

The Uphill Battle for Sustainable Development: Can the Use of Public Interest Litigation Protect the Natural Environment in Hong Kong?

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Abstrak

This article reviews the development of recent environmental public interest litigation in Hong Kong. Despite substantive time and efforts spent on the litigation, the judicial challenges so far had limited success in yielding the desired outcome that environmental concern groups had hoped for. The reasons behind this are complex, which include litigation strategies, the state of Hong Kong law on environmental protection and sustainable development and the courts' attitude towards public interest cases. This article studies the courts' reasoning and decisions, with a view to evaluating the use of public interest litigation as a tool of environmental advocacy under the current constitutional and administrative regime in Hong Kong. It argues that, despite its constraints, public interest litigation is an important tool to channel the public's views on the protection of the environment. It also recommends principles to be used in future environmental judicial review, including a purposive approach to interpreting environmental legislation and the reference to human rights in environmental issues. Finally, litigation is not the sole solution and it needs to be complemented with more up-to-date legislation and environmental standards.