Theory on the Injunction of Pollution and Nuisance in Chinese law

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In this paper, 10 judgments in which the injunction is at issue from civil judgments about environmental pollution are singled out, and analyzed. By the clue of these judgments, we analyzed the trend of judicial decisions, gave the tone of the theories, and considered the issues related to the injunction in pollution-nuisance dispute. Judgments on administrative standards and the conversion of proof for the causation have changed in court cases.

The rest of the paper is as follows. First, we take a look above an overview of the major laws and regulations related to the civil liability of pollution-nuisance. Secondly, the injunction lawsuits of pollution-nuisance are divided into before and after the enforcement of Tort Law in China. And by analyzing the lawsuits, we review decisions of courts and the current status of the injunction lawsuit of pollution-nuisance. Thirdly, we research the legal basis, civil rights, illegality (including the administrative standards problem) and causation (including a relaxation problem of the conversion of burden of proof for the causation). Finally, we propose the remaining issues for enactment of Law of Personality Rights, elements of the tort, and methods of trial, and then, have a view on the theory of pollution-nuisance.