

Environmental Public interest litigation (PIL) – a legal pathway for environmental justice and energy transition in China?

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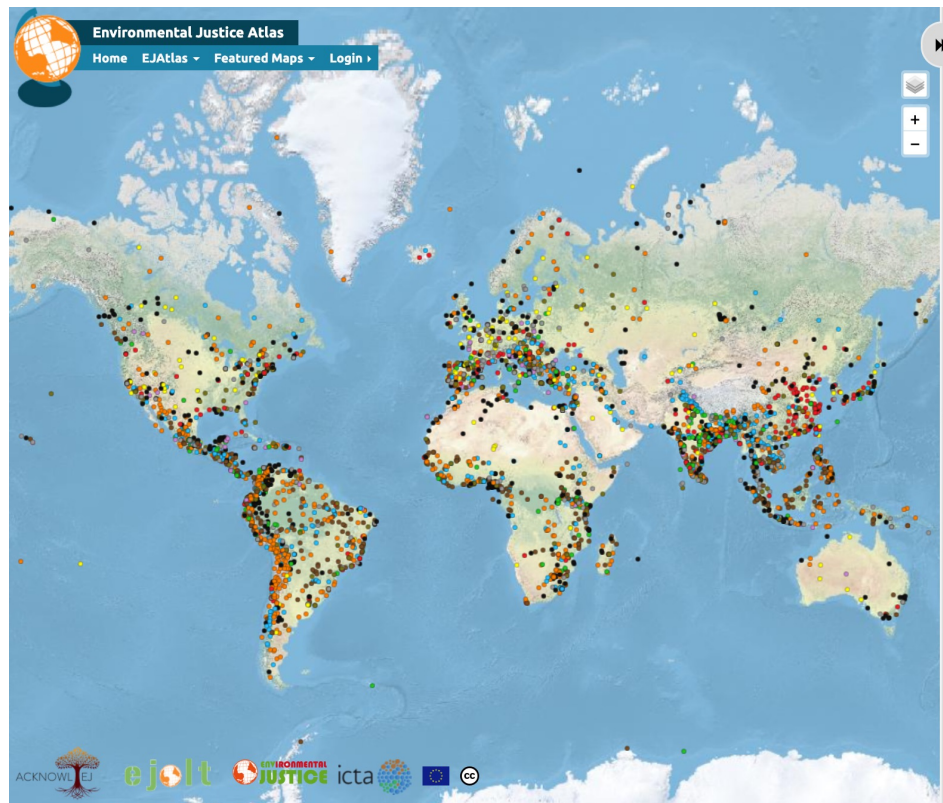
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Content

- Research background
- Methodology
- Preliminary findings
- Preliminary discussions



Introduction – EJAtlas



EJAtlas - Global Atlas of Environmental Justice

3669 cases have been reported so far

Word search

The EJAtlas is a work in progress. Newly documented cases and information are continuously added to the platform. However, many are still undocumented and new ones arise. Please note that the absence of data does not indicate the absence of conflict. You can help us improve the coverage: [register here](#).

AR CN EN ES FR IT TR

Legend

- Nuclear
- Mineral Ores and Building Materials Extraction
- Waste Management
- Biomass and Land Conflicts (Forests, Agriculture, Fisheries and Livestock Management)
- Fossil Fuels and Climate Justice/Energy
- Water Management
- Infrastructure and Built Environment
- Tourism Recreation
- Biodiversity conservation conflicts
- Industrial and Utilities conflicts

Filter

Browse Maps

- by Country
- by Company
- by Commodity
- by Type

Newly Published Featured Maps



Map of Airport-Related Injustice and Resistance

This online interactive map brings together case studies documenting a diversity of injustice related to airport projects across the world. It was developed in collaboration between the Environmental Justice Atlas and Stay Grounded.



Mapeando los impactos de la minería para la transición energética en las Américas / Mapping the mining impacts of the energy transition in the Americas

Este mapa revela los impactos de algunos proyectos mineros de metales y minerales "estratégicos" para la transición energética / This

Introduction - coal and EDCs

Environmental, social and economic liabilities of coal in China (Mao, Sheng, & Yang, 2008; Cheng et al., 2008; Li et al., 2011; Wright, 2013) and around the world (Cardoso, 2015; Epstein et al., 2011)

- Land dispossession
- Air and noise pollution
- Water stress and pollution
- Soil contamination
- Health impact on residents and workers (pneumoconiosis)
- Climate change and energy transition

Unequal
Distribution
Recognition
Participation



Ecological distribution conflicts (Martinez-Alier & O'Connor, 1996; Conde, 2017) across the coal value chain and the Global Atlas of Environmental Justice (EJAtlas, ejatlas.org) (Temper, del Bene, & Martinez-Alier, 2015)

- Coal mining
- Coal-fired power plant (CFPP)
- Coking
- Transport
- Coal-chemical (coal-to-oil, coal-to-gas, coal-to-olefin, etc)

Research objective: Investigate the role of coal-related ecological distribution conflicts in China in influencing environmental and climate justice from bottom-up

Introduction – EJAtlas and EPIL in China

- Almost half of the environmental justice cases in the EJAtlas involve legal strategies such as lawsuits
- Litigation, when complemented with certain tactics, can improve the success rate of environmental justice movements (Scheidel et al. 2020)
- Environmental justice in China's context: civil society tends to avoid direct confrontation with the state government (Ho, 2001; Mah and Wang 2017; Wang and Wang 2020)
- Environmental public interest litigation enables NGOs to “pressure state actors to respond to environmental problems more proactively, to enhance regulatory compliance, and to influence legislative reforms” (Zhuang and Wolf 2021)

EJAtlas - Global Atlas of Environmental Justice f t ?

1677 cases filtered

Word search

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Filter

Basic Data

- Category
- Project
- Conflict
- Resistance
- Mobilizing Groups
- Mobilizing Forms
- Env Justice Organizations
- Impacts
- Outcomes
- Meta

Mobilizing Forms

- Appeals/recourse to economic valuation of the environment
- Arguments for the rights of mother nature
- Artistic and creative actions (eg guerilla theatre, murals)
- Blockades
- Boycotts of companies-products
- Boycotts of official procedures/non-participation in official processes
- Community-based participative research (popular epidemiology)

Apply Clear

Mobilizing Forms: Lawsuits, court cases, judicial activism

Please pick from the fields on the left and drag the options to the panel above. You can use the logical boxes below to create complex filters.

AND

OR

NOT

Source: ejatlas.org

Development of public interest litigation in China

Initial sporadic EPIL cases

First EPIL case filed by GONGO (ACEF) in 2009. First EPIL case filed by grassroots NGO (FON) in 2011.

New Environmental Protection Law (EPL) came into force

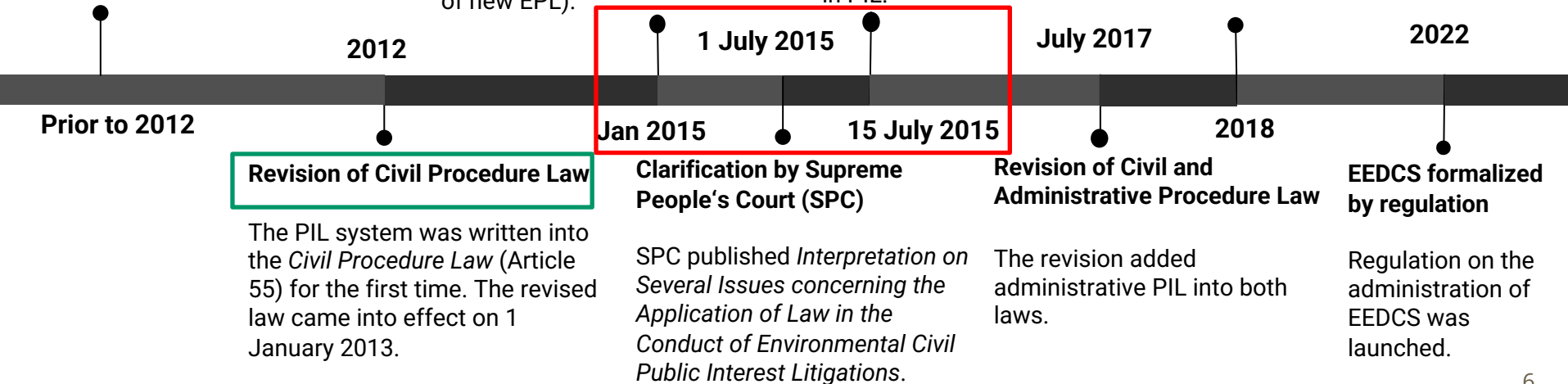
Social organizations with 5+ years of activities in environmental protection are eligible to file EPIL. (Article 58 of new EPL).

Pilot procuratorate PIL program

The pilot was launched across 13 provinces (region/city) to encourage procuratorates' participation in PIL.

Pilot ecological compensation program expanded nationwide

Eco-environmental Damage Compensation System (EEDCS) pilot program was expanded across the nation.



Methodology

Comparative political ecology

- EJAtlas framework (Temper, Demaria, Scheidel, Del Bene, & Martinez-Alier, 2018)
- Qualitative Comparative Analysis (QCA)

Primary data collection and analysis

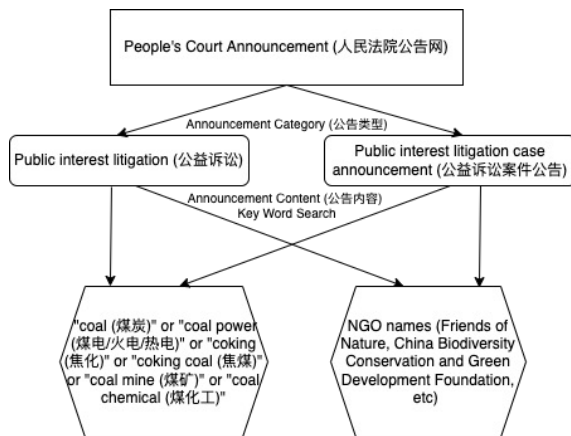
- Fieldwork in China, including participant observation and semi-structured interviews
- Case study

Secondary data collection and analysis

- Based on EJAtlas codified variables
- Secondary data: mainstream media, government authority documents, grey literature, academic paper, social media

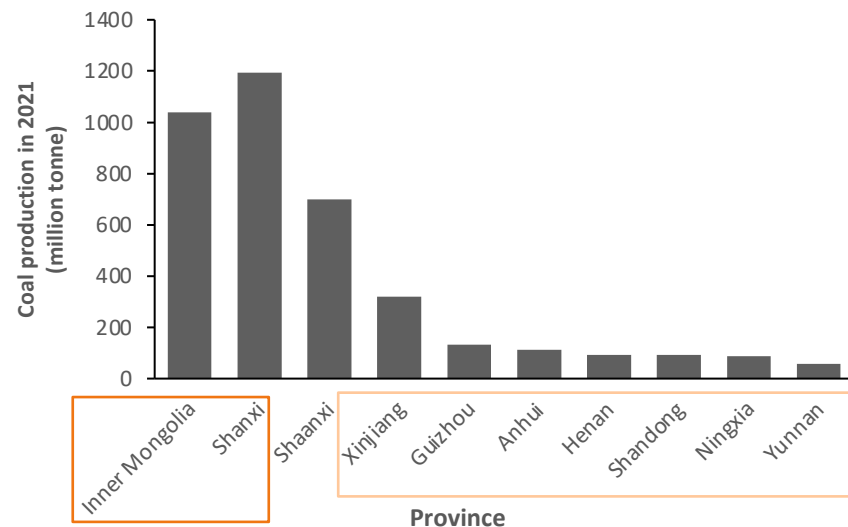
Research sub-objective: Investigate the role of coal-related environmental public interest litigations (EPILs) filed by NGOs in influencing environmental and climate justice from bottom-up in China

Coal-related EPIL case secondary data collection



- NGO newsletter: e.g. Friends of Nature monthly update and annual report, CLAPV database
- Annual Review of Public Interest Litigation in Environment Protection (2015-2016)
- Supreme People's Court: Annual Whitepaper on China's Environmental Resource Trial (2017-2020), Top 10 model EPIL cases

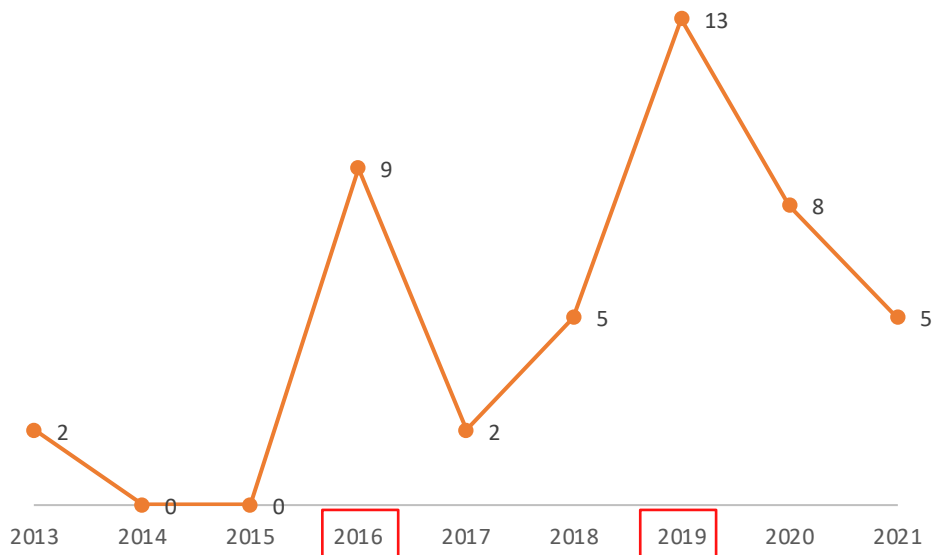
Distribution of coal-related EPIL filed by NGOs (2013-2021)



Coal value chain	Coal mining	Coal-fired power plant	Coking	Coal chemical	Others	Total
Number of EPIL cases	9	12	12	8	3	44

NGO plaintiffs in coal-related EPIL cases

Number of coal-related EPIL cases

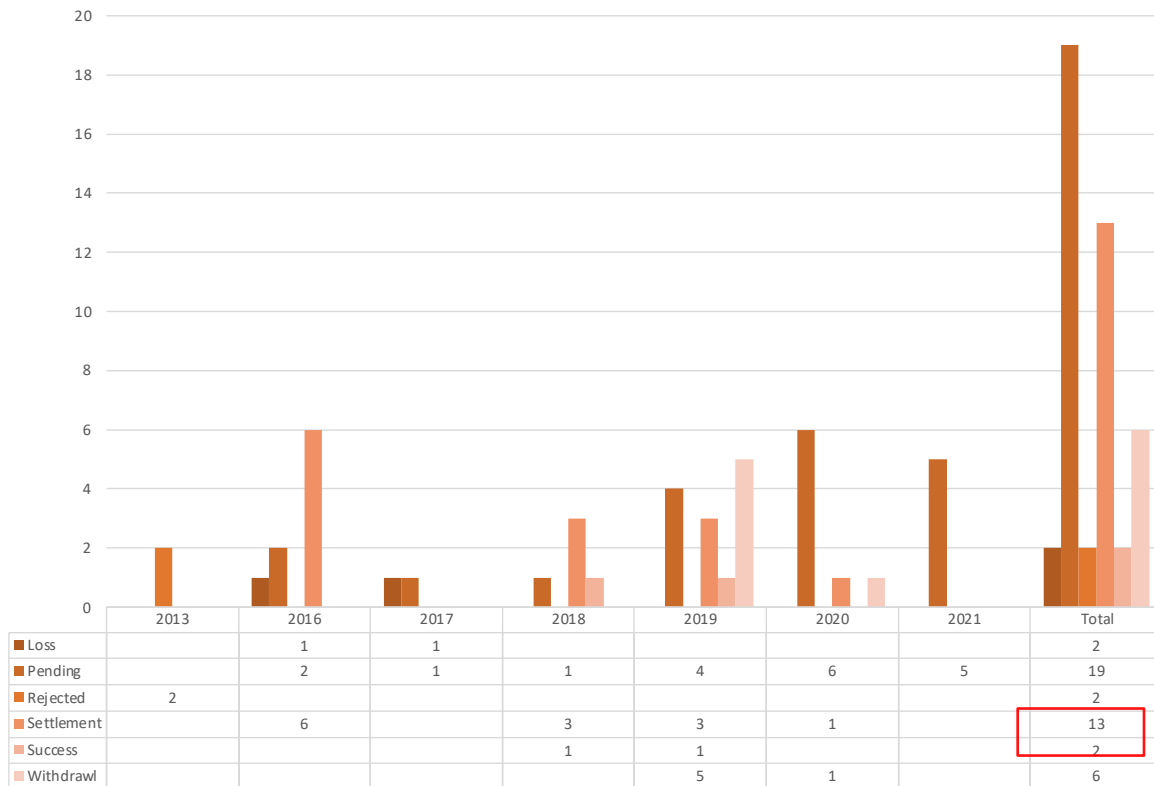


NGO Plaintiff	Number of cases involved
Jinhua Green Ecology Culture Service Center	9
The Environmental Research Institute by Source	9
Beijing Huanyou Science and Technology Research Center	6
Friends of Nature (FON)	3
Beijing Changping District Multiple Intelligence Environmental Research Institute	1
Chongqing Liangjiang Voluntary Service Center	2
Green Earth Volunteers	1
Centre for Legal Assistance to Pollution Victims (CLAPV)	1
Nature University	1
China Biodiversity Conservation and Green Devel	7
Shandong Environmental Protection Foundation	4
All-China Environment Federation (ACEF)	3
China Environmental Protection Foundation	1

Note: As some cases were initiated by co-plaintiffs, certain cases are accounted more than once.

Cause and outcome of coal-related EPIL filed by NGOs

Category of causes	Number of case
Air pollution	30
Illegal mining	4
Water pollution	4
Soil pollution	1
Multiple forms of pollution (e.g. water, air, soil, solid waste)	5



Examples of coal-related EPIL cases

- Jinhua Green Ecology Culture Service Center v. 3 coal mining companies
Complement other forms of environmental activism e.g. artistic intervention
- CBCGDF and Chongqing Liangjiang Voluntary Service Center v. State Grid Hami CFPP
Joint EPIL and collaboration between GONGO and grassroots NGO
- CBCGDF v. Shandong Jincheng Heavy Oil Chemical Co. and four other defendants
Supported by local procuratorate. However, it overlapped with the environmental damage compensation litigation filed by the Environmental Protection Bureau of Shandong Province.
- FON v. State Grid Gansu/Ningxia Electric Power Co. (wind and solar curtailment)
Considered an exemplary case related to climate change response and mitigation in China

Preliminary findings

- Increasing acceptance by the court over the years (v.s. rejected outright before 2015), despite certain procedural justice challenges (e.g. legal standing of NGOs, large number of pending cases)
- Cross-province EPIL case filing applies to all cases under investigation
- EPILs in the coal value chain mainly focus on air and water pollution (v.s. climate)
- Synergy with other forms of environmental movement (community resistance, artistic intervention, etc)
- The cases that came to a conclusion tend to result in a settlement and involve a high value of remediation cost

Preliminary discussions

Environmental Public interest litigation (PIL) – a legal pathway for environmental and climate justice in China?

- Evolvement of civil society's participation in environmental governance in China: confrontation, soft confrontation, non-confrontation, litigation and legislation
- Effectiveness of EPIL: Ecological damage compensation, follow-up monitoring, potential of preventive EPIL
- Cooperation and competition between NGOs and other stakeholders e.g. procuratorate
- “Stealthy” approach towards climate litigation: synergy of pollution control and climate justice



绿水青山就是金山银山

Q&A

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