

# **Environmental and Resources Adjudication in China**

**The Supreme People's Court of the People's Republic of China**

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## Preface

Protecting environment and saving resources are the fundamental national policy of China. It matters to the basic interests of the people, the sustainable and healthy development of economic, the creation of a moderately prosperous society, and the Chinese Dream of rejuvenating the Chinese nation. It is the unshakable responsibility of the people's courts to thoroughly improve environmental rule of law and modernize the environmental improvement system and capability. In addition, the people's courts must also continuously strengthen ecological environment protection and ensure reasonable exploitation and utilization of natural resources. Boosted and guided by the Supreme People's Court, people's courts at all levels, by closely centering on the overall work of the Party and the State, have been making unremitting efforts to strengthen and innovate environment and resources adjudication, and greatly contributing to judicial service and protection for ecological civilization construction and green development.

**Functional roles of people's courts became increasingly evident.** People's courts strengthened criminal adjudication of cases relating to environment and resources, and brought to justice criminals who have caused environmental pollution and resources destruction, thus giving play to the deterrence of criminal penalty. In addition, they adjudicated administrative cases relating to environment and resources under laws and attached equal importance to supervision and support. They also supported administrative authorities in performing their duties under laws and rectified administrative omission and unlawful administrative acts. Moreover, they adjudicated civil cases relating to environment and resources under laws, properly boosted environmental public interest litigation, to safeguard environmental rights and interests of the people. Furthermore, they facilitated the reform of case filing registration system, innovated measures for adjudication and enforcement, strictly implemented the principle of accountability for damage and full compensation, and constantly strengthened protection of environmental rights and interests. From 2002

to 2011, courts across the country accepted 118,779 criminal, civil, and administrative cases of first instance relating to environment and resources, of which 116,687 were concluded. From January 2012 to June 2016, courts across the country accepted 575,777 criminal, civil, and administrative cases of first instance relating to environment and resources, of which 550,138 were concluded.

**Adjudication quality and efficiency showed steady enhancement.** The Supreme People's Court strengthened top-level design and issued policy guidance at appropriate time. In July 2014, it promulgated the *Opinions on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction*. In November 2015, the First Environment and Resources Adjudication Working Conference of National Courts was held in Gutian, Fujian Province. In June 2016, the Supreme People's Court issued the *Opinions on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development*. The Supreme People's Court also formulated the *Interpretations on Several Issues Concerning Law Application in Hearing Environmental Civil Public Interest Litigation Cases* and the *Interpretations on Several Issues Concerning Law Application in Hearing Cases Relating to Disputes over Environmental Tort Liability*, publicized classic cases, and unified the adjudication criteria. By taking into account their respective needs, all higher people's courts formulated normative opinions, strengthened their supervision and guidance on subordinate courts, and further improved the quality and efficiency of environment and resources adjudication.

**Institutions and teams strengthened gradually.** In June 2014, the Supreme People's Court set up the Environment and Resources Division, providing further guidance for people's courts at all levels to strengthen the construction of adjudicating institutions of environment and resources. As of June 2016, people's courts at all levels have set up a total of 558 environment and resources adjudication tribunals, collegial panels or circuit courts. The higher people's courts of 15 provinces, autonomous regions, and

municipalities directly under the Central Government, including Guizhou, Fujian, Hainan, Jiangsu, Hebei, Shandong, Guangxi, Jiangxi, Henan, Guangdong, Chongqing, Yunnan, Hunan, Sichuan and Jilin, set up environment and resources divisions. Fujian, Guizhou, Jiangsu, Hainan and Chongqing established a three-tiered organizational structure for environment and resources adjudication, while other higher people's courts appointed specific institutions to adjudicate cases relating to environment and resources. Courts in Fujian, Guizhou, Hebei, Jiangsu, Shandong and Chongqing reallocated backbone judges of criminal, civil and administrative adjudication tribunals to replenish their environment and resources adjudication tribunals, laying a solid foundation for "two-in-one" or "three-in-one" converged adjudication mode. Since 2014, the Supreme People's Court has launched three training courses on environment and resources adjudication for all courts nationwide and provided systematic and professional trainings for more than 600 judges across the country.

**Judicial reform advanced as scheduled.** The Supreme People's Court is exploring the establishment of a jurisdiction system for environment and resource cases that is properly separated from administrative divisions. According to the basins of major rivers, the Higher People's Court of Guizhou Province divided the entire province into four ecological blocks under judicial protection, where the environmental protection cases are heard by four intermediate people's courts and five basic people's courts. After approval by the Supreme People's Court as required, the higher people's courts of Hubei, Guangdong, Hebei, Qinghai and Xinjiang Production and Construction Corps appointed some intermediate people's courts to implement cross-administrative regional jurisdiction on cases of environmental public interest litigation. People's courts are exploring the "two-in-one" or "three-in-one" converged adjudication mode. Courts at three levels in Fujian, Jiangsu, Guizhou, Henan and Chongqing have all implemented the "two-in-one" or "three-in-one" converged adjudication mode of civil, administrative, and criminal cases relating to environment and resources, while courts in Qingzhen of Guizhou, Wanzhou of Chongqing, and Lanling of Shandong have implemented the "three-plus-one" adjudication mode inclusive of the enforcement

function. The possibilities of establishing a joint work mechanism have been explored. The Supreme People's Court, the Ministry of Civil Affairs, and the Ministry of Environmental Protection jointly issued the *Notice on Implementation of the Environmental Civil Public Interest Litigation System*. Courts in Fujian, Yunnan, Guizhou, Chongqing, Hebei, and Jiangsu facilitated joint efforts with public security authorities, procuratorial authorities, and competent administrative authorities of environment and resources, in a bid to build up and improve the alternative resolution mechanism for environmental disputes and form a cohesive force to protect environment and resources.

**Public participation increased.** People's courts cleared case acceptance channels, specified qualifications of litigation subjects, and encouraged and regulated social organizations to file environmental civil public interest litigation cases. From January 2015 to June 2016, all courts across the country accepted 93 environmental civil public interest litigation cases of first instance filed by social organizations. The courts selected people's jurors and established expert pools for environment and resources adjudication. They published effective judgements online and implemented a system to publicize the acceptance and mediation of environmental public interest litigation cases, so as to protect the public's right to know. In addition, they also made live broadcast of court sessions for important cases and promptly released information on environment and resources adjudication. Courts in Longyan, Zhangzhou, Nanping, Kunming, and Guiyang established carbon sink education bases, public welfare forests or exemplary ecological parks. They launched publicity campaigns on each June 5<sup>th</sup>, the World Environment Day, in an effort to strengthen legal publicity and enhance public awareness of ecological civilization.

**Lots of research and exchange events were launched.** The Supreme People's Court established the Research Center of Environment and Resources Justice, set up the Theory Research Bases of Environment and Resources Justice at Renmin University of China and Wuhan University, and the Practice Bases of Environment and Resources Justice at 15 intermediate and basic people's courts, including the

Intermediate People's Court of Longyan City, Fujian Province. Focusing on hot environmental judicial issues, it launched several environmental judicial forums and delivered a series of quality theoretical research findings. In addition, the Supreme People's Court has actively launched international exchange and cooperation, in order to promote and improve the judicial assistance system concerning environment and resources. It has held the BRICS Justices Forum, Environmental Justice Sub-Forum of Bo'ao Forum for Asia, and the International Seminar on Judicial Countermeasures for Climate Change. It also held bilateral environmental justice seminars with Korea, France and Brazil, and continuously expanded international exchange and training channels for judges engaged in environment and resources adjudication.

The development of environment and resources adjudication of China is not only a persisting effort centering on the general picture to respond to concerns, give play to its functions, and keep pace with the times, but also a historical process of taking roots in the native land, learning from others, laying a solid foundation, and consistently innovating. It has accumulated precious experience from the leap development in recent years and laid a solid foundation for further giving play to its functional roles, and serving and ensuring ecological civilization construction and green development under laws.



## **I. Giving Play to the Functional Roles of Environment and Resources**

### **Adjudication**

Centering on the overall work of the Party and the State in recent years, people's courts at all levels have precisely understood the objective and task of serving and ensuring ecological civilization construction and green development, brought to justice criminals who have caused environmental pollution and resources destruction, supervised and supported competent administrative authorities of environment and resources in terms of their law-based administration. In addition, they have properly resolved various civil disputes over environment and resources, enhanced protection on environmental rights and interests, and given effective play to the functional roles of environment and resources adjudication.

#### **(I) Criminal Adjudication of Environment and Resources Cases**

People's courts at all levels adhered to the principle of "nulla poena sine lege", put emphasis on the combination of punishment, education and prevention, and thoroughly implemented the criminal justice policy of balancing leniency and severity, so as to give full play to the functional role of criminal adjudication of environment and resources cases and ensure the safety of natural resources and ecological environment under laws. From January 2014 to June 2016, courts across the country accepted 39,594 criminal cases of first instance relating to environment and resources, of which 37,216 were concluded and 47,087 criminals were sentenced. The courts punished under laws those who had polluted environment, damaged resources, and neglected their duties of supervising environment and resources, thereby urging environment and resources regulators to actively perform their duties. By doing so, they deterred potential polluters and resources damagers, and educated the people to protect ecological environment conscientiously and use natural resources reasonably, so as to prevent and reduce crimes against environment and resources.

**Hearing criminal cases relating to environmental pollution under laws.** People's courts punished under laws those who committed crimes that had caused severe atmospheric pollution by emitting pollutants in excess of relevant standards; severe water pollution by discharging prohibited pollutants, including oil, acid and alkaline liquids, toxic waste liquids, radioactive solid wastes, and excessive discharge of waste water; or severe soil pollution by illegally discharging toxic and harmful pollutants, storing dangerous chemicals against laws and rules, and illegally disposing of dangerous wastes, so as to protect the ecological environment we live in. In July 2006, the Supreme People's Court issued the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Environmental Pollution*. In June 2013, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the *Interpretations on Several Issues Concerning Law Application in Handling Criminal Cases Relating to Environmental Pollution*, in furtherance of punishing those who committed environmental pollution crimes. From June 2013 to June 2016, courts across the country concluded 3,507 criminal cases relating to environmental pollution, with 5,507 criminals being sentenced.

**Hearing criminal cases relating to natural resources destruction under laws.** People's courts punished under laws those who committed crimes of illegally occupying basic cropland, agricultural land, forestry land, and prairie, so as to strictly guard the ecological red line; crimes of illegal mining and/or destructive mining, so as to ensure safety of the national mineral resources; crimes of illegal and/or excessive deforestation, so as to ensure safety of the national forestry resources; and crimes of illegally deforesting and/or destroying national key protected plants, illegally hunting and/or killing rare and endangered wild fauna, illegally hunting, and illegally fishing for aquatic products, so as to maintain biodiversity. The Supreme People's Court has issued a series of judicial interpretations, in order to severely punish those who committed crimes that destroyed natural resources such as land, minerals, forests, prairie and wild fauna and flora. In June 2000, it issued the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to*

*Land Resources Destruction.* In November of the same year, it issued the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Forestry Resources Destruction* and the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Wild Fauna Resources Destruction.* In May 2003, it issued the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Illegal Mining and/or Destructive Mining.* In December 2005, it issued the *Interpretations on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Forestry Land Resources Destruction.* In November 2012, it issued the *Interpretations on Several Issues Concerning Law Application in Hearing Criminal Cases Relating to Prairie Resources Destruction.* From January 2014 to June 2016, courts across the country concluded 33,728 criminal cases relating to resources destruction of land, minerals, forest, prairie, as well as wild fauna and flora, with 41,569 criminals being sentenced.

**Hearing criminal cases relating to fauna and flora smuggling under laws.**

People's courts punished those who had committed crimes of smuggling rare fauna and flora and their products that are prohibited under laws by the State from import and export. Subject to the *Criminal Law of the People's Republic of China*, the courts imposed strict punishment on those who had smuggled wild fauna and flora and their products specified in Appendixes I and II to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* into or through Chinese territory. In August 2014, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the *Interpretations on Several Issues Concerning Law Application in Handling Criminal Cases Relating to Smuggling*, further clarifying the standards of conviction and sentence of relevant crimes of smuggling first- and second-class national protected wild fauna and flora and their products and those specified in Appendixes I and II to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora.* From January 2014 to June 2016, courts across the country concluded 254 criminal cases of smuggling rare fauna and their products, with 272

criminals being sentenced.

**Publicizing classic criminal cases relating to environment and resources.** In June 2013, the Supreme People's Court publicized four classic criminal cases relating to environmental pollution, which deterred and punished crimes of environmental pollution and effectively guided law enforcement and case handling. In these four cases, enterprises failed to take sewage disposal measures prescribed by law or failed to further follow or apply rectification opinions proposed by competent administrative authorities and, thus, caused major environmental pollution accident and committed crimes during their production and operation; some criminals prepared to transport dangerous industrial wastes to other places for disposal; and some criminals were punished for the severest crime when committing several crimes at the same time. In the case of major environmental pollution accident by Zijinshan gold and copper mines of Zijin Minerals Group Co., Ltd which was heard by the People's Court of Xinluo District, Longyan City, Fujian Province, the accused enterprise neglected the hidden risk of environmental protection during its production. In July 2010, it leaked 9,176 m<sup>3</sup> of wasted acid water containing copper, causing severe contamination to the Tingjiang River of Fujian Province. Thus it was penalized under laws with a fine of RMB 30 million, with relevant responsible persons sentenced in separate cases.

## **(II) Civil Adjudication of Environment and Resources Cases**

People's courts at all levels upheld the judicial philosophy of protecting ecological environment and natural resources, adhered to the principles of accountability for damage and full compensation, and gave full play to the function of civil adjudication of cases relating to environment and resources. From January 2014 to June 2016, courts across the country accepted 227,690 civil cases of first instance relating to environment and resources, of which 195,141 were concluded. By doing so, the courts protected personal rights, property rights, as well as environmental rights and interests of natural persons, legal persons and other organizations, imposed civil liabilities for environmental pollution and/or resources destruction, and promoted restoration and

improvement of ecological environment as well as reasonable exploitation and utilization of natural resources.

**Hearing disputes over prevention and control of environmental pollution and ecological protection under laws.** People's courts properly heard civil cases relating to compensation for damages caused by environmental pollution and ecological destruction, coordinated environmental public interests and individual interests, and organically unified rights remedy of the parties concerned and ecological environment protection. Besides, they properly heard civil cases relating to prevention and control of atmospheric pollution, gave full play to the regulatory role of the market mechanism, ensured healthy development of the atmospheric environment service industry, and promoted the integrated business of investment, construction, and operation of pollution governance facilities. Furthermore, they properly heard disputes over financial leasing of environmental protection equipment for water pollution prevention and control, and over financing guarantee on pledge of equity, right to project proceeds, right of franchise, and right to discharge sewage, encouraged social investment in water environmental protection, and promoted diversified financing for water pollution prevention and control. The courts properly heard civil cases relating to soil pollution prevention and control, attached great importance to the features of soil pollution such as the complicated historical contributors, long-term recovery period and high cost, and explored rules for determining the scope of civil liability subjects, causalities, and recovery standards for soil pollution. They also stepped up efforts to impose liabilities for soil pollution and ensured the food safety, living environment safety and sustainable agricultural development. The courts also properly heard cases of infringement disputes arising from marine pollution and ecological destruction, so as to protect the marine ecological environment. In May 2011, the Supreme People's Court issued the *Provisions on Several Issues in Hearing Disputes over Vessel Oil Pollution Damages*. In June 2015, it issued the *Interpretations on Several Issues Concerning Law Application in Hearing Cases Relating to Disputes over Environmental Tort Liability*. From January 2014 to June

2016, courts across the country concluded 5,589 cases of first instance relating to disputes over environmental damages for atmospheric, water, soil and other pollution.

**Hearing disputes over exploitation and utilization of natural resources under laws.** People's courts properly heard civil cases relating to land transfer, encouraged the innovation of land transfer form in rural areas under laws, and ensured the implementation of each pilot reform of the pledge of rural land operation right, as well as promoted the establishment of unified construction land market in urban and rural areas. The courts properly heard civil cases relating to mining rights, precisely defined civil adjudication and administrative regulation, and determined the validity of contracts for assigning, transferring, leasing, contracting, and pledging mining rights under laws, and correctly handled disputes arising from cross-regional exploration and exploitation. The courts properly heard civil cases relating to forestry resources, attached importance to the features that ownership and use right of forestry land and that of timber are often separate, and distinguished right conflicts caused by history, policies, civil customs, conventions and other reasons. They also respected the autonomous governance of right holders as well as the determination of administrative authorities, and properly handled various disputes over the circulation of forestry rights. People's courts also properly heard cases relating to ownership, infringement and contract disputes regarding development and exploitation of resources such as prairie, rivers, lakes, wetlands, beaches and oceans. From January 2014 to June 2016, courts across the country concluded 189,353 cases of first instance relating to ownership and tort disputes over use rights to natural resources involving mining right, contracts for assigning, transferring, and leasing land use right, rural land contracts, and disputes over power, water, gas and heating contracts.

**Publicizing classic civil cases relating to environment and resources.** The Supreme People's Court publicized nine classic cases relating to environment and resources in July 2014, ten classic cases relating to environmental tort in December 2015, and ten classic cases relating to civil dispute over mining rights in July 2016. In these classic cases, the Supreme People's Court specified the principle of imposing liability,

distribution of burden of proof, liability assumption, and methods for determining professional technical issues in environment and resources cases, so as to guide adjudication. In the case of Qu Zhongquan vs. Shandong Fuhai Industrial Co., Ltd. and its aluminum branch company for compensation of environmental pollution damage, the Supreme People's Court required the infringed to produce evidence for the alleged polluting acts, fact of damage, and relevance between pollution and damage, while shifting burden of proof for causality to the polluter. It specified the distribution of burden of proof between the infringed and the polluter, and reasonably apportioned the liabilities of both parties according to their faults and the causative potency of damaging factors.

### **(III) Administrative Adjudication of Environment and Resources Cases**

People's courts at all levels fully understood the importance of administrative adjudication to reasonably exploiting and utilizing natural resources as well as preventing environmental pollution and ecological destruction, gave equal importance to supervision and support, and urged administrative authorities to promptly perform their administrative and regulatory duties by hearing administrative cases relating to the review and approval of environmental impact assessment of construction projects. In addition, they supported administrative authorities in investigating and handling illegal acts relating to construction projects, such as approval before evaluation and construction before approval, so as to prevent the commencement of projects with severe ecological and environmental risks. By hearing administrative cases relating to information transparency, people's courts protected the public's rights to know and to supervise, motivated the public to participate in environment and resources protection, so as to implement the principle of public participation. Subject to the principles of voluntariness and lawfulness, the courts prudently applied coordinative means to conclude cases. By doing so, they avoided replacing the statutory duty of environmental protection simply with find and other forms, so as to protect the environmental rights and interests of the public to the maximum extent. From January

2014 to June 2016, courts across the country accepted 68,489 administrative cases of first instance relating to environment and resources, of which 57,738 were concluded.

**Hearing administrative cases relating to environmental pollution under laws.**

People's courts properly heard administrative cases relating to prevention and control of atmospheric pollution, urged and ensured competent administrative authorities to fully perform their duties of governing the pollution sources and process, and effectively prevented and controlled industrial pollution, automobile and vessel pollution, dust pollution, agricultural pollution and other forms of pollution. They properly heard administrative cases relating to the shutdown, relocation or reconstruction of paper manufacturing, printing and dyeing, and chemical enterprises that severely polluted waters, and cases arising from imposition and collection of sewage disposal fees, sewage emission fees and water resource fees, helped polluting enterprises to control pollution or to exit under laws, and implemented policies on environmental taxes and fees. They properly heard administrative cases relating to dismantlement of polluting facilities such as non-ferrous metal smelting, petroleum processing, coking and leather production, as well as disposing of industrial wastes and recovering and storing wasted agricultural films, so as to ensure the prevention of soil pollution sources. They properly heard administrative cases relating to introduction of marine fauna and flora, island resource exploitation, construction of sea farming, and review and approval of marine and coastal engineering construction. They properly heard administrative cases relating to environmental impact assessment, permission of pollutant emission, administrative policies on husbandry prohibition by turns and closure of deserted land for protection, improved reform of "one certificate" management on pollutant emission permission, and implemented the accountability system for environmental protection objectives. From January 2014 to June 2016, courts across the country accepted 2,246 administrative cases of first instance relating to environmental protection.

**Hearing administrative cases relating to natural resources under laws.**

People's courts properly heard administrative cases relating to affirmation of land rights during



industrialization and urbanization, implemented the main functional area planning, and reasonably controlled the development space and strength of state land, and promoted the new green and low carbon urbanization construction which is human oriented. They properly heard administrative cases relating to review, approval and issuance of permit for mining right, so as to ensure the intensive utilization and orderly development of mineral resources. They properly heard administrative cases relating to registration and permit issuance of forestry rights, forestry reclamation and usage change of forest land, so as to ensure the reform of forestry rights. They properly heard administrative cases relating to the review and approval on exploitation and utilization of water, forest and prairie resources, so as to ensure the reasonable exploitation and utilization of natural resources. From January 2014 to June 2016, courts across the country concluded 53,464 administrative cases of first instance relating to land, mining, forestry, prairie and other natural resources.

**Publicizing classic administrative cases relating to environment and resources.**

The Supreme People's Court has publicized a total of 20 classic administrative cases relating to environment and resources protection in December 2014 and March 2016. People's courts gave full play to the functional role of administrative adjudication. By doing so, they not only supervised and rectified the omission and unlawful acts of administrative authorities, enabled the competent administrative authorities of environmental protection to perform their duties under laws, and strengthen information transparency, but also guided administrative counterparts to comply with laws and regulations relating to environmental protection and assume corresponding liabilities by confirming and supporting lawful administrative acts. In the case of Foshan Sanying Fine Materials Co., Ltd. vs. the People's Government of Shunde District, Foshan City for administrative punishment of environmental protection, the Environment, Transport and Urban Administration of Shunde District, Foshan City required the enterprise that failed to meet the standard for sewage emission to make rectification within a specified time limit, but the enterprise failed to do so. The People's Government of Shunde District, Foshan City imposed an administrative

punishment of shut down in compliance with laws and regulations, which was upheld by the people's court. This case produced good exemplary and education effects.

#### **(IV) Adjudication of Environmental Public Interest Litigation Cases**

Article 55 of the *Civil Procedure Law of the People's Republic of China* amended in August 2012 prescribes the environmental civil public interest litigation system, while Article 58 of the *Environmental Protection Law of the People's Republic of China* amended in June 2014 prescribes the eligibilities and conditions of social organizations that may file environmental public interest litigation cases. In January 2015, the Supreme People's Court issued the *Interpretations on Several Issues Concerning Law Application in Hearing Environmental Civil Public Interest Litigation Cases*, further refining relevant rules for environmental civil public interest litigation. In July 2015, the Standing Committee of the National People's Congress made the *Decision on Authorizing the Supreme People's Procuratorate to Launch Pilot Work of Public Interest Litigation in Some Areas*, authorizing the Supreme People's Procuratorate to launch a two-year pilot work of public interest litigation on ecological environment and resources protection in 13 provinces, autonomous regions and municipalities directly under the Central Government, including Beijing, Inner Mongolia and Jilin. In February 2016, the Supreme People's Court issued the *Implementation Measures for Pilot Work of People's Courts in Hearing Public Interest Litigation Cases Filed by People's Procuratorates*, specifying the case scope, grade jurisdiction, adjudication rules and basis for people's courts to accept civil and administrative public interest litigation cases filed by people's procuratorates.

Since 2007, the people's courts in Guizhou, Fujian, Jiangsu, Yunnan, and Shandong Province have made helpful explorations into the environmental public interest litigation system, accepted and concluded a series of environmental public interest litigation cases filed by competent administrative authorities of forestry and environmental protection, procuratorial authorities, social organizations and civil groups. In December 2007, the case of the Two Lakes and One Reservoir

Administration of Guiyang City vs. Guizhou Tianfeng Chemicals Co., Ltd. for compensation of environmental damage, which was concluded by the People's Court of Qingzhen City, Guizhou Province, became the first environmental civil public interest litigation case in China, while the case of the All-China Environment Federation vs. the Land and Resources Bureau of Qingzhen City for administrative omission which was concluded by the same court in September 2009 was the first environmental administrative public interest litigation case. In July 2014, the Supreme People's Court issued the *Opinions on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction* and the *Guiding Opinions on Promoting Adjudication of Environmental Civil Public Interest Litigation at Some Local People's Courts*, deploying adjudication of environmental civil public interest litigation and launched pilot for environmental civil public interest litigation in five provinces, including Jiangsu, Fujian, Yunnan, Hainan and Guizhou. By December 2014, people's courts at all levels accepted 65 environmental public interest litigation cases.

The newly amended *Environmental Protection Law of the People's Republic of China* was officially put into force on January 1, 2015. Under the supervision and guidance of the Supreme People's Court, people's courts at all levels launched adjudication of environmental public interest litigation cases in an orderly way. From January 2015 to June 2016, courts across the country accepted 116 environmental public interest litigation cases of first instance and concluded 61 of them, including 104 environmental civil public interest litigation cases and 12 environmental administrative public interest litigation cases. By adjudicating environmental public interest litigation cases, urging and strengthening administrative enforcement of law, and preventing ecological environment from being grievously damaged, people's courts held environment polluters and ecology destructors liable for the loss of environmental public interests and guided the public to participate in protecting ecological environment in an orderly way, so as to make up for the insufficiency of administrative law enforcement.

**Hearing environmental civil public interest litigation cases filed by social organizations under laws.** People's courts at all levels cleared their litigation channels, reviewed and accepted eligible environmental public interest litigation cases on time under laws, and put in place procedures and supporting mechanisms that help social organizations file lawsuits. From January 2015 to June 2016, courts across the country accepted 93 environmental public interest civil litigation cases of first instance filed by social organizations and concluded 50 of them. The public attached great importance to the retrial application case of environmental public interest litigation concerning water pollution in Taizhou, Jiangsu Province and the series cases of environmental public interest litigation concerning pollution in the Tengri Desert accepted and reviewed by the Supreme People's Court, the environmental public interest litigation case of forestry land destruction heard by the Intermediate People's Court of Nanping City, Fujian Province, the public interest litigation case of damaging endangered plants accepted by the Intermediate People's Court of Ganzi Zang Autonomous Prefecture, Sichuan Province, the public interest litigation case of damaging humanitarian relics accepted by the Intermediate People's Court of Zhengzhou City, Henan Province, the environmental public interest litigation case of Conoco Phillip's oil spillage accepted by the Maritime Court of Qingdao, the environmental public interest litigation case of Volkswagen automobile's atmospheric pollution accepted by the Second Intermediate People's Court of Tianjin City. By hearing these cases, people's courts showed their determination on protecting environmental rights and interests as well as promoting green development under laws.

**Hearing environmental public interest litigation cases filed by procuratorial authorities under laws.** The Supreme People's Court has actively explored judicial reform on public interest litigation cases filed by procuratorial authorities, strengthened supervision and guidance over local pilot courts, and ensured the correct adjudication of public interest litigation cases filed by procuratorial authorities. Adhering to the principle of statutory authority, local pilot courts accepted

environmental civil and administrative public interest litigation cases filed by procuratorial authority under authorization of the Standing Committee of the National People's Congress. By actively adapting to the reform, taking the civil procedure law and the administrative procedure law as basic reference, and taking into account the features of public interest litigation cases filed by procuratorial authorities, people's courts innovated and improved specific adjudication methods within the legal framework. In addition, they adhered to the basic rules of due process, ensured full exercise of litigation rights such as producing evidence and debating under laws, and equally protected the lawful rights and interests of the parties concerned. From January to June, 2015, people's courts accepted two environmental administrative public interest litigation cases filed by procuratorial authorities. From July 2015 to June 2016, courts across the country accepted 21 environmental public interest litigation cases filed by procuratorial authorities, including 11 environmental civil public interest litigation cases, with three being concluded, as well as ten environmental administrative public interest litigation cases including one environmental public interest civil litigation case attached to administrative litigation, with six being concluded.

**Publicizing classic cases relating to environmental public interest litigation.** The Supreme People's Court has publicized six classic cases of environmental civil and administrative public interest litigation in July 2014, December 2015 and March 2016. The Intermediate People's Court of Nanping City, Fujian Province heard the first environmental public interest litigation case relating to forestry land destruction filed by social organizations in China after the implementation of the newly amended *Environmental Protection Law of the People's Republic of China*. In this case, the court ordered the infringer to restore the damaged ecological environment to its original conditions and functions, and specified the ecological and environmental remediation fees that the infringer should pay for not performing the duty of restoring in a limited time period, while ordering the infringer to compensate the functionary loss of the ecological environment service. This case has produced good publicity

effects and exemplary significance. In the case of the People's Procuratorate of Jinping County vs. the Environmental Protection Bureau of Jinping County for omission of statutory duties, the People's Court of Fuquan City, Guizhou Province supported the claims of the procuratorate and ruled that it was unlawful for the defendant to neglect its regulatory duties of supervision and administration on illegal production of relevant enterprises. It was the first administrative public interest litigation case filed by the people's procuratorate and concluded by the people's court since the Standing Committee of the National People's Congress authorized such pilot program. It showed that environmental public interest litigation has played an active role in urging administrative authorities to perform their statutory duties and protecting environmental public interests.

#### **(V) Filing and Enforcement of Environment and Resources Cases**

**Registering and accepting environment and resource cases under laws.** People's courts at all levels fully implemented the reform requirements for the case filing registration system and took various measures to clear filing channels for environment and resource cases under laws, so as to ensure the rights of the parties concerned to sue. The courts strengthened explanation and guidance on case filing, implemented measures for facilitating people's access to judicial services and aids, and improved litigation service on case filing windows. In addition, they made case filing registration available via internet, mailing or circuit, and allowed plaintiffs who could not afford the litigation fees to apply for delayed, reduced or exempted payment under laws. They promptly accepted new types of disputes over environment and resources under laws, paid close attention to new types of disputes over carbon emission trading, sewage emission trading, water right trading, new energy exploitation and utilization, third-party governance, environmental insurance and so on, and adopted cases meeting the conditions specified by laws and judicial interpretations into the scope of environment and resources cases. According to the distinctive nature of justice and administration, people's courts clarified division of duties with administrative

authorities in the environmental improvement system. Any issue that was within the jurisdiction of administrative authorities was found in case filing, the courts promptly solicited opinions from administrative authorities or fed back to the relevant administrative authorities through judicial suggestion.

**Examining qualifications of social organizations to file environmental civil public interest litigation cases under laws.** In accordance with Article 58 of the amended *Environmental Protection Law of the People's Republic of China* and the relevant judicial interpretations, and by combining case filing registration reform, people's courts at all levels properly determined the qualifications of relevant social organizations, encouraged and regulated them to file environmental public interest litigation cases under laws, and gave full play to the function of environmental public interest litigation. Judgements with assessing and guiding functions were made on the qualification recognition of social organizations in the environmental public interest litigation case of water pollution in Taizhou, Jiangsu Province and the environmental public interest litigation case of forestry land destruction in Nanping, Fujian Province. In rehearing the ruling made at the first and second instance of not accepting the series cases of environmental public interest litigation filed by social organizations for pollution in the Tengri Desert, the Supreme People's Court set specific standards for whether a social organization was "specialized in public interest activities of environmental protection", emphasized that the examination should be conducted on whether its purpose and business scope contained protection of environmental public interest, whether it was actually engaged in public interest activities of environmental protection, and whether there was any association between the environmental public interest it protected and its purpose and business scope, so as to specifically improve the standards for case filing examination on the qualifications of social organizations to file environmental civil public interest litigation cases.

**Exploring and innovating enforcement methods for environment and resources cases.** People's courts at all levels coordinated and cooperated with administrative authorities to ensure the execution of both administrative and civil liability to be

assumed by the enforced. Adhering to the judicial philosophy of restoration, people's courts actively explored the performance of liability for restoring ecological environment decided by effective judgements by means of restoration within a specified term, labor compensation, and third party governance. In addition, they explored and established a revisiting system for the enforcement of environment and resources restoration cases, so as to ensure full execution of liability for restoring ecological environment. The enforcement referral ex officio of people's courts was strengthened. With regard to adjudication in force of environmental civil public interest litigation cases that mattered to the maintenance of social and public interests and required compulsory enforcement, the courts referred the cases in a timely manner, stopped ongoing pollution infringement, or urged to perform the responsibilities of restoring ecological environment as soon as possible. They reviewed non-litigation administrative enforcement cases relating to environment and resources under laws, and made compulsory enforcement orders in a timely manner for those meeting statutory conditions. As for the cross-regional damage caused by water pollution or atmospheric pollution in cases relating to environmental pollution and ecological damage, the courts strengthened cross-regional coordination of enforcement, so as to promote the establishment of an unified enforcement linkage work mechanism. In 2014, the higher people's courts of Shanghai, Anhui, Jiangsu and Zhejiang Province signed the *Agreement on Enforcement Linkage and Information Sharing of People's Courts in the Yangtze River Delta Region*. In 2015, the higher people's courts of Beijing, Tianjin and Hebei Province signed the *Agreement on Enforcement Linkage and Cooperation of Courts in the Beijing-Tianjin-Hebei Region*. Furthermore, the higher people's courts of Hunan, Inner Mongolia, Liaoning, Jiangxi and other 16 provinces, autonomous regions or municipalities directly under the Central Government signed the *Memorandum on the Establishment of A Mutual Assistance Mechanism for Remote Enforcement*, so as to give full play to the deterrent effect of the enforcement linkage mechanism and improve the punishment mechanism for discredited persons, including those involved in cases relating to environment and resources.





## **II. Boosting the Institution Construction for Environment and Resources Adjudication**

According to the characteristics of cases relating to environment and resources, such as highly complexity, professional technicality, social standards, state intervention, and integration of private laws and public laws, the Supreme People's Court guided people's courts at all levels to establish specialized adjudication institutions as the basic means, allocate adjudicators, transform adjudication philosophy, and improve procedural rules. People's courts are also required to conduct professional adjudication of cases relating to environment and resources, and improve their performance level for environment and resources justice.

### **(I) Historical Development of Institution Construction for Environment and Resources Adjudication**

People's courts started their specialized adjudication of cases relating to environment and resources at an early stage, with explorations and practices of different levels and forms at different periods. The demands of different economic and social development stages of China marked a time brand for the adjudicating institution construction of cases relating to environment and resources in different periods, and endowed them with the features of keeping pace with the times.

Since the foundation of the People's Republic of China, especially since China's reform and opening-up in 1978, people's courts, centering around the demands for resources exploitation and utilization as well as environmental protection, have set up specialized courts such as forestry courts, oilfield courts, mining courts and maritime courts in some areas, and forestry tribunal and other specialized adjudicating institutions within some local courts, to adjudicate cases relating to environment and resources of forestry resources, mineral resources and marine environmental pollution. By doing so, they started local practice of the specialization of environment and

resources adjudication. In 1980, the Supreme People's Court, the Supreme People's Procuratorate and other departments jointly issued the *Notice of Establishing and Improving Forestry Public Security, Procuratorate, and Court Organizations in Key Forestry Areas*, requiring the establishment and improvement of forestry courts, procuratorates, and public security bureaus. Forestry courts or tribunals have been successively set up in provinces including Gansu, Heilongjiang, Jilin, Fujian, Hunan, and Sichuan. By 1988, there were 54 forestry tribunals at all three levels of people's courts in Fujian Province, adjudicating criminal, civil and administrative cases relating to protection on forestry, wild fauna and flora resources. In addition, provinces such as Shandong, Liaoning and Qinghai have set up people's courts in places where oilfields are located; Inner Mongolia, Shanxi, Gansu and Qinghai have established people's courts or tribunals in mining areas; and port cities such as Guangzhou, Shanghai, Qingdao, Tianjin, Dalian, Wuhan and Haikou have set up maritime courts.

Since 2007, people's courts at all levels, for the purpose of serving and ensuring the construction of ecological civilization, have actively explored and established specialized adjudicating institutions for cases relating to environment and resources that meet demands for the development of the times. It was the beginning of specialization of environment and resources adjudication in a regulated sense. In 2007, the Intermediate People's Court of Guiyang City, Guizhou Province and the People's Court of Qingzhen City within its jurisdiction set up environmental protection tribunals, in an effort to explore cross-regional jurisdiction and the "three-in-one" converged adjudication mode for environment and resources adjudication. In 2008, the Higher People's Court of Fujian Province issued the *Plan for Working Division of the Judicial Reform 2008*, clearly proposing to "explore and establish ecological resources tribunals, strengthening guidance on forestry adjudication, and actively adjudicating criminal, civil and administrative cases relating to ecological resources protection, mainly including forestry resources. Courts in Kunming and Yuxi of Yunan Province, Wuxi of Jiangsu Province, and Dongying of Shandong Province

have successively set up institutions for environment and resources adjudication. In 2010, the Supreme People's Court issued the *Opinions on Providing Judicial Protection and Service for Accelerating the Transformation of Economic Development Mode*, proposing to "establish environmental protection tribunals at courts with relatively more cases of disputes over environmental protection, implement professional adjudication of environmental protection cases, and enhance judicial capability of environmental protection". It encouraged local courts to actively explore and establish specialized adjudicating institutions for cases relating to environment and resources, and improve the quality and effectiveness in adjudication of such cases within the legal framework. By 2014, the Higher People's Court of Fujian Province had set up 65 adjudicating institutions for environment and resources adjudication at its subordinate courts of all three levels, based on the forestry tribunals. As of June 2014, people's courts at all levels had set up a total of 134 environment and resources adjudicating tribunals, collegiate panels or circuit courts.

## **(II) Focusing Efforts on Boosting the Construction of Specialized Institutions for Environment and Resources Adjudication**

In June 2014, the Supreme People's Court set up the Environment and Resources Division, to boost the construction of specialized adjudicating institutions. It heralded the beginning of a systematic reform of specialization of environment and resources adjudication. In July of the same year, it promulgated the *Opinions on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction*, emphasizing to "reasonably set up specialized institutions for environment and resources adjudication". In line with the principles of "actually needed, tailored criteria and progressive promotion", people's courts set up specialized adjudicating institutions for cases relating to environment and resources, in order to provide organizational assurance for strengthening environment and resources adjudication. Higher people's courts should, in line with the principle of adjudication specialization,

filter institutional functions, reasonably allocate adjudication resources, and set up specialized institutions for environment and resources adjudication. Intermediate people's courts should, under the unified guidance of higher people's courts, reasonably set up environment and resources adjudicating institutions according to the load of environmental and resources cases or, if the caseload is not heavy, environment and resources collegiate panels. Upon approval of higher people's courts, basic people's courts with relatively more cases may also set up environment and resources adjudicating institutions. In November 2015, the First Environment and Resources Adjudication Working Conference of National Courts was held in Gutian, Fujian Province. It was proposed explicitly at the conference that all courts should focus on adjudication specialization and promote institution construction for environment and resources adjudication according to local situation, so as to build up a specialized system of environment and resources adjudication.

The institution construction of environment and resources adjudication at people's courts has witnessed remarkable achievements. As of June 2016, people's courts at all levels had set up a total of 558 environment and resources adjudicating tribunals, collegiate panels or circuit courts, including 191 tribunals. Higher people's courts in 15 provinces, autonomous regions, and municipalities directly under the Central Government, including Guizhou, Fujian, Hainan, Jiangsu, Hebei, Shandong, Guangxi, Jiangxi, Henan, Guangdong, Chongqing, Yunnan, Hunan, Sichuan and Jilin, set up environment and resources divisions. Higher people's courts in other provinces appointed specialized institutions to be responsible for environment and resources adjudication. Fujian, Jiangsu, Hainan, Chongqing and Guizhou Province established a three-level organizational system for environment and resources adjudication. The establishment and operation of specialized adjudicating institutions for cases relating to environment and resources gave full play to the functional roles of environment and resources adjudication.

### **(III) Identifying the Scope of Environment and Resources Cases**

In June 2016, the Supreme People's Court issued the *Opinions on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development*. According to environmental rights and interests as well as environmental elements, these Opinions specified the scope of duties and the types of cases to be accepted by people's courts in protecting ecological environment and ensuring reasonable exploitation and utilization of natural resources, laying down the foundation for defining the duties of environment and resources adjudicating institutions and coordinating the function of criminal, civil and administrative adjudication of cases relating to environment and resources.

Criminal cases relating to environment and resources mainly include the following: 1. Crimes of damaging environment and resources protection set out in Section 6 of Chapter 6 of the *Criminal Law of the People's Republic of China*, including crimes of severely polluting atmosphere, water and soil environment by illegal discharging, dumping and/or disposing of pollutants; illegal occupying agricultural land such as farming land and forestry land, illegal mining and/or destructive mining, illegal and/or excessive deforestation, illegal fishing aquatic products, illegal hunting, illegal capturing and/or killing precious and endangered wild fauna, illegal cutting down and/or damaging national key protected plants. 2. Crimes of damaging forest by setting fire and/or catching fire, smuggling wastes, smuggling precious fauna and flora and their products, and other crimes relating to ecological environment and resources protection as set out in other chapters and sections of the *Criminal Law of the People's Republic of China*. 3. Crimes of malfeasance in ecological environment and natural resources protection.

Civil cases relating to environment and resources mainly include the following: 1. Disputes over natural environment pollution and ecological damage of atmosphere, water and soil. 2. Disputes over ownership, tort and contract relating to resources such as land, mines, forests, prairies, rivers, lakes, wetland, beaches, oceans and islands, as well as the protection, exploitation and utilization of environment and resources such

as water, electricity, gas and heating. 3. Disputes over carbon emission, energy conservation, green finance, and protection of biological diversity relating to countermeasures for climate change. 4. Environmental civil public interest litigation cases filed by procuratorial authorities and social organizations that meet statutory requirements for polluting environment, damaging ecology, and impairing social and public interests. 5. Cases of compensation for ecological environment damage filed by provincial governments.

Administrative cases relating to environment and resources mainly include the following: 1. Cases of administrative punishment, administrative licensing, administrative coercion, administrative authentication, administrative registration, government information transparency, administrative omission, review of non-litigation administrative enforcement, and national compensation relating to protection on ecological environment of atmosphere, water and soil, as well as protection on natural resources including land, minerals, forestry, prairie, river, lake, wetland, beach, ocean and island. 2. Environmental administrative public interest litigation cases filed by procuratorial authorities against any administrative authorities which have regulatory duties in protecting ecological environment and natural resources, or organizations authorized by laws, regulations and rules, that caused infringement on national and social public interests by illegal exercising their authorities or not performing their statutory duties.

### **III. Exploring Work Mechanisms for Environment and Resources Adjudication**

#### **(I) Exploring and Improving the Jurisdiction System**

The reform and improvement of the jurisdiction system of cases relating to environment and resources is an important part of the judicial reform and work mechanism specialization of environment and resources adjudication. The 4<sup>th</sup> Plenary Session of the 18<sup>th</sup> Central Committee of the Communist Party of China approved the *Decision of the Central Committee of the Communist Party of China on Certain Major Issues Concerning Comprehensively Advancing Law-Based Governance of China*, proposing to "explore and establish cross-regional people's courts and people's procuratorates to handle cross-regional cases". The *Opinions of the Supreme People's Court on Comprehensively Deepening the Reform of People's Courts: The 4th Five-Year Reform Guidelines of People's Courts (2014-2018)* determined to reform the jurisdiction system of cases relating to environment and resources.

The *Opinions on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction* issued in July 2014 required people's courts at all levels to actively explore and establish the jurisdiction system of cases relating to environment and resources that is properly separate from the administrative division, gradually change the current jurisdiction mode based on administrative division which results in the separation of rivers and other naturally formed ecological systems, and establish specialized cross-regional institutions for environment and resources adjudication based on ecological systems such as rivers or ecological functionary areas, from the perspective of natural properties of environmental factors such as water and atmosphere, and by combining the number of environment and resources cases of various regions, so as to implement centralized jurisdiction of such cases and effectively adjudicate cases relating to cross-regional pollution.



**Exploring the cross-regional centralized jurisdiction system of environment and resources cases.** Higher people's courts should explore and implement the cross-regional centralized jurisdiction by some intermediate and basic people's courts on civil cases relating to environment and resources, of which the environment pollution, ecological damage, or damage consequence is cross-regional, according to the need of ecological and environmental protection within their respective jurisdiction. The Higher People's Court of Guizhou Province divided, according to the basins of major rivers, the entire province into four protection blocks of ecological justice, where the environmental protection cases were heard by four intermediate people's courts and five basic people's courts, forming a centralized adjudication pattern of "one-four-five" on cases relating to ecological and environmental protection. The Higher People's Court of Jiangsu Province designated 31 basic people's courts to adjudicate environment and resources cases in a cross-regional and centralized manner. The higher people's courts of Hubei, Guangdong, Hebei, Qinghai and Xinjiang Production and Construction Corps designated, after submitting for approval by the Supreme People's Court as required, some intermediate people's courts within their jurisdiction to implement cross-regional and centralized jurisdiction on environmental civil public interest litigation cases in accordance with the *Interpretations on Several Issues Concerning Law Application in Hearing Environmental Civil Public Interest Litigation Cases*.

**Boosting reform on jurisdiction mechanism of environment and resources cases in key regions.** In March 2016, the Supreme People's Court issued the *Opinions on Providing Judicial Service and Assurance for the Development of the Yangtze River Economic Zone*, requiring maritime courts to take full advantage of their cross-regional jurisdiction to properly hear cases relating to environmental pollution and ecological damage in the Yangtze River Region, as well as explore and establish the centralized jurisdiction system of environmental public interest litigation on water resources in the Yangtze River region. At the *First Meeting of the Steering Group of the Joint Meeting of Beijing, Tianjin and Hebei Courts* in May 2016, Zhou Qiang,

Chief Justice of the Supreme People's Court, required to actively explore the centralized jurisdiction or specialized jurisdiction mechanism for environment and resources cases as well as explore and establish centralized jurisdiction in Hebei Province on cross-regional cases relating to environment and resources in the Beijing-Tianjin-Hebei Region, so as to promote consistency of judicial judgement, overcome barriers to regional economic and social development, as well as serve and ensure green development of the Beijing-Tianjin-Hebei Region. According to the characteristics of environment and resources cases, especially the demands for protecting environment and resources in the Beijing-Tianjin-Hebei Region, the Sanjiangyuan Region, the Yangtze River Economic Zone and other key regions, it has been an important task for people's courts in reforming the jurisdiction mechanism of environment and resources cases, so as to actively promote the mechanisms of centralized jurisdiction, specialized jurisdiction or higher-level jurisdiction of environment and resources cases, effectively resolve cross-regional pollution and home and guest forum problems of environment and resources adjudication, and continuously improve environmental quality of key regions.

## **(II) Exploring the Converged Adjudication Mode**

Based on the interactive feature that environmental pollution and ecological damage concurrently infringe personal rights, property rights and ecological environment, people's courts at all levels actively explore the "two-in-one" or "three-in-one" work mode, which civil and administrative cases and even criminal cases relating to environment and resources were unified heard by one adjudicating tribunal, in order to coordinate the adjudication of criminal, civil and administrative cases relating to environment and resources caused by the same act as well as uniform judgement standard.

The converged adjudication mode of environment and resources cases has been practiced for many years in the respective business scope of specialized courts, including forestry courts, oilfield courts, mining area courts and maritime courts, as

well as forestry tribunals and other specialized adjudicating institutions established within some local courts. Established in the 1980s, the forestry adjudicating institutions in Fujian Province have all adopted the “three-in-one” work mode, which adjudicating criminal, civil and administrative cases relating to the protection of forestry, wild fauna and flora resources.

The *Opinions on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction* issued in July 2014 required people's courts at all levels to actively explore the converged adjudication of criminal, civil and administrative cases relating to environment and resources by specialized adjudicating institutions according to their respective actualities, optimize adjudicating resources, and achieve specialized adjudication of environment and resources cases. In February 2016, the Supreme People's Court issued the *Provisions on Case Acceptance Scope of Maritime Courts* and the *Provisions on Jurisdiction over Maritime Litigation*, specifying that maritime courts should adjudicate disputes over exploitation and utilization, environmental protection relating to oceans and navigable waters, as well as maritime administrative cases of first instance. These two Provisions improved the "two-in-one" work mode of maritime courts to adjudicate environment and resources cases.

In June 2014, the Supreme People's Court set up the Environment and Resources Division, to exclusively adjudicate two types of civil cases relating to both environment and resources, of which the duties are as follows: adjudicating civil cases of both first and second instance of disputes over pollution to natural resources such as atmosphere, water and soil; disputes over ownership relating to protection and exploration of geological and mineral resources; disputes over protection, exploitation and utilization of natural resources such as forest, prairie, inland river, lake, beach, and wetland; reviewing environment and resources civil cases in which the effective ruling of subordinate courts were dissatisfied, ruling to rehear cases or remand subordinate courts to rehear cases under laws; guiding subordinate people's courts to

adjudicate environment and resources civil cases; as well as researching and drafting relevant judicial interpretations. In April 2016, the Supreme People's Court decided to transfer the duties of adjudicating administrative cases of second instance and retrial application in which competent administrative authorities of environmental protection are defendants, as well as the relevant operational supervision and guidance work to the Environment and Resources Division, in order to implement the "two-in-one" work mode of civil and administrative cases relating to environment and resources. Under the guidance of the Supreme People's Court, all local people's courts actively explored the converged adjudication mode according to respective actualities and accumulated good experience. Courts at three levels in Guizhou Province implemented the "two-in-one" adjudication mode of civil and administrative cases relating to environment and resources. Courts at three levels in Fujina, Jiangsu, Henan Provinces and Chongqing City implemented the "three-in-one" adjudication mode of civil, administrative and criminal cases relating to environment and resources. Courts in Qingzhen of Guizhou Province, Wanzhou of Chongqing City, and Lanling of Shandong Province implemented the "three-plus-one" mode of civil, administrative, criminal and enforcement cases relating to environment and resources, inclusive of enforcement function. With the converged adjudication of environment and resources cases, all local people's courts, when adjudicating litigation cases of different types caused by the same environmental pollution or ecological destruction, will not only consider the impact of environmental pollution and ecological destruction on person, property and ecological environment, but also comprehensively take into account the liability assumed by the tortfeasor in other cases and their performance of obligations, in order to accurately understand the adjudication of various litigation cases and their links. It has been proved by the practice that the implementation of the converged adjudication mode of environment and resources cases played an active role in unifying judgement criteria, optimizing adjudicating resources, cultivating expert judges, and improving capacity and level of judicial protection for environment and resources.

Environment and resources adjudication involves cases relating to both environment and resources, and covers criminal, civil and administrative litigation, which have broad area, multiple types and numerous quantities. Cases exclusively adjudicated by the specialized institutions of environment and resources adjudication are mainly of those closely related to ecological and environmental protection, while many other disputes over exploitation and utilization of natural resources and over countermeasures for climate change are still adjudicated by other tribunals. While improving the converged adjudication mechanism, people's courts at all levels continuously improved the judicial protection system of environment and resources in which case filing, criminal adjudication, civil adjudication, administrative adjudication and enforcement are handled in a concerted effort. The *Opinions on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development* issued in June 2016 clearly required people's courts at all levels to actively explore and construct a concerted adjudication mechanism in which the operating departments of criminal, civil and administrative adjudication, as well as case filing and enforcement are assigned with respective duties and closely cooperated with one another, according to the practical needs of protection and utilization of environment and resources as well as the characteristics of local cases. People's courts should scientifically define the duties of all operating departments in adjudicating environment and resources cases, and properly determine the duty scope of specialized institutions of environment and resources adjudication. They were also required to give full play to the role of specialized research, coordination and guidance, strengthen cooperation between case filing, adjudication and enforcement authorities, and between criminal, civil and administrative adjudication relating to environment and resources, so as to form joint forces of environment and resources adjudication.

### **(III) Exploring and Constructing the Co-Governance Mechanism**

**Exploring and establishing joint mechanism for environment and resources protection.** By correctly using their judicial terms of reference, people's courts at all levels actively facilitated the establishment of coordinated enforcement mechanism with public security authorities, procuratorial authorities and competent administrative authorities of environment and resources. Centering on issues found in adjudication and enforcement, they promptly proposed their judicial suggestions to promote comprehensive governance of ecological environment. In addition, they strengthened communication with competent administrative authorities of environment and resources as well as competent authorities of forensic expertise, so as to improve the mechanism of forensic expertise and damage assessment relating to environment and resources. In December 2014, the Supreme People's Court, the Ministry of Civil Affairs, and the Ministry of Environmental Protection jointly issued the *Notice Concerning Implementation of the Environmental Civil Public Interest Litigation System*. Aiming at the coordination and cooperation that people's courts might require to inquire basic information on social organizations, collect evidence, and organize restoration of ecological environment in adjudicating civil public interest litigation cases, they jointly made requirements for local people's courts, civil affairs departments, and competent environmental protection departments at all levels. In December 2015, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Justice jointly issued the *Notice Concerning Inclusion of Forensic Expertise on Environmental Damage into Unified Registration Administration*, implementing unified registration management on forensic expertise on environmental damage.

**Strengthening linkage between justice and administrative enforcement of environment and resources.** In order to realize effective complementation between environmental administrative enforcement and justice, people's courts at all level implemented helpful explorations and practices. Liaoning, Jilin, Heilongjiang, Fujian, Hunan, Sichuan, Guizhou, Yunnan, Gansu, Shanxi and Inner Mongolia strengthened synergized enforcement relating to environment and resources, and improved the case

referral and information exchange mechanism between competent administrative and judicial authorities of environment and resources. People's courts in Hebei, Jiangsu, Jiangxi, Zhejiang, Henan, Guangdong and Xinjiang coordinated with procuratorial authorities, public security authorities and competent environmental protection authorities in unified deployment, effectively cohesion, and strengthened coordination and cooperation according to the need of strengthening environmental enforcement. In 2013, the Higher People's Court of Jiangsu Province, the People's Procuratorate of Jiangsu Province, the Public Security Department of Jiangsu Province, and the Environmental Protection Department of Jiangsu Province jointly issued the *Opinions on Establishment and Implementation of the Environmental Joint Enforcement Mechanism (Trial)*. By doing so, they established a joint meeting system for environmental joint enforcement, set up liaisons for the joint enforcement, and formed joint mechanisms for handling environmental cases. In addition, they implemented a joint working system for environmental enforcement and strengthened efforts to handle cases relating to environment and resources.

**Promoting improvement on the alternative dispute resolution mechanisms.** The Supreme People's Court guided local people's courts to adapt to the diversified demands of the people for environmental dispute resolution methods. While strengthening environment and resources adjudication, it actively established and improved alternative dispute resolution mechanisms relating to environment and resources, boosted non-litigation dispute resolution mechanisms such as arbitration, administrative mediation, people's mediation, industry mediation and commercial mediation, so that litigation and non-litigation dispute resolution mechanisms were connected, coordinated and complemented, providing diversified options for resolving disputes over environment and resources. In June 2016, the Supreme People's Court issued the *Opinions on Further Deepening the Reform of Alternative Dispute Resolution Mechanisms by People's Courts*, requiring people's courts at all levels to give play to dispute resolution mechanisms other than litigation by actively establishing relations with non-litigation dispute resolution mechanisms, enable more

disputes to be resolved through non-litigation dispute resolution channels by connection of litigation and mediation, business guidance, personnel training and legislation participation, orderly distribute disputes to litigation and non-litigation dispute resolution channels by guidance before litigation, case distribution and procedure connection, as well as improve the validity and authoritativeness of non-litigation dispute resolution means by judicial confirmation. The Opinions emphasized that people's courts should establish "one-stop" dispute resolution platform in environmental protection and other areas with frequent disputes, and integrate social dispute resolution resources, so as to reduce burdens of the people.



## **IV. Improving Judicial Philosophies and Rules for Environment and Resources Adjudication**

### **(I) Establishing Modern Judicial Philosophies for Environment and Resources Adjudication**

People's courts at all levels planned adjudication work as a whole in line with the new development philosophies of innovation, coordination, green, openness and shared by all. In November 2015, the First Environment and Resources Adjudication Working Conference of National Courts proposed to guide environment and resources adjudication with the modern environmental judicial philosophy of green development. The *Opinions on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development* issued in June 2016 further improved and developed the philosophy of environment and resources adjudication and proposed to establish the modern judicial philosophies of environment and resources adjudication such as strict law enforcement, protecting rights and interests, focusing on prevention, giving priority to restoration, and public participation.

**Establishing the philosophy of strict law enforcement.** People's courts at all levels strictly implemented environment and resources legal system, and independently and impartially adjudicated criminal, civil and administrative cases relating to environment and resources under laws. According to the national and provincial plans for functionary areas of state land, the courts ensured healthy economic and social development by fully taking into account the different positioning requirements of each functionary area, differentiating classified policies on the optimized development zones, the key development zones, the restrictive development zones and the prohibited development zones, and under the premises of controlling upper limits of resources consumption, bottom line of environmental quality and ecological conservation redline. Through stringent law enforcement, people's courts advocated

the voice of rule of law, fostered the spirit of rule of law, and gathered the strength of rule of law, so as to create a good social atmosphere that all people perform their obligations to protect environment under laws.

**Establishing the philosophy of protecting rights and interests.** According to the features of environmental pollution and ecological damage cases such as severe consequence, wide implication and high social concern, people's courts at all levels took protection on the environmental rights and interests of the people as their starting and finishing points in environment and resources adjudication. By implementing the principle of taking liabilities for damage in a stringent way and ensuring improvement by polluters, compensation by damagers, maintenance by developers, and compensation by beneficiaries, the courts severely sanctioned those who committed environmental torts, reasonably allocated the liabilities for ecological and environmental damage, and protected the rights of people to live and to develop in a healthy, comfortable and beautiful environment. In addition, people's courts paid attention to dealing with the relationship between environmental public interests and individual interests, explored a reasonable utilization of tolerance theory, and properly balanced the interests of all parties. Moreover, they properly handled the relationship between overall interests and local interests as well as between long-term interests and short-term interests, so as to promote sustainable development. Besides, the courts paid attention to tempering justice with mercy, properly strengthened judicial activism, actively innovated adjudication and enforcement mechanisms, and promptly restored the damaged ecological environment by strengthening efforts to protect ecological environment and victims, and following the rule of justice, so as to achieve a win-win situation of environmental effect, economic effect and social effect.

**Establishing the philosophy of focusing on prevention.** According to the features of concealment, latency, irreversibility and the difficulty of improvement, people's courts at all levels strengthened the application of prevention principle and properly enhanced judicial activism based on litigation equality and neutral adjudication. In addition, they promptly took act preservation and prior enforcement measures under

laws, so as to prevent environmental damage from happening and being enlarged. Moreover, they gave full play to the functions of administrative adjudication and environmental administrative public interest litigation, supervised and supported the law-based administration of administrative authorities, and prevented the commencement of projects with major ecological and environmental risks. Besides, they boosted information transparency of polluting enterprises and accepted supervision by the people.

**Establishing the philosophy of giving priority to restoration.** People's courts at all levels took the restoration of damaged ecological environment to the original conditions and functions before damage as much as possible as the ultimate goal of environment and resources adjudication, implemented damage remedy system that is mainly of ecological environment restoration, and applied criminal, civil and administrative liabilities in a unified and planned way, so as to urge the persons liable to actively perform their obligations to restore ecological environment. In addition, the courts flexibly applied various assumption modes of ecological environment restoration, in order to restore ecological environment to the maximum extent by planting trees, propagating and releasing aquatic products. Moreover, they closely supervised pollution improvement, rectification measures, and ecological environment restoration by the persons liable after ruling. Besides, they also actively explored the special environmental restoration fund system, encouraged market subjects to actively participate in the enforcement of restoring the damaged ecological environment by means of bidding, and improved efficiency and quality of the enforcement of effective judgements.

**Establishing the philosophy of public participation.** People's courts at all levels followed the principle of public participation established in the amended *Environmental Protection Law of the People's Republic of China*, kept combination of professional adjudication and public participation, and thoroughly promoted the participation of people's jurors in case hearing. In addition, the courts established expert pool for environment and resources adjudication, fully took into account expert

opinions in case hearing, and increased efforts to judicial transparency and promotion, so as to guide the public to participate in environmental governance in order. People's courts at all levels fully implemented the requirements of case filing registration system, practically protected the right to sue for the parties concerned, and facilitated people's access to judicial services and aids, and cleared the remedy channels of environmental rights and interests for the people. By hearing environment and resources administrative cases relating to information transparency, people's courts protected the public's right to know and to supervise, improved the activeness of the public to participate in environmental protection, and implemented the principle of public participation.

Guided by modern judicial philosophies of environment and resources, people's courts at all levels fully utilized and continuously explored, innovated and improved the philosophies in adjudicating practice according to its connotation and requirements. The philosophies of human community with a common future, environmental justice, and protection first also played an active role in guiding adjudicating practice, improving capabilities, and boosting system and mechanism construction of environment and resources adjudications.

## **(II) Improving Adjudication Rules for Environment and Resources Cases**

**Detailing adjudication rules for environmental pollution cases.** In December 2001, the Supreme People's Court issued the *Provisions on Evidence in Civil Litigation*, specifying that reversion of burden of proof should be implemented in the compensation litigation for environmental pollution damage, in which the polluter must prove the exemption cause prescribed by law and that there is no causalities between the polluting act and the damage result, so as to reduce the burden of proof on the victims. A specific chapter of the *Tort Liability Law of the People's Republic of China* promulgated in December 2009 prescribed the liabilities for environmental pollution and established special rules for environmental pollution liability such as doctrine of liability fixation, distribution of burden of proof, and liability allocation in

polluting environment by two persons or more or by third party's fault. The *Interpretations on Several Issues Concerning Law Application in Hearing Cases Relating to Disputes over Environmental Tort Liability* issued in June 2015 made further provisions on environmental tort disputes such as doctrine of liability fixation, distribution of burden of proof, liability allocation of several persons discharging sewage, liabilities of environmental service agencies, behavior preservation, as well as expert opinions, which also prescribed that the same rule shall be applied to civil cases related to ecological damage and to environmental pollution cases. In adjudicating environment and resources civil cases, people's courts at all levels implemented the requirements of prevention principle, properly took measures such as injunction before litigation, advanced execution, act preservation and evidence preservation, so as to give play to the prevention and loss reduction, according to the different situation of cases and the nature of defendant's infringement act. With regard to the acts severely impairing national interests, social and public interests, and lawful rights and interests of the applicants, and causing damage to environment and resources that is difficult to restore, people's courts promptly ruled the respondents to immediately cease infringement act or take pollution prevention and control measures.

The *Interpretations on Several Issues Concerning Law Application in Handling Criminal Cases Relating to Environmental Pollution* issued in June 2013 made further provisions on the specific standards and circumstances of "severely polluting environment" and "particularly serious consequences" set out in Article 338 of the *Criminal Law of the People's Republic of China*, circumstances of severer punishment or lenient punishment, scope and determination standard of toxic substances, and authentication of specific environmental pollution issues.

**Clarifying adjudication rules for cases relating to exploitation and utilization of natural resources.** People's courts carried out in-depth research on the features and adjudication rules for cases relating to land, minerals, forestry and other natural resources, drafted normative documents on law application of disputes over mining

right and forestry right, specified adjudication principles and unified judgement standards. In addition, they paid attention to reasonable exploration and exploitation of resources, and facilitated coordination of resources conservation and environmental protection. Moreover, people's courts paid particular attention to handle well the relevant cases caused by exploration and exploitation of natural resources in the key ecological functionary areas, the ecological environment sensitive areas and the fragile areas, the natural conservation areas, and the landscape and famous scenery areas, and took protection on ecological environment and natural resources as an important consideration in adjudication. In the case of dispute over cooperative exploration contract in special area between Xinjiang Lingang Resources Investment Co., Ltd. and Sichuan Jinhe Mining Co., Ltd., the exploration right concerned is located in the Taxkorgan Wild Fauna Natural Reserve of Xinjiang which was established before the cooperation of the parties. In the second instance, the Supreme People's Court held that the Cooperative Exploration and Development Agreement signed by both parties violated the prohibitive provisions of the *Regulations of the People's Republic of China on Natural Reserves*. It held that it would cause severe damage to natural environment and ecology and impair environmental public interests, if the Agreement is ruled to be valid and continues its performance. Therefore, it ruled that the Agreement is invalid under laws.

**Exploring adjudication rules for cases relating to climate change.** For cases relating to carbon emission, people's courts determined responsible subjects and their liabilities under laws according to the different circumstances of compliance emission or excessive emission over discharge standards, total pollutants control index, or pollution emission permit. For cases relating to fields such as energy conservation, innocent treatment and resource utilization of sludge, the courts encouraged enterprises to innovate their technologies and promoted the development and utilization of clean energy and new energy-saving technologies. For cases relating to green finance and biological diversification protection, the courts carried out in-depth research on special legal issues relating to the development of green finance, market

trading mechanisms and rules for emission right, energy use right and water use right, and gave full play to the important role of financial means and market mechanisms in achieving green development as well as climate change reduction and adaption.

**Improving adjudication rules for environmental public interest litigation.** The *Interpretations on Several Issues Concerning Law Application in Hearing Environmental Civil Public Interest Litigation Cases* further specified the procedure rules on qualifications of social organizations, cross-regional jurisdiction of public interest litigation, and collateral adjudication of private interest litigation caused by the same environmental pollution and ecological damage act charged in public interest litigation. In addition, it strengthened procedural transparency and public participation, properly enhanced the ex officio doctrine of public interest litigation, reduced the litigation cost of plaintiffs, unified the dimension and criteria of judicial judgement. By doing so, it initiated the policy direction that encouraged and regulated social organizations to file public interest litigation cases under laws. According to the *Opinions on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development* issued in June 2016, people's courts are required to follow the principle of statutory authority and, by taking existing litigation legal system as the basis reference, adhere to the basic principle of due process, innovate and improve specific adjudication modes and methods, and adjudicate environmental civil and administrative public interest litigation cases filed by procuratorial authorities under laws.

**Enriching findings rules for professional facts.** According to the features that environment and resources cases are professional in terms of fact finding, people's courts accurately ascertained case facts by comprehensively using appraisal opinions, expert opinions, evidence rules, logical reasoning and empirical rules, and taking into account requirements of the precautionary principle of environmental risk. If it is hard to determine the fees for restoring ecological environment, or the cost for determining the specific amount is overly high, people's courts may reasonably determine the fees

by taking into account the scope and extent of the environmental pollution and ecological damage, the scarcity of the ecological environment, the difficulty to restore the ecological environment, the running cost of the pollution prevention equipment, the interests obtained by the defendants from their infringement acts, the degree of fault and other factors, while taking reference to the opinions from authorities responsible for supervising and administering environmental protection and from experts. The courts protected rights of the parties concerned to have experts express their opinions before court and promptly informed experts of appearance at court to express their opinions on appraisal opinions and professional issues in the case of eligible applications.



## **V. Improving Professional Competency for Environment and**

### **Resources Adjudication**

#### **(I) Establishing Professional Teams for Environment and Resources Adjudication**

People's courts at all levels have continuously strengthened the professional team building for environment and resources adjudication, in an effort to build up teams that are affirmative in political stance, proficient in professional work, willing to take responsibilities, honest and non-corrupted, as well as further improve the competency level of serving and ensuring ecological civilization construction and green development.

**Strengthening construction of team leaders.** People's courts at all levels have constantly strengthened the construction of leading groups of environment and resources adjudication team and selected excellent and strong team leaders according to the policy and professional requirements of environment and resources adjudication. In addition, the courts deeply understood the philosophies, principles and policies of the Party Central Committee on ecological civilization construction and green development, planned the work in overall, and improved the collective decision-making and general efforts, so as to build up a leading group which is united and harmonious, honest and incorruptible, with strong leading capability. Facing the new situation and new tasks, the leading groups of people's courts have strengthened their awareness of taking responsibilities, led teams to resolve and overcome difficulties, made bold exploration, strengthened investigation and research, and continuously resolved difficulties in practice.

**Strengthening construction of professional proficiency.** By combining the reform requirements of the judge staffing system, the accountability system of presiding judges, the flattened adjudication management, and the people's assessor system, people's courts at all levels adjusted and replenished adjudicating sources and built up

professional teams of environment and resources adjudication adapting to the "two-in-one" or "three-in-one" converged adjudication mode. By strengthening professional training, as well as guiding judges to correctly understand policies and apply laws and judicial interpretations, the courts have endeavored to build up professional teams for environment and resources adjudication, that not only are familiar with laws and environmental professional knowledge, but also are able to adjudicate cases and undertake theoretic research, while understanding domestic legislation and judicial practice and having international horizon, so as to lay down solid talent resource foundations for improving judicial protection on green development. Since 2014, the Supreme People's Court has launched three professional training courses of environment and resources adjudication for courts nationwide, and provided systematic and professional trainings for more than 600 judges across the country. Among these trainings, the Environment and Resources Division and the International Cooperation Bureau of the Supreme People's Court worked in tandem with the European Environmental Protection Association to invite famous scholars and veteran judges of environment and resources from the EU, US and Australia to give lessons at the trainings in June 2016, which expanded the international horizon of Chinese environment and resources judges.

**Strengthening building of ways of thinking and style of work.** People's courts at all levels paid attention to strengthening political, general, public, state situation and stability awareness of the environment and resources adjudication teams, and consciously abided by political disciplines, political rules, organization disciplines and integrity disciplines, so as to serve the general picture of the party and the state. In addition, the courts conscientiously implemented the *Several Opinions on Improving the Judicial Accountability System of People's Courts* issued by the Supreme People's Court, and strengthened the construction of professional ethics, judicial conscience, discipline style education and relevant systems. According to the features of environment and resources cases that involve significant interests, diversified subjects and acute conflicts, the courts established and improved various rules and systems,

urged environment and resources judges to continuously improve their judicial work style, stay keen at any time, and hold the bottom line of integrity.

## **(II) Facilitating Theory Innovation in Environment and Resources Adjudication**

By gathering wisdom and uniting strength, people's courts at all levels have correctly found the balance point between environmental protection, economic development and protection on environmental rights and interests of the people. They legalized and institutionalized the construction of ecological civilization, and continuously innovated and developed theories of environment and resources adjudication, so as to provide a powerful intelligent support for comprehensively promoting environment and resources adjudication.

**Creating solid platform for adjudicating theory research.** In May 2015, the Supreme People's Court established the Research Center of Environment and Resources Justice, building a consulting expert pool for environment and resources adjudication which engaged 40 experts from law community and scientific and technological circle. It also engaged 25 well-known scholars and veteran judges in the field of environment and resources as its researchers, so as to build up a intelligent reserve platform. In addition, The Supreme People's Court set up the Theory Research Bases of Environment and Resources Justice at Renmin University of China and Wuhan University, and the Practice Bases of Environment and Resources Justice at the Intermediate People's Court of Longyan City, Fujian Province and other 15 intermediate and basic people's courts. By doing so, it laid down a solid theoretic and practical foundation for the innovation and development of environment and resources adjudication. The higher people's courts of Jiangsu, Fujian, Guangxi, and Chongqing established expert pools of environment and resources adjudication, formulated administrative measures, and produced good exemplary effect on the construction of expert pool of environment and resources adjudication. Moreover, people's courts across the country accelerated the development and construction of the

information collecting and analyzing system for environment and resources cases, fully used information technology such as big data and cloud computing, and maximized the advantage of resources and data of voluminous cases. They carried out in-depth study on the trend of environment and resources protection and actively expanded empirical analysis of judicial cases, which provided powerful technical support for strengthening supervision and guidance, unifying judgement criteria, and improving judicial creditability.

**Strengthening investigation and empirical analysis.** People's courts at all levels persisted in issue orientation, paid attention to domestic legislation, theories and practice, and drew mature experience from foreign environmental law theories and practices. They also carried out in-depth study of major theoretic issues which are fundamental, general and forward-looking, including the modern environmental judicial philosophies, the environmental judicial functions, the specialization of environmental justice, the green civil code, the environmental rights and interests, and the scope of environment and resources cases. The *General Principles of the Civil Law of the People's Republic of China (Draft)*, which was submitted to the Standing Committee of the National People's Congress for deliberation in June 2016, made protecting environment, saving resources, and promoting harmonious co-existence of human beings and nature as a fundamental principle, and admitted ecological environment restoration as a new method of undertaking civil liabilities. Since 2014, the Supreme People's Court has carried out in-depth investigation, research and empirical analysis of issues in practice, including the qualifications of case filing, the jurisdiction of cases, the methods of liability assumption, the adjudication procedures for environmental public interest litigation, and the doctrine of liability fixation, distribution of burden of proof, act preservation, judicial expertise for disputes over environmental tort liability, as well as the transfer of mining rights and forestry rights. It attached great importance to the conversion of research results, and converted adjudicating rules and philosophies that can be generally applied into judicial interpretations or judicial policies in a timely manner.

**Fully utilizing results of adjudicating theory research.** By summarizing adjudication experience of local courts, the Supreme People's Court specified that environment and resources adjudication has the functions to resolve environmental disputes, protect environmental rights and interests, supervise and support law-based administration, assess and guide environmental acts, promote transformation in development mode and structural optimization, as well as supplement and strengthen environmental public policies, so as to guide the direction of giving play to the function of adjudication. In addition, it also endeavored to build up the specialized system of “five-in-one” for environment and resources adjudication, including the specialization of adjudicating institutions, adjudicating mechanisms, adjudicating procedures, adjudicating theories and adjudicating teams, in order to specify clear objective for the construction of professional teams. It promoted establishment of the modern philosophies system for environment and resources adjudication, such as strict law enforcement, protecting rights and interests, focusing on prevention, giving priority to restoration and public participation, so as to provide guidance for adjudication. By specifying the scope of criminal, civil and administrative cases relating to environment and resources, it laid down foundation for the converged and collaborative adjudication. Since 2014, the Supreme People's Court published a series of books concerning environment and resources adjudicating practice, including the *Understanding and Application of the Environmental Protection Law of the People's Republic of China*, *Selection and Analysis of Classic Environment and Resources Cases (Civil)*, *Manual of Environment and resources Adjudicating Practice (Volumes I and II)*, *Understanding and Application of Judicial Interpretations of the Supreme People's Court on Environmental Civil Public Interest Litigation*, *Understanding and Application of Judicial Interpretations of the Supreme People's Court on Disputes over Environmental Tort Liability*, *Adjudication Thoughts and Methods of the Supreme People's Court on Mineral Resources Cases*, and *Guidance for Environment and Resources Adjudication*, which effectively guided adjudicating practice.

### **(III) Strengthening International Judicial Exchange and Cooperation of Environment and Resources Adjudication**

In order to cope with significant challenges faced by all countries, including increasingly prominent global environmental issues, climate change, cross-border pollution, and pollutants transfer, while paying attention to the research and resolution of domestic environmental judicial issues, people's courts at all levels have continuously strengthened international cooperation, expanded international horizon, and fully realized the importance of environment and resources adjudication in protecting national interests and security as well as promoting opening-up from the perspectives of globalization and internationalization of environment and resources protection. In addition, people's courts also coordinated both domestic and international general picture, promoted green development, and maintained ecological safety, so as to improve the international influence of environment and resources adjudication of China.

**Strengthening foreign exchange.** People's courts have continuously expanded cooperating modes and channels, based on information technology, boosted information sharing, and promoted development of the practice of international environmental justice. While learning advanced experience from foreign countries, people's courts have actively displayed the achievements of environmental protection and justice of China, disseminated Chinese philosophies of environment and resources justice, and shared stories of rule of law in China concerning environment. Since 2014, the Supreme People's Court has held the BRICS Justices Forum, the Environmental Judicial Sub-Forum of Bo'ao Forum for Asia Annual Conference, the International Seminar on Judicial Countermeasures for Climate Change, and the environmental justice seminars with Korea, France and Brazil, so as to discuss various issues on environment and resources justice. In April 2016, the Supreme People's Court send a delegation of Chinese judges to attend the first World Environmental Law Conference held in Rio, Brazil, further increasing the communications and exchange between China and the World on environmental justice.

**Focusing on comparative research.** People's courts have paid attention to comparative research on the trend and practice of the specialization of environmental justice, strengthened the exchange on international environmental laws, comparative environmental law research and judicial cases relating to environment and resources, and made comparative research on judicial policies and adjudicating methods of various countries and regions relating to environment and resources protection. In addition, they have drawn mature experiences from the theory research and practice of the environmental justice abroad, in order to promote the practice of environmental justice in China. The Theory Research Base of Environment and Resources Justice of the Supreme People's Court at Wuhan University collected and translated foreign legislations and classic cases relating to environmental public interest litigation which is about to be published recently. People's courts paid attention to the comparative research on law application concerning new types of environment and resources cases, such as the protection on biological diversity, the trade of energy use right and carbon emission right, the trade of emission right, the trade of water right, and the green finance, in order to make knowledge reserve for adjudicating such cases. By jointly launching trainings for judges and sending outstanding judges to study abroad, people's courts have actively expanded the international exchange and training channels for judges engaging in environment and resources adjudication. The Supreme People's Court established the Judicial Cases Research Institute to strengthen the cooperation between China and relevant countries in cases exchange, and research on classic cases, so as to boost cooperation on environmental justice.

**Expanding international horizon.** In the context that environmental issues become global as well as the new pattern of international cooperation unceasingly proposes new topics for environment and resources adjudication, people's courts have paid attention to international trend, based on the state situation and actualities, and actively made judicial response. By participating in the national strategy of "Belt and Road" and the construction of free trade zones, and coping with climate change, people's courts carried out in-depth research on dealing with global environment and

resources issues, actively fulfilled international responsibilities and obligations, and explored judicial measures and adjudicating rules for green development. By participating in the improvement of the judicial assistance system, they ensured implementation and performance of the international environment conventions. By having dialogues and signing memoranda of cooperation with Russia, UK, France, and Brazil, the courts strengthened exchange and cooperation in environment and resources justice.



## **Outlook**

Looking back, environment and resources adjudication of China has experienced a developing history from first exploration to normative maturity. By keeping pace with the times and centering on the overall work picture of the Party and the State, people's courts at all levels have continuously strengthened construction of the system and mechanism of environment and resources adjudication, implemented the fundamental state policies on saving resources and protecting environment, and punished crimes of environmental pollution and resources destruction under laws. In addition, the courts also supervised and supported administrative authorities in performing their duties of protecting environment and resources, strengthened efforts to protect environmental rights and interests, and made active contributions to protecting life health and property security of the people, safeguarding national and social public interests, and promoting sustainable economic and social development.

Economic and social development of China has entered the "13th Five-Year" period, a decisive stage in building a moderately prosperous society in all respects and achieving the first centenary goal determined by the Communist Party of China. The 5<sup>th</sup> Plenary Sessions of the 18<sup>th</sup> Central Committee of the Communist Party of China depicted a splendid blueprint of national economic and social development in the coming period. The 13th Five-Year Plan, deliberated and adopted by the 12th National People's Congress at its 4th Session, indicated the philosophy of green development, established the guiding principle for economic and social development, and made the specific deployment for ecological civilization construction at present and in the coming period. In addition, it also specified the prime goal of "generally improving quality of ecological environment", required improvement on production and living in a green and low-carbon way, promoted regional concerted development, accelerated improvement on ecological environment. By doing so, it showed the direction and path to the construction of rule of law for ecological civilization.

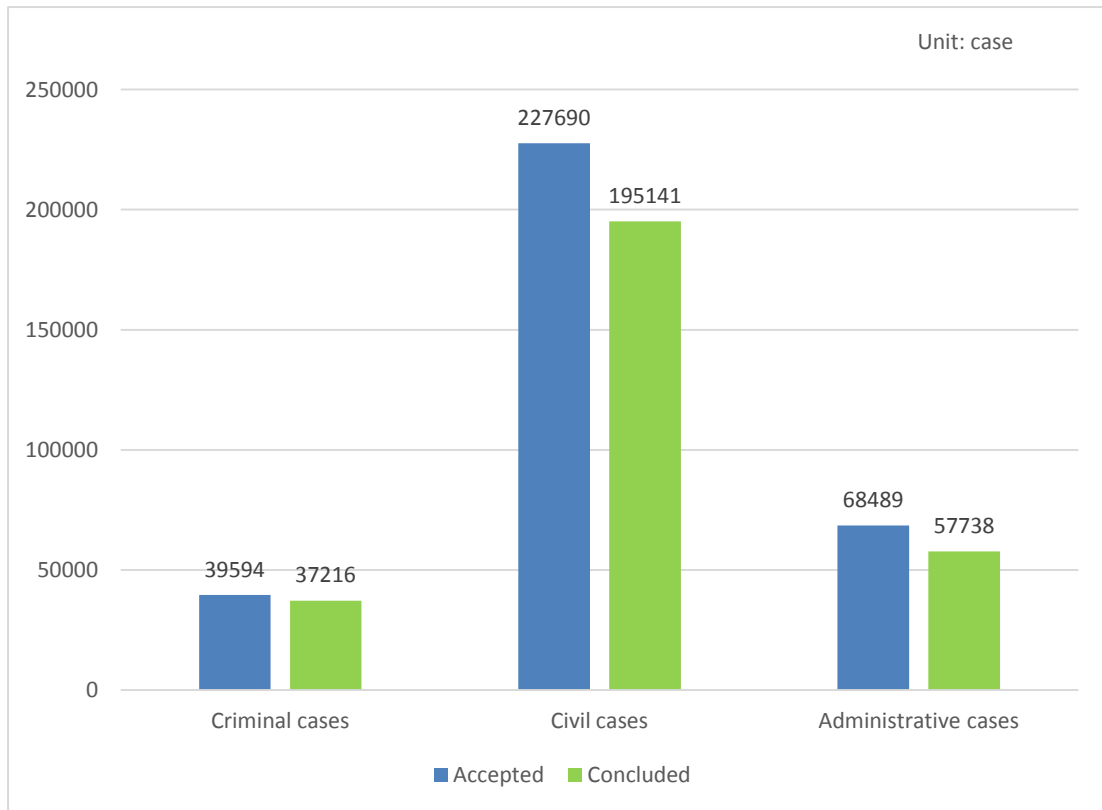
Opportunities come along with challenges and expectations exist with responsibilities.

Environment and resources adjudication of China is at a new historical starting point. The deployment of the Central Committee of the Communist Party of China proposes new objectives for environment and resources adjudication. The new expectations of the people bring about new requirements for environment and resources adjudication. The improvement on laws and policies provides new basis for environment and resources adjudication. The new normality of economic development brings about new challenges to environment and resources adjudication. The comprehensive advancement of judicial reform and informatization construction creates new opportunities for environment and resources adjudication. The globalization of environmental issues expands new territories for environment and resources adjudication. In line with the guiding principles of the Party's 18<sup>th</sup> National Congress, its Central Committee's 3<sup>rd</sup> Session, 4<sup>th</sup> Session and 5<sup>th</sup> Session, the Supreme People's Court, at the First Environment and Resources Adjudication Working Conference of National Courts held in Gutian, Fujian Province in November 2015, deeply learned and implemented the principle of a series of important speeches of the Secretary General Xi Jinping, reviewed and summarized working situation of environment and resources adjudication in recent years, and analyzed and studied the situation and tasks it faced. In addition, it also specified the work objectives and general requirements of environment and resources adjudication at present and in the coming period, and strengthened the confidence and resolution of courts across the country in working well in environment and resources adjudication.

Though so many difficulties lay ahead, we are going to start from scratch. People's courts at all levels will continue to deeply implement the spirit of the First Environment and Resources Adjudication Working Conference of National Courts, closely center on the objective of "ensuring people's access to fairness and justice in each judicial case", adhere to the philosophy of "people-oriented justice" and "impartial justice", and profoundly understand the historical mission of environment and resources adjudication. By taking the new development philosophy as guide, the in-depth promotion of reform on the systems and mechanisms of environment and

resources adjudication as opportunity, the specialization of environment and resources adjudication as instrumentality, and the construction of outstanding compound judge teams as assurance, people's courts will free their minds and have courage to explore, in order to give better play to the functional roles of environment and resources adjudication as well as to promote the level of rule of law in ecological environment improvement. Through promoting the core values of socialism by adjudication, and enhancing environmental protection awareness of natural persons, juridical persons and other organizations, the courts will provide more powerful judicial service and assurance for facilitating implementation of the 13th Five-Year Plan, achieving green development and building beautiful China.

**Exhibit I: The Number of Environment and Resources Cases Accepted by Courts Nationwide from January 2014 to June 2016**



**Exhibit II: Primary Judicial Interpretations and Normative Documents  
Concerning Environment and Resources Adjudication**

	<b>Title</b>	<b>Document No.</b>	<b>Issuance Date</b>	<b>Implementation Date</b>
Judicial interpretations	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Land Resources Destruction</i>	Fa Shi [2000] No. 14	June 19, 2000	June 22, 2000
	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Forestry Resources Destruction</i>	Fa Shi [2000] No. 36	November 22, 2000	December 11, 2000
	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Wild Fauna Resources Destruction</i>	Fa Shi [2000] No. 37	November 27, 2000	December 11, 2000
	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Illegal Mining and/or Destructive Mining</i>	Fa Shi [2003] No. 9	May 29, 2003	June 3, 2003
	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing</i>	Fa Shi [2005] No. 15	December 26, 2005	December 30, 2005

<i>Criminal Cases Relating to Forestry Land Resources Destruction</i>			
<i>Provisions of the Supreme People's Court on Several Issues in Hearing Disputes over Vessel Oil Pollution Damages</i>	Fa Shi [2011] No. 14	May 4, 2011	July 1, 2011
<i>Interpretations of the Supreme People's Court on Several Issues Concerning Specific Law Application in Hearing Criminal Cases Relating to Prairie Resources Destruction</i>	Fa Shi [2012] No. 15	November 2, 2012	November 22, 2012
<i>Interpretations of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning Law Application in Handling Criminal Cases Relating to Environmental Pollution</i>	Fa Shi [2013] No. 15	June 17, 2013	June 19, 2013
<i>Interpretations of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning Law Application in Handling Criminal Cases Relating to Smuggling</i>	Fa Shi [2014] No. 10	August 12, 2014	September 10, 2014
<i>Interpretations of the Supreme People's Court on Several Issues Concerning Law Application in Hearing Environmental Civil Public Interest Litigation Cases</i>	Fa Shi [2015] No. 1	January 6, 2015	January 7, 2015

	<i>Interpretations of the Supreme People's Court on Several Issues Concerning Law Application in Hearing Cases Relating to Disputes over Environmental Tort Liability</i>	Fa Shi [2015] No. 12	June 1, 2015	June 3, 2015
Normative documents	<i>Opinions of the Supreme People's Court on Comprehensively Strengthening Environment and Resources Adjudication to Provide Powerful Judicial Assurance for Boosting Ecological Civilization Construction</i>	Fa Fa [2014] No. 11	July 3, 2014	
	<i>Implementation Measures of the Supreme People's Court for Pilot Work of People's Courts in Hearing Public Interest Litigation Cases Filed by People's Procuratorates</i>	Fa Fa [2016] No. 6	February 25, 2016	
	<i>Opinions of the Supreme People's Court on Giving Full Play to the Functional Roles of Adjudication to Provide Judicial Service and Assurance for Boosting Ecological Civilization Construction and Green Development</i>	Fa Fa [2016] No. 12	June 2, 2016	

**Exhibit III: Catalogue of Classic Cases Relating to Environment and Resources  
Publicized by the Supreme People's Court**

**(I) In June 18, 2013, the Supreme People's Court publicized four classic criminal cases relating to environmental pollution.**

Case 1: The case of major environmental pollution accident by Zijinshan gold and copper mines of Zijin Minerals Group Co., Ltd.

Case 2: The case of major environmental pollution accident by Yunnan Chenjiang Jinye Industry and Trade Co., Ltd.

Case 3: The case of environmental pollution by Chongqing Yunguang Chemicals Co., Ltd., et al.

Case 4: The case of throwing hazardous substances to contaminate environment by Hu Wenbiao and Ding Yuesheng

**(II) On July 3, 2014, the Supreme People's Court publicized nine classic cases relating to environment and resources**

Case 1: The case of dispute over water pollution liability between All-China Environment Federation, Guiyang Public Environmental Protection Center and Guiyang Wudang Dingpa Paper Plant

Case 2: The case of dispute over water pollution liability between Nie Sheng and other 149 villagers of Xinzhuang Village and Pingdingshan Tian'an Coal Co., Ltd.

Case 3: The case of dispute over water pollution liability between the people's Government of Yexie town, Songjiang District, Shanghai and Jiang Rongxiang, et al.

Case 4: The case of dispute over environmental pollution liability between Group one villagers of Yanjing Village, Longhe Town, Changshou District, Chongqing and Mengcheng Lichao Transportation Co., Ltd.



Case 5: The case of dispute over environmental pollution liability between Zhu Zhengmao, All-China Environment Federation and Jiangyin Harbor Container Co., Ltd.

Case 6: The case of dispute over environmental pollution liability between Zhang Changjian and other 1,721 persons and Fujian (Pingnan) Rongping Chemicals Co., Ltd.

Case 7: The case of dispute over noise pollution liability between Jiang Jianbo and Jing Jun

Case 8: The case of dispute over compensation for ecological environment damage between All-China Environment Federation and Wuxi Lihu Huishan Scenic Spot Management Committee

Case 9: The case of dispute over mineral rights transfer contract between Wang Shilong and Liu Junbo

**( III ) On December 19, 2014, the Supreme People's Court publicized ten classic administrative cases relating to environmental protection**

Case 1: The case of Foshan Sanying Fine Materials Co., Ltd. vs. the People's Government of Shunde District, Foshan City for administrative punishment of environmental protection

Case 2: The case of Donggan Bar vs. the Environmental Protection Bureau of Liangzhou District, Wuwei City for administrative order of environmental protection

Case 3: The case of Haili International Golf Court Co., Ltd. vs. the State Oceanic Administration for administrative punishment of environmental protection

Case 4: The case of Lu Hong and other 204 persons vs. the Environmental Protection Bureau of Xiaoshan District, Hangzhou City for administrative permit of environmental protection

Case 5: The case of Junning Machinery Plant vs. the Environmental Protection

Bureau of Jin'an District, Liu'an City for administrative punishment of environmental protection

Case 6: The case of Su Yaohua vs. the People's Government of Boluo County, Guangdong Province for announcement on prohibited area of husbandry

Case 7: The case of Quanzhou Hongsheng Stone Co., Ltd. vs. the Environmental Protection Bureau of Jinjiang City for administrative management of environmental protection

Case 8: The case of Montaplast Automobile System ( Suzhou Industrial Park ) Co., Ltd. vs. the Environmental Protection Bureau of Suzhou Industrial Park for administrative punishment of environmental protection

Case 9: The case of Xia Chunguan and other four persons vs. the Environmental Protection Bureau of Dongtai City for administrative permit of environmental impact assessment

Case 10: The case of Zhengwen Garden Owners Committee and Qianyang Garden Owners Committee vs. the Environmental Protection Bureau of Shanghai City for approval decision on environmental impact assessment report

**( IV ) On December 29, 2015, the Supreme People's Court publicized ten classic cases relating to environmental tort**

Case 1: The civil public interest litigation case of Friends of Nature Environment Institute of Beijing Chaoyang District and Green Home Environment Friendly Center of Fujian Province vs. Xie Zhijin and other four persons for forestry land destruction

Case 2: The civil public interest litigation case of All-China Environment Federation vs. Zhenhua Co., Ltd. of Dezhou Jinhua Group for air pollution

Case 3: The civil public interest litigation case of Changzhou Environment Public Interest Association vs. Chu Weiqing and Changzhou Boshi'er Materials Recycle Co., Ltd. for soil pollution

Case 4: The case of Qu Zhongquan vs. Shandong Fuhai Industrial Co., Ltd. for air pollution liability

Case 5: The case of Shen Haijun vs. the First Design Institute of Machinery Industry for noise pollution liability

Case 6: The case of Yuan Kewei vs. Guangzhou Jiafu Real Estate Development Co., Ltd. for noise pollution liability

Case 7: The case of Liang Zhaonan vs. Huarun Cement (Shangsi) Co., Ltd. for water pollution liability

Case 8: The case of Zhou Hang vs. Jingmen Mingxiang Logistics Co., Ltd. and Chongqing Tiefa Suiyu Expressway Co., Ltd. for water pollution liability

Case 9: The case of Wu Guojin vs. China Railway No. 5 Engineering Group Co., Ltd. and Road and Bridge Project Co., Ltd. of China Railway No. 5 Engineering Group for noise pollution liability

Case 10: The case of Li Caineng vs. Hainan Haishi Industrial Co., Ltd. for dust pollution liability

**( V ) On March 30, 2016, the Supreme People's Court publicized ten classic administrative cases relating to environmental protection**

Case 1: The case of Wu vs. the Environmental Protection Department of Jiangsu Province for omission of statutory duties

Case 2: The case of a steel processing company of Qingdao vs. the Environmental Protection Bureau of Qingdao City for administrative punishment of environmental protection

Case 3: The case of an electronics company of Weihai vs. the Environmental Protection Bureau of Weihai City for administrative punishment of environmental protection

Case 4: The case of Zhang and other persons vs. the Environmental Protection Department of Jiangsu Province for administrative permit of environmental impact assessment

Case 5: The case of a pig breeding cooperative of Bishan, Linxiang vs. the Environmental Protection Bureau of Linxiang City for administrative punishment of environmental protection

Case 6: The case of a home appliance company vs. the City Administration and Law Enforcement Bureau of Fengxian District, Shanghai City for administrative punishment

Case 7: The case of a concrete company of Shanghai vs. the People's Government of Fengxian District, Shanghai City for administrative decision of ordering shut-down

Case 8: The case of Zhou and Zhang vs. the Ministry of Environmental Protection of the People's Republic of China for approval of environmental impact assessment

Case 9: The case of Liu vs. the Environmental Protection Bureau of Jiaozhou City for administrative punishment of environmental protection

Case 10: The case of the People's Procuratorate of Jinping County vs. the Environmental Protection Bureau of Jinping County for omission of statutory duties

**( VI ) On July 12, 2016, the Supreme People's Court publicized ten classic civil cases relating to disputes over mining rights**

Case 1: The case of dispute over ownership of prospecting right between Sun Suxian and three other persons and Xuan Zhengjun

Case 2: The case of dispute over mineral rights between Fu Qinqi and the People's Government of Shexing Township of Xianyou County

Case 3: The case of dispute over mineral rights transfer contract between Chen Fuquan and Queshan Tuanshan Minerals Development Co., Ltd.

Case 4: The case of dispute over mineral rights contracting agreement between Sichuan Baoxing Daping Mable Mine and Li Jing

Case 5: The case of dispute over labor contracting agreement between Zizhong Hongji Minerals Company, He Shenghua and Lv Zhihong

Case 6: The case of dispute over mineral rights cooperation contract between Lang Yichun and Peng Guanghui, Nanhua Xinghui Minerals Co., Ltd.

Case 7: The case of dispute over equity transfer contract between Xue Mengyi and four other person and Tibet Guoneng Mining Development Co., Ltd., Tibet Longhui Mining Co., Ltd.

Case 8: The case of dispute over partnership between Huang Guojun and Zhunyi Dalinwan Mineral Factory, Su Zhichang

Case 9: The case of dispute over cooperative exploration contract in special area between Xinjiang Lingang Resources Investment Co., Ltd. and Sichuan Jinhe Mining Co., Ltd.

Case 10: The case of dispute over tort of overlapping mineral deposit between Yunhe Tuyan Gangtou'an Pyrophyllite Mine and Zhejiang Power Company of the State Grid