

Could climate litigation emerge in China?

The evaluation team for the ClientEarth Phase 2 investment spoke with Chinese judges and prosecutors during their visit to Beijing in April 2019.



1: Evaluators Jacqueline Peel (Melbourne), Hari Osafsky (Penn State) and Jolene Lin (NUS) at the Supreme People's Procuratorate, Beijing

Courts around the world are becoming key players in climate governance as citizens and environmental groups bring cases raising climate issues. Globally more than 1200 cases have been filed in 25 jurisdictions across 6 continents. Could China be the next country to see climate litigation?

The ClientEarth Phase 2 investment is seeking to build momentum for ambitious climate action through strategic litigation across Europe. In Phase 2, the project also includes work in China to create the building blocks for robust environmental governance. The ultimate aim is to support the development climate litigation in that country.



2: ClientEarth has won major victories in air pollution cases in the UK and Europe (ClientEarth, April 2015)

The evaluation team for the ClientEarth project bring a unique perspective as both evaluators and academic experts on climate litigation. While visiting Beijing in April for ClientEarth China's Advisory Board meeting, the evaluation team gave presentations to the country's highest court (the Supreme People's Court) and the national prosecution service (the Supreme People's Procuratorate) about potential pathways for climate litigation in China.

ClientEarth's Beijing office has developed strong relationships with judges and prosecutors as part of its work creating the environmental rule of law in China. The evaluators' presentations built on these foundations. They shared with Chinese judges and prosecutors lessons from litigation elsewhere in the world and explored potential pathways in China through interactive Q&A sessions. One promising pathway would involve prosecutions to tackle China's serious air pollution problem, with co-benefits for climate change mitigation. Following amendments to the Chinese Civil Procedure Law in 2018, Chinese public prosecutors have proactively launched tort-based lawsuits against polluters to secure compensation for victims. The power to bring such lawsuits is additional to the typical prosecutions that can be launched to enforce



3: Evaluators, judges and ClientEarth team members at the Supreme People's Court in Beijing

laws. This places the Supreme People’s Procuratorate in a unique position to advance climate litigation in China. Another pathway lies in public interest litigation by civil society groups using tort law, environmental laws (e.g. environmental impact assessment) and energy laws (e.g. the Renewable Energy Law).



4: Heavy levels of smog in Harbin, China, December 2012 (Fredrik Rubensson, Wikicommons)

The evaluation team’s visit comes at a pivotal time for environmental governance and climate policy in China. It dovetails with efforts to ‘green’ the Belt and Road infrastructure initiative and the potential issue of China’s first climate court ruling – on renewable energy incentives – later this year.