

Lawsuits in the public interest

LEGISLATORS this week will discuss a proposed change in the law that would make it easier to file lawsuits against those involved in environmental and food safety scandals.

A draft of the proposed new legislation was filed Monday, the first day of the bi-monthly meeting of the National People's Congress (NPC) Standing Committee. It will be discussed before the session ends Saturday.

The "public interest litigation," designed to deal with large-scale violations of the public interest, would allow government and non-government organizations to take big businesses to court on behalf of individuals or small groups of citizens.

It comes in the wake of several pollution and food safety incidents in China. Earlier this month, Wal-Mart was fined for mislabeling ordinary pork as "organic pork" in a number of its outlets in southwest China's Chongqing municipality.

A number of lawmakers and related authorities have stated that public interest litigation is needed to cope with environmental pollution and food safety issues.

Under the current civil procedure law, plaintiffs are restricted to citizens, corporations and organizations whose interests are directly related to the case.

In many cases, such as pollution compensation, individual victims often lack resources and find it hard to collect evidence and start proceedings, preventing them from

taking polluters to court. Environmental organizations, which are often more willing to sue, face legal barriers in filing lawsuits in the public interest.

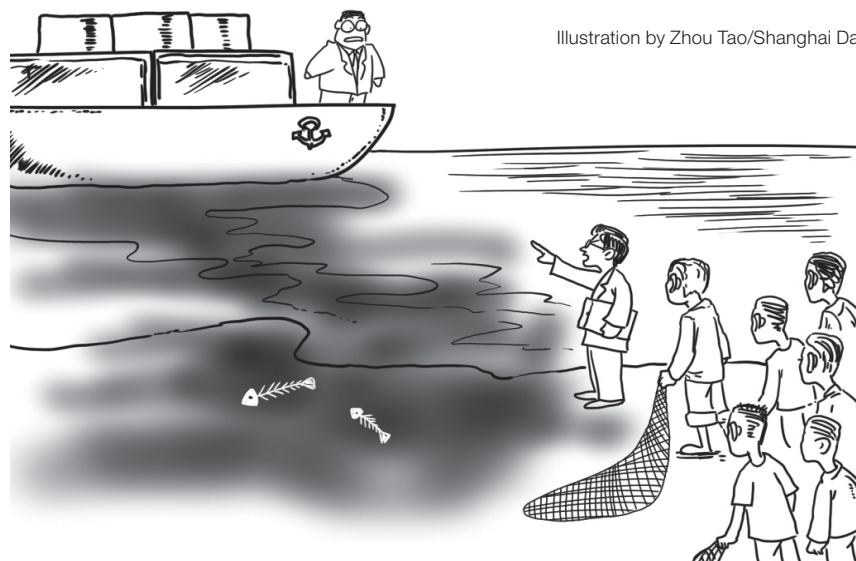
About 80 to 90 percent of public interest litigation cases filed by environmental organizations have failed mainly because the courts did not consider them to be qualified as plaintiffs, said Xu Xin, a professor from the Law School of the Beijing Institute of Technology. If public interest litigation is adopted, more polluters might be taken to court and victims may be better compensated, he said.

Too general

However, lawyers engaged in similar litigation have argued that draft is too general and might not be applicable in legal practice. The draft should clearly define which organizations are entitled to file public interest suits, said Li Gang, a Beijing-based lawyer who helps to run a non-governmental group advocating public interest litigation.

He suggested that ordinary citizens could also be plaintiffs in public interest litigation, which could be a good way for citizens to take part in governance.

Li's group is now working to help fishermen living near Bohai Bay file suit seeking compensation for lost business caused by oil spills that occurred in June at an oil platform owned by the China National Offshore Oil Corporation (CNOOC) and operated by US-based oil giant ConocoPhillips.



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"We have had more than 100 clients. But the proceedings will be very difficult. We do hope the amendment to the civil procedure law will give us some help," Li said.

Several non-governmental organizations have been working to help fishermen file a class-action lawsuit.

The draft would also allow the public to refer to court verdicts, except those containing confidential state and business information. Provisions in the draft would improve the supervision of civil lawsuit proceedings.

Under the current law, prosecutors can lodge a protest against civil court judgments. The draft law allows them to request a retrial.

According to the draft, prosecutors are entitled to supervise not only court verdicts, but also the implementation of the verdicts.

In addition, the draft tightens penalties on individuals and corporations who refuse to follow court judgments. According to the draft, the maximum fine on individuals would be increased from 10,000 yuan (around US\$1,500) to 100,000 yuan.

The minimum fine on corporations would be increased from 10,000 yuan to 50,000 yuan, while the maximum fine would be increased from 300,000 yuan to 1 million yuan.

Xinhua

Needed: Architecture with Chinese characteristics

EDITOR'S NOTE:

To ease crowding in the central city, Shanghai has built several satellite towns in its suburbs. Have they improved the lives of residents?

Dutch urban designer Harry den Hartog, an authority on Shanghai's urban planning history, spoke to Shanghai Daily opinion writer Ni Tao on October 13 about these issues. This is the second and final part of the interview.

Q: Given the explosive increase of private cars, isn't construction of new towns an ill-considered move as it will boost car sales and further snarl road traffic?

A: It may be a vicious cycle. That's also a problem with new towns in Europe or America.

Especially after World War II, people built many new towns in Europe but the infrastructure and urban transport were often not so good. So many new towns there ended up like sleeping cities. People lived there but traveled to old cities by car to work.

In Shanghai, people have built many subway lines in the past few years, so it is a big improvement if you compare it to the European situation. But it's still not enough. Shanghai needs more public transport, more subway, more buses.

In Jiading there is a very good subway connection now with the central city, that's Line 11 and Songjiang District has Line 9.

But the connection between the new towns is not so good. For example, if you are going from Qingpu

District (in the west) to Lingang New Town in Pudong New Area (in the east), you'll have to make a long, tortuous journey. So the city is built on the basis of a centralized model, not a decentralized model. The Metro lines are still too much focused to People's Square. It should become more like a spider web.

Q: One consequence of the construction of new towns is that Shanghai has come to rely on other Chinese provinces for its food supply because arable land is dwindling. Are the new towns actually a problem for people's basic survival?

A: Shanghai is located in the Yangtze Delta area and the land here is very fertile.

But more and more land is occupied by infrastructure and some polluted by industry. The area for agriculture is progressively shrinking.

Urbanization takes up land. It's like choosing the lesser of two evils.

If you follow the decentralization model, there will still be arable land in between the new towns. The distance between land and the city is shorter. This is also the idea behind decentralization. It may be better not to build developments on the land for agricultural use but on land reclaimed from sea.

Q: At night many new towns are deserted "ghost towns." How many new towns can actually function?

A: It's different for every place.

In the 1990s, the city made the latest plan for decentralization.

Urban planners chose from more than 60 possible locations for new



Harry den Hartog

towns. Finally they selected nine locations, one in every suburban district, and invited foreign architects to carry out pilot studies for these new towns.

Every district chose one of two pilot locations. They have different policies and people. Some of the pilots are a success, some a mistake.

For instance, a British-style new town is more like a theme park, almost nobody lives in there. Commercially it may be a success but it's a ghost town. The blending of local and Western cultures is only in the facade.

In Luodian New Town in Baoshan District, things are much better. More people are living there. Maybe 40 to 60 percent of the houses there are occupied permanently. The percentage is not high but it's much better.

Q: Many Western designers working in China seem to lack knowledge about local conditions, such as Chinese preferences for houses oriented toward the sun. Why is that?

A: I think it's a result of different cultures.

Many houses in China are oriented toward the sun because many

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families don't have a washing machine. They are used to hanging the laundry outside and drying pickled vegetables outside.

It is also a way to get heat inside the houses. Actually it is a very ecological and sustainable way of life.

But in the West, most people have washing machines and there is not so much sunlight as here in Shanghai.

In the UK and the Netherlands, houses are oriented in all directions and don't necessarily face the sun.

Many European designers didn't realize the difference. Hence their houses are very hard to sell.

I think many foreign architects and designers have learned the hard way that they ought to take into account the local habits such as drying laundry outside, local traditions, and maybe even *feng shui*.

Q: Do you think Western designers are given too much freedom in realizing their sometimes whacky renderings that are totally incongruous with their immediate surroundings, like Rem Koolhaas's design for the CCTV building?

A: For designers, more freedom is better. For the end-product

users, the people, they want control sometimes.

I think experiments are generally good because they bring new ideas and ways to make better cities. Some experiments may fail.

In China there is a construction boom, with so many offices and high rises being built. It's an ideal place for experiments. But architects have to realize that they need to respect the environment, local traditions and the people who are going to use the buildings they design.

I think Rem Koolhaas knows what he is doing, but maybe sometimes he has gone a little bit wayward. There was some debate about Rem Koolhaas in the Netherlands.

In Europe, there are many rules and guidelines for architecture. For example, there is always a limit on the height of buildings.

So in Europe there is some restriction of architects' freedom.

In China, it seems that you can build wherever you want, without thinking of the uses or surrounding environment. You need freedom but also supervision. You have to find the balance.

Skyscrapers make more efficient use of land in densely populated places like Hong Kong. Hong Kong is a good example because it has many skyscrapers but meanwhile retains its green areas.

So when you build skyscrapers, you should be aware of the need to match them with the environment. The first floor of skyscrapers has to have some public functions like shops, restaurants or other facilities.