon trading mechanisms and a sophisticated compliance regime. Municipal legislative action dealing with mitigation and adaptation is gathering pace. The focus of the peer-reviewed journal *Climate Law* is on the many legal issues that arise internationally and at the state level as climate law continues to evolve.

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“Study at Wuhan University Scholarship” Environmental Law Doctoral Program commencing September 2017

◆ Support, duration, and language of instruction

1. The scholarship will support doctoral students for no more than four years.
2. The duration of the scholarship, which covers both core study and preparatory study, as specified in the Admission Letter, cannot be extended.
3. Scholarship students are to register for the English-language Doctoral Program.

Please go to <http://admission.whu.edu.cn/courses/show-5034.html> for program information.



Category	Title of Course	Credits	Class hour
Degree Course	International Environmental Law	1	18
Degree Course	Chinese Environmental Law	1	18
Degree Course	Comparative Environmental law	1	18
Degree Course	Research Methodology	1	18
Optional Course	Pollution Control Law	1	18
Optional Course	Climate and Energy law	1	18
Optional Course	Water Law and Law of the Sea	1	18
Optional Course	Legal writing	1	18
Optional Course	Biodiversity Law	1	18
Optional Course	Heritage Law	1	18



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Climate Litigation: A Suitable Discourse for China's Green Courts?

QIN Tianbao
Research Institute of Environmental Law
Wuhan University

Asia Pacific Judicial Colloquium on Climate Change
Lahore, Pakistan, 26-27 February 2018



Outline

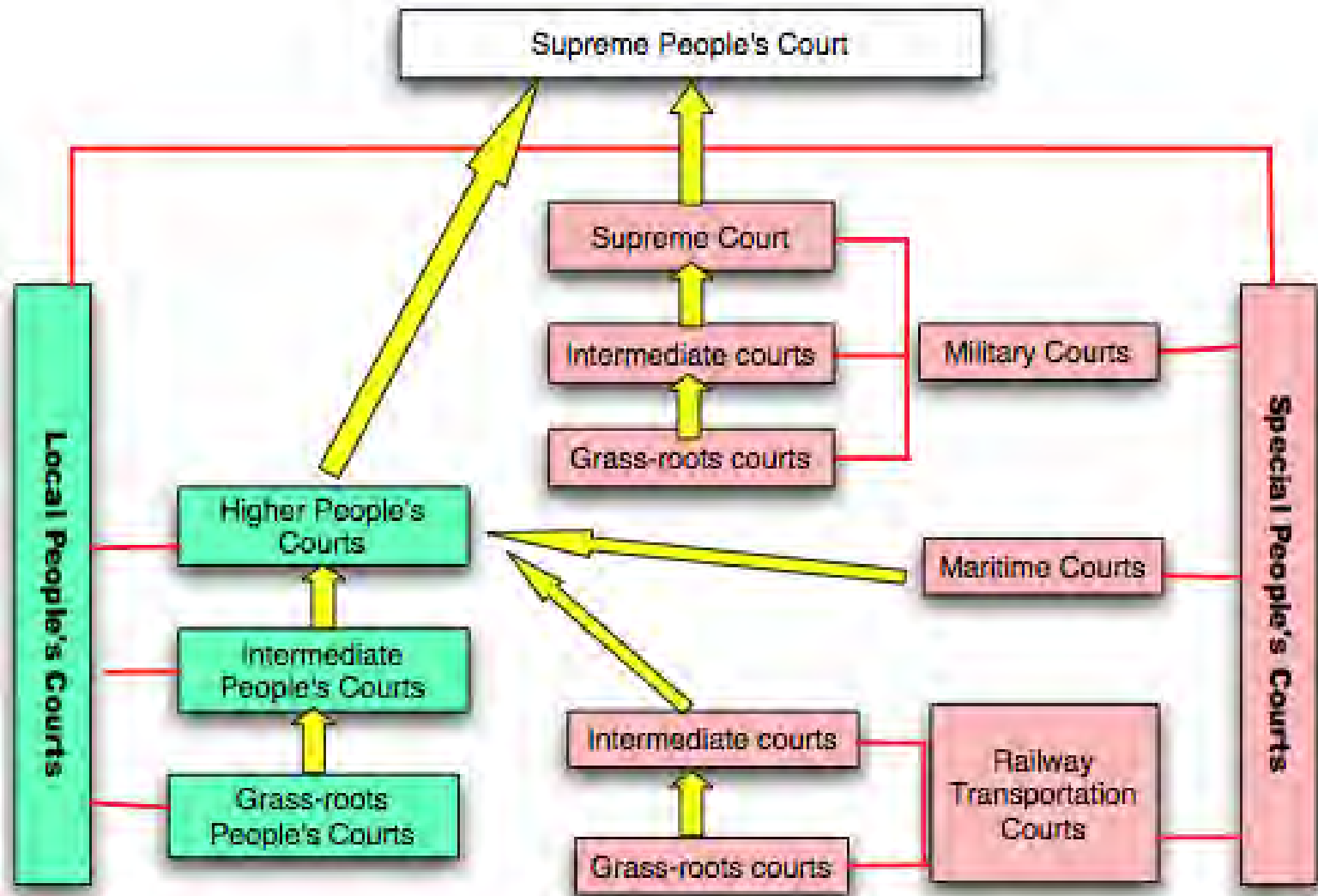
1. Background
2. Environmental Legislation
3. Environmental Enforcement
4. Environmental Judicial
5. Public Participation
6. Prospect



China Facts (political structure)

- ◆ Legislative Branch (National People's Congress)
- ◆ Executive Branch
 - ◆ Chief of the State (President)
 - ◆ Head of Government (Premier and Vice premiers)
 - ◆ Cabinet (State Council and its ministries)
- ◆ Judicial Branch (Supreme Court)
- ◆ Similar organizations at lower levels
- ◆ Communist Party
 - ◆ Central Committee and Politburo





Note: the yellow arrows point to the next superior courts, while the red lines denote the components.



Development of Environmental Courts in China



Environmental law division in
Intermediate Court of Guizhou
Environmental law division in
of Guizhou Province were
Environmental courts in China.

- ◆ In June 2014, the
established its Environ
- ◆ As of April 2017, 95
set up at four levels in



Environmental Public interest Litigation (Citizen Suit)

- ◆ Article 55 of the ***Civil Procedure Law (2013)***;

For activities that pollutes environment, infringes upon the lawful rights and interests of vast consumers or otherwise damages the public interest, **an authority or relevant organization as prescribed by law** may institute an action in a people's court.

- ◆ Article 58 of the ***Environmental Protection Law (2014)***.

For activities that cause environmental pollution, ecological damage and public interest harm, **social organizations** that meet the following conditions may file litigation to the people's courts:

- (1) Have their registration at the civil affair departments of people's governments at or above municipal level with sub-districts in accordance with the law;
- (2) Specialize in environmental protection public interest activities for five consecutive years or more, and have no law violation records.



- ◆ On June 27, 2017, the ***Civil Procedure Law*** was formally defined procuratorial organs as plaintiff of public interest litigation.
- ◆ Where the people's procuratorate finds in the performance of functions any conduct that undermines the protection of the ecological environment and resources, infringes upon consumers' lawful rights and interests in the field of food and drug safety or any other conduct that damages social interest, it may **file a lawsuit** with the people's court if there is no authority or organization prescribed in the preceding paragraph or the authority or organization prescribed in the preceding paragraph does not file a lawsuit. If the authority or organization prescribed in the preceding paragraph files a lawsuit, the people's procuratorate may support the filing of a lawsuit.



- ◆ On the same day, Article 25 of the ***Administrative Procedure Law*** was revised similarly to include defined procuratorial organs as plaintiff of public interest litigation.
- ◆ Where the people's procuratorate finds in the performance of functions that any administrative authority assuming supervision and administration functions in such fields as the protection of the ecological environment and resources, food and drug safety, protection of state-owned property, and the assignment of the right to use state-owned land exercises functions in violation of any law or conducts nonfeasance, which infringes upon national interest or public interest, it shall offer **procuratorial recommendations** to the administrative authority, and urge it to perform functions in accordance with the law. If the administrative authority fails to perform functions in accordance with the law, the people's procuratorate shall **file a lawsuit** with the people's court in accordance with the law.



Judicial Interpretation and Policy

- ◆ On January 6, the SPC issued the *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Public Interest Cases*.
- ◆ On Feb. 24, 2016, the SPC issued the *Opinions on Provide Judicial Service and Safeguard for Development of Yangtze River Economic Belt*.
- ◆ On May 26, 2016, the SPC issued the *Opinions on Giving Full Play to the Role of Adjudicatory Function to Provide Judicial Service and Safeguard for Promoting the Construction of Ecological Civilization and Green Development*.



- ◆ On June 13, 2016, the SPC held an *International Symposium on Judicial Response to Climate Change* in Beijing.



Climate Litigation: one of four case types

Carbon emission related cases.

- (1) cases related to carbon emissions trading
- (2) cases involving key industrials of carbon emission such as electricity, steel, building materials and chemicals
- (3) cases involving key fields of carbon emission such as industry, energy, construction and transportation

Energy-saving related cases.

- (1) cases related to energy-saving service industries such as contractual energy management and contractual water-saving management
- (2) disputes over intellectual property such as patents, technology transfer and other fields in the fields of energy saving, water saving, land saving, material saving, section ores, sludge decontamination and resource utilization



Pending Case

Plaintiff: China Biodiversity Conservation and Green Development Foundation (CBCGDF)

Defendant: Volkswagen Group China

- ◆ On Dec. 10, 2015, the lawsuit was accepted by Tianjin Second Intermediate People's Court. Consequently, Volkswagen Group China raised an objection on jurisdiction of the Court.
- ◆ On Jan. 13, 2016, the Court made a preliminary ruling reject the jurisdiction objections.
- ◆ On April 21, 2016, Tianjin Higher People's Court made a final ruling on jurisdiction objections and rejected Volkswagen China again,. The Second Intermediate People's Court City will handle the case in accordance with the law.



Pending Case

Plaintiff: China Biodiversity Conservation and Green Development Foundation (CBCGDF)

Defendant:

- ◆ On 12/1/2015, CBCGDF applied to the court for the defendant to be declared a criminal.
- ◆ On 12/1/2015, CBCGDF applied to the court for the defendant to be declared a criminal.
- ◆ ...



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Observations

- ◆ The value of environmental judiciary is becoming increasingly prominent in China.
- ◆ Climate Litigation is a more recent discourse. It might be difficult to transplant it into China directly.
- ◆ However, climate cases are one of four main case types of China's environmental courts, and may get higher priority in near future.



Thanks! Comments?

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