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Editorial

Published in:

Chinese Journal of Environmental Law

Publication status and date:

E-pub ahead of print: 07/12/2021

DOI (link to publisher):

[10.1163/24686042-12340067](https://doi.org/10.1163/24686042-12340067)

Document Version

Publisher's PDF, also known as Version of record

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Citation for the published version (APA):

Boer, B., Spijkers, O., & Qin, T. (2021). Editorial. *Chinese Journal of Environmental Law*, 5(2), 117-124. Advance online publication. <https://doi.org/10.1163/24686042-12340067>

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Editorial

1 40th Anniversary of Wuhan University's Research Institute of Environmental Law

The 40th anniversary of Wuhan University's Research Institute of Environmental Law (RIEL) was celebrated on the weekend of 25–26 September 2021. The event was attended by many current students, alumni, professors, and former professors of the Institute. As part of this celebration, we begin this issue with two special pieces to mark the anniversary. The first piece is written by QIN Tianbao and HU Bin. They provide an overview of the history of the Institute and the people who have contributed to it over the past four decades. The Chinese Journal of Environmental Law (CJEL) is a recent but important part of that history. The other piece is more of a personal reminiscence by Ben BOER, who has been associated with the Institute since 1995.

2 UN Human Rights Council Resolution: Right to Environment

Before we introduce the other pieces in this issue, we set out some recent developments that may be of interest to our readers.

In 2018, we included a Note on Recent Developments by the then Special Rapporteur on Human Rights and the Environment, Professor John KNOX, on the possibility of global recognition of the human right to a safe, clean, healthy, and sustainable environment.¹ On Friday 8 October 2021, a resolution generated by a wide variety of groups,² backed by Costa Rica, Switzerland and other States, was adopted during the 48th Session of the Human Rights Council (13 September–8 October 2021) to universally recognize the human right to a clean, healthy and sustainable environment.³ The basic right is formulated as

- 1 John H KNOX, 'The United Nations Mandate on Human Rights and the Environment' (2018) 2 Chinese Journal of Environmental Law 83–92.
- 2 'Geneva: UN Must Recognize the Right to a Healthy Environment' *Amnesty International*, 13 September 2021 <<https://www.amnesty.org.nz/geneva-un-must-recognize-right-healthy-environment>>.
- 3 Human Rights Council, *The human right to a clean, healthy and sustainable environment*, resolution 48/13, adopted 8 October 2021, UN Doc A/HRC/RES/48/13.

a recognition of 'the right to a clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights'. The resolution also affirms that 'the right to a clean, healthy and sustainable environment is related to other rights and existing international law.'

The resolution was adopted by a recorded vote of 43 in favour, with 4 abstentions (China, India, Japan, and the Russian Federation). No State voted against the resolution. Even though China abstained from the vote, its oral statement in the debate was a positive one. However, it noted that some parts of the resolution were still open to question, including the definition and substance of the right to a clean, healthy and sustainable environment, and its interplay with other human rights. It stated also that it will continue to work with the rest of the world to improve global environmental governance and to build a community of life for humankind and nature.

The United States of America, not a member of the Council at present, issued a General Statement on 13 October 2021, in which the following was said about the right:

The United States is committed to taking ambitious action to address environmental challenges, including continuing our work with international partners to share our experience with concrete domestic actions to protect the environment. We also recognize that climate change and environmental degradation impact the enjoyment of human rights and affirm that when taking action to address environmental challenges and climate change, States should respect their respective human rights obligations. Nevertheless, the United States has consistently reiterated that there are no universally recognized human rights specifically related to the environment, and we do not believe there is a basis in international law to recognize a 'right to a clean, healthy, and sustainable environment,' either as an independent right or a right derived from existing rights. Furthermore, we do not consider the resolution introduced in this session recognizing a right to clean, healthy and sustainable environment to be an appropriate means of attempting to elaborate a new and undefined right, and we do not see this resolution as altering the content of international law or establishing a precedent in other fora.⁴

4 UN Human Rights Council – 48th Session End-of-Session General Statement of the United States of America, posted 13 October 2021 on the website of the US Mission to International Organizations in Geneva <<https://geneva.usmission.gov/2021/10/13/un-human-rights-council-48th-end-of-session-general-statement/>>.

3 Meeting on the Rule of Ecological Law at the Guiyang International Forum on Ecological Civilization

In July 2021, the annual International Forum on Ecological Civilization was held in Guiyang, China. It was a gathering of more than 3,000 participants from all over the world, who came together to exchange views on how to protect the ecological environment and promote green development. Wuhan University's Research Institute of Environmental Law (RIEL), jointly with the Guizhou Provincial Government, held a sub-forum on the 'Rule of Ecological Law: Biodiversity Protection and Biosafety Governance'. Mr. DOU Shuhua, Vice Chairman of the Environment and the Resources Commission of China's Parliament; Mr. XU Anbiao, Vice Chair of the Legal Affairs Committee of China's Parliament; Ms. YANG Linping, Vice Chief Justice of China's Supreme Court; the Brazilian Judge Antonio BENJAMIN, as well as professors Jim MURPHY, Ben BOER, Otto SPIJKERS, and QIN Tianbao, all discussed various ways to achieve biodiversity conservation through law. The Sub-Forum reached a consensus on the promotion of the rule of ecological law which was released as one of the outcomes of the Guiyang International Forum on Ecological Civilization.

The meeting on the Rule of Ecological Law was one of many thematic sub-forums of the Guiyang International Forum on Ecological Civilization. It aimed to use rule of law thinking and the rule of law approach to safeguard biodiversity conservation and biosecurity governance, and promote international exchanges and cooperation in scientific and legal research, as well as to further the legal practice in the field of biodiversity. In his opening speech, QIN Tianbao pointed out that the legal regulation of biodiversity conservation should be done in harmony with State's existing laws and legal approaches. Ben BOER gave a speech by video, in which he called for reform of the biodiversity conservation laws at the national Chinese level, as a way of implementing the Convention on Biological Diversity. During the ensuing thematic dialogue, Otto SPIJKERS, JI Li of Wuhan University, WANG Kexiong of the Institute of Aquatic Biology of the Chinese Academy of Sciences, RAN Jingcheng of Guizhou Station of Wildlife and Forest Plants, and ZHAO Xiang of the Guizhou Provincial Bar Association spoke on the theme of harmony between humankind and nature, with a particular focus on current developments in China. Otto SPIJKERS called for the recognition of global solidarity as a general principle for the conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction. At the end of the sub-forum, a Strategic Cooperation Agreement on the Construction of Ecological

Civilization and the Rule of Law was signed, and an agreement was reached on the Rule of Law Recommendations for Biodiversity Conservation.

4 **Ecological Civilization: Building a Shared Future for All Life on Earth (Kunming Declaration)**

On 13 October 2021, the Kunming Declaration on ‘Ecological Civilization: Building A Shared Future for All Life on Earth’ was adopted by the ministers at the high-level segment of the 15th meeting of the Conference of the Parties to the Convention on Biological Diversity (COP15). This COP was held in Kunming, a beautiful city in the southwest of China’s Yunnan Province. The Kunming Declaration is a political declaration and is the most important outcome of the COP. The signatories committed inter alia to ‘[e]nsure the development, adoption and implementation of an effective post-2020 global biodiversity framework, that includes provision of the necessary means of implementation, in line with the Convention, and appropriate mechanisms for monitoring, reporting and review, to reverse the current loss of biodiversity and ensure that biodiversity is put on a path to recovery by 2030 at the latest, towards the full realization of the 2050 Vision of “Living in Harmony with Nature”’.⁵

5 **Research Articles in This Issue**

Besides this editorial and the two special pieces to mark RIEL’s 40th anniversary referred to above, this issue also includes three research articles. As the reader will quickly notice, the overarching theme of these articles various aspects of public participation, in the areas of climate change, encouragement of sustainable consumption and renewable energy.

The first, ‘Tackling Climate Change in China: A Hybrid Approach’, by Giuseppe PODERATI and Shutian OU, argues that, because climate change is a global problem that concerns us all, climate change policies should be designed as far as possible with the public participation of civil society. Focusing on China, the article looks at creative and innovative ways for the

⁵ *Ecological Civilization: Building A Shared Future for All Life on Earth* (Kunming Declaration), adopted 13 October 2021, at the fifteenth meeting (part I) of the Conference of the Parties to the Convention on Biological Diversity, held in Kunming, China, 11–15 October 2021, UN Doc. CBD/COP/15/5/Add.1, para 1.

more traditional decision-making mechanisms to benefit from the expertise and insights from the community as a whole. A hybrid approach, it is argued, could combine the current top-down approach with a bottom-up approach, which might contribute to an increase in transparency and accountability in legislative and political decision-making processes to produce the best possible strategies for addressing climate change in China.

The second, authored by Juan HE, 'Enhancing Sustainable Consumption in China: A Seafood Example', examines ways to increase the Chinese people's willingness to purchase eco-labelled seafood produced in or imported into China. It looks at ways to influence the Chinese consumers' sustainability consciousness, and legal tools to motivate them to make more environmentally responsible purchasing decisions. The article's main point is that, to encourage and empower sustainable consumption, the consumers' right to know where and how the product was made should be recognized as a juridical and self-contained legal entitlement with enforcement safeguards.

Finally, Yankun ZHAO and Tao DU's contribution examines the public concern around renewable energy. Entitled 'Green on Green: Issues of Public Opposition to Proposed Renewable Energy Projects', it begins by noting that the promotion of renewable energy is widely recognised as a significant tool to combat climate change. However, the authors observe that renewable energy projects may also have negative consequences, even on the environment. One may think of negative impacts on the local landscape, on the ecology and wildlife, and on the local value of land. Moreover, renewable energy projects may cause unwanted noise, shadow flicker, pose risks and hazards, such as fires, and lead to traffic and safety issues. The authors have a straightforward solution to this problem. In their view, public participation in decision-making relating to renewable energy projects can alert the policy maker to these negative side-effects at an early stage, and thereby help mitigate their negative impacts. The article thus argues that public participation in decision-making on renewable energy projects provides the appropriate mechanism to identify and mitigate the impacts and weigh the competing interests. To guide this process, national policies should establish a presumption in favour of such projects, rebuttable when significant harm is likely to result from a proposed project.

6 Notes on Recent Developments

The issue continues with two notes on recent developments. The first, prepared by Jason ANOM, describes the aviation industry's role in helping to combat

the illegal wildlife trade. Entitled 'Interception to Repatriation – Aviation's Role in Combating Illegal Wildlife Trade', he makes the point that the aviation industry, as part of the global supply chain, has been inadvertently used as a means of facilitating the illegal wildlife trade, with major Asian aviation hubs at a particular risk of being used as transshipment points. To combat this, the author examined ways in which the aviation industry itself might respond to illegal wildlife trade, and how existing responses can be improved in the future.

Finally, in the note entitled 'Friends of the Earth Netherlands (Milieudefensie) v Royal Dutch Shell', Otto SPIJKERS provides the reader with an introduction to the judgment of the District Court of The Hague (Netherlands) in the case between Friends of the Earth Netherlands and the global oil corporation Royal Dutch Shell. First, the note situates the judgment in the larger climate litigation context. After summarising the ruling, the note analyses some of the more interesting aspects of the ruling, such as the curious fact that Shell's behaviour was considered unlawful even though the company had not breached any specific legal provision of either written international or domestic (Dutch) law, and the often-heard complaint that the Netherlands has turned into a 'dikastocracy' – an unusual term used to describe a dystopia of a land ruled by judges instead of the government. The author concludes that such expressions of dikastophobia are greatly exaggerated. As long as relevant actors refuse to accept their (legal) responsibility, it is in fact the duty of the court to ensure that the rules are followed.

7 Elisabeth Haub Award to Professor WANG Xi

We are very pleased to congratulate Professor WANG Xi on the award of the 2021 Elisabeth Haub Prize for Environmental Law and Diplomacy. WANG Xi is a member of this Journal's International Advisory Board. From 2019, he has been the director of the Research Base of Ecological Civilization and Environmental Law of Kunming University of Science and Technology, China. Previously, he was in Shanghai from 2002 to 2018, where he taught at Shanghai Jiao Tong University and set up an Environmental and Natural Resources law centre there. From 1984 to 2001, he taught at Wuhan University. The Elisabeth Haub Prize for Environmental Law and Diplomacy is one of the most prestigious environmental protection awards in the international community. The award was established in 1974 by the Elisabeth Haub family in Germany.

WANG Xi was described in the Elisabeth Haub Prize citation as an environmental law scholar and advocate. It further stated:

Becoming an academic after China started to reform and open up in 1978, Professor Wang Xi is one of the top environmental law experts in China. He will receive the Award for his outstanding contributions to the formulation of environmental laws in China. The advancement of environmental law in the largest and fastest-growing country in the world is of vital importance to the advancement of global environmental law. He is also recognized for his leadership internationally through his tireless work enabling the international academic exchanges between the Chinese environmental law scholars and their overseas counterparts under the framework of the International Union for Conservation of Nature (IUCN).⁶

We wish our dear colleague WANG Xi the very best for the future, both as a scholar and personally.

8 CJEL Accepted for Scopus

We are pleased to inform readers and past, present and future contributors that the Chinese Journal of Environmental Law (CJEL) has been accepted for Scopus, the international abstract and citation database for academic literature. The Scopus Content Selection and Advisory Board, in reviewing the application, indicated that CJEL is an 'important journal offering penetrating discussions of key problems regarding law and the environment.' This listing adds to the achievement we reported in our editorial earlier this year in CJEL 5.1 of the acceptance of our Journal for the Web of Science, Emerging Sources Citation index (ESCI).

9 Editorial Team Changes

This issue of CJEL marks several transitions concerning CJEL's editorial team. To our regret, Associate Professor Colin MACKIE has decided to withdraw as Managing Editor of CJEL. We are, however, happy to announce that Professor Otto SPIJKERS has continued Colin MACKIE's excellent work. Otto joined

⁶ See further 'Haub Law Announces Two Recipients of the 2021 Elisabeth Haub Award for Environmental Law and Diplomacy' 24 June 2021 <<https://law.pace.edu/news-and-events/news/haub-law-announces-two-recipients-2021-elisabeth-haub-award-environmental-law>>.

Wuhan University's China Institute of Boundary and Ocean Studies (CIBOS) in February of 2020 and was soon thereafter also appointed as Professor at Wuhan University's Research Institute of Environmental Law (RIEL). He is a Founding Staff Member of Wuhan University's International Water Law Academy (IWLA).

We hope you enjoy the issue!

Ben BOER, Otto SPIJKERS and QIN Tianbao