

The Difficulty and Challenge of Protecting Environmental Rights for pollution victims who suffered health damage

XU Kezhu

Vice Director ,Associate Professor
Center for Legal Assistance to Pollution Victims

April 11 ,2007 in Wilson Center



The background of the topic

Damage to health resulted from environment pollution has attracted more and more attention from our government these years .

so to protect the rights in health damage resulted from environment pollution is more difficult than to protect the property rights in a normal sense.

The important, urgent and challenging requirement of protect environmental rights decided that we have to devote more time and energy in finding out how the issues come into being and how to prevent the issues from occurring.

And we have to work out, as soon as possible, solutions to the existing issues as well.

That's why I chose to talk about this subject today.

The outline of CLAPV' cases on public health

- ❖ Since CLAPV opened the hot-line for pollution victims in November 1, 1999, CLAPV has provided legal aid for 98 typical, important cases.
- ❖ Among those 98 cases, 26 cases involved health damage caused by pollution; 9 cases involved both health and property damage caused by pollution.



The classification of 26 Health damage cases caused by pollution

Air pollution 9

Water pollution 6

Noise pollution 5

Electromagnetism radiation 2

Radioactivity 2

Air and water pollution 1

Water and soil :1 case

The proceedings of 35 health damage cases

Finished 19

win 12

mediation 1

lost 6

un decided 1

Court refuse to accept 4

will suit 7

Have decided not to suit 4

Case of 118 residents suit TangShan Coke-oven Plant in TangShan city ,HeBei province



The residents have been suffering from the air pollution since July 1996. the so₂ and dusts discharges from the plant have made more the 20,000 residents suffer from various respiratory diseases and skin diseases.



Girls in that area dare not wear skirts and short sleeves in summer due to the pollution. And incidence of cancer in that area has kept on ascending.



After 5 years, the plaintiff win the case finally



The clients and the lawyers take the picture at the gate of TangShan court

Do the investigation in LeQing ,ZheJiang





**The case
happen in
WangCheng
county,
ChangSha
City ,
in HuNan**













Causes of damage to health

- I. The government are lack of the consciousness of environment protection in approving projects. Industry location or the factory site choosing are not proper

Tangshan Coke-oven plant and the factory of WangCheng Chemical factory are both set up in the area where many villagers live. Furthermore, the two factories are located to the windward of the residents area.

Some factories are built up at riverside, which is an immediate threaten to drinking water safety.

Causes of damage to health

- II. There no environment protection facilities at the beginning of the establishment of the factories. For those enterprises who are the main power of local economy development, they are allowed to discharge pollutants without any limitation.

Some factories did not follow the environment impact assemment report at all and they do not have the minimum sense of abiding by the laws. At the same time, the environment protection bureau are careless in supervision. Some local government overindulged those enterprises regarding environment protection.

Causes of damage to health

III. Environmental agency are not strong enough in supervision and management. Their failure to enforcement or weak implementation of the regulations and their failure to play the role as the environment supervisor lead to pollutions.

When local villagers reported the pollution by those enterprises, the environment protection bureau failed to take effective measures on time. By imposing minor penalties, they allowed those enterprises to pay certain number of money and then to go ahead with their production, which led to even worse pollutions. Some enterprises which were forced to stop production for rectification continued production and pollution without carrying out being inspected and examined strictly.

Causes of damage to health

4. Local villagers are lack of the knowledge of environment protection. They did not see the doctors when they are ill. They did not realize the potential damage that pollutions might bring to their health. It was too late sometimes when some villagers realize their sickness and they do not have money for cure.

Causes of damage to health

5. There is still a lack of legal system of compensation to environment pollution damages in China. And we're short of the standards and foundation of evaluating the health damage resulted from environment pollutions.

The corresponding medical research is still to be improved. Some information about health damage resulted from environment pollution is still kept as state secret and is not know to the public. As a result, the public has no idea of the pollutants in the environment that they live and they are not aware of threatens of those pollutants either.

Obstacle and challenges to protect environmental rights

- ❖ Environment protection bureau cannot provide correct pollution information; and there is no regulation on environmental information
- ❖ there are hardly medical research organizations or medical experts in the environment rights protection by NGOs;
there is a lack of examination and cognizance of health damage by pollution due to the lack of required capital and human resources.
- ❖ It is hard to collect evidences to proof the cause between the pollution and the health damage.

Measures to change the above situation

to strengthen the implementation of environment laws and to accelerate the enforcement of current environment laws by taking various measures and methods.

to rigorously enforce the liability of enterprises and to force the enterprises to undertake the damage compensation via environment lawsuit for the losses that already occurred from the pollution.

Measures to change the above situation

to boost the consciousness of the public and to encourage environment NGOs and the public to take part in monitoring the enforcement of environmental laws

to establish appraisal organizations for health damage resulted from environment pollution.

to improve the legal system construction in environment and health

Thank you

e-mail: xkezhu@clapv.org
xukezhu@hotmail.com

Tel: 86-10-62210318

cell-phone : 13601241238

www.clapv.org

