



以检察公益诉讼促进环境治理的中国实践

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Fighting Environmental Crime & Public Interest Litigation

——Prosecution of Environmental Offences in China

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依法打击破坏环境资源犯罪

▶ 《刑法》专门规定了污染环境罪、非法采矿罪、盗伐林木罪等**15**个涉及破坏环境资源的犯罪。

▶ 检察机关从严打击污染大气、土壤以及进口固体废物、非法占用耕地、破坏性采矿、盗伐滥伐林木等破坏环境资源犯罪。

Fighting Crimes Harming Environment and Resources

▶ **15** types of environmental crimes are prescribed in the Criminal Law of China, such as environmental pollution, engaging in illegal mining activities, illegal logging etc.

▶ Prosecutors crack down on environmental crimes of polluting the air and soil, importing solid waste, illegal taking of arable land, destructive mining, illegal logging, and so on.



专项行动

2017年，广东省检察院牵头联合海关总署广东分署、省环保厅等部门开展“打击走私固体废物专项行动”

Special Action

In 2017, Guangdong Provincial Procuratorate led the "Special Action against Smuggling of Solid Waste" in conjunction with the General Administration of Customs Guangdong and the Environmental Protection Bureau of Guangdong



综合治理

- 充分调动包括行政、司法、企业、民间团体、社会公众等各方力量，履行责任，凝聚共识，推进环境的改善和环境问题的解决，是当代世界各国包括中国在内更为迫切也更为现实的需求

Integrated Governance

It is an urgent task for all countries, China included, to fully mobilize all stakeholders, including the executive departments, the judicial system, enterprises, non-governmental organizations, and the public, to fulfill responsibilities, build consensus, and to join force to improve the environment and tackle environmental challenges.



法律赋权

- 2017年6月,《民事诉讼法》《行政诉讼法》赋予检察机关在生态环境和资源保护等领域提起公益诉讼的权力

Legal Empowerment

- In June 2017, procuratorates were empowered to file environmental public interest litigation by the Civil Procedure Law and the Administrative Procedure Law



公益诉讼 Public Interest Litigation

案件领域 Target Areas

生态环境与
资源保护
Protection of
resources
and the
environment

食品药品安
全监督管理
Food & drug
safety

国有土地出让
State-owned
land-use
rights
transfer

国有财产保护
Protection of
state-owned
assets

英雄烈士名誉
保护
Protection of
the reputation
and honor of
heroes and
martyrs



公益诉讼 Public Interest Litigation

程序 Procedures

诉前程序 Pre-litigation proceedings

行政公益诉讼：检察建议
Administrative Public Interest
Litigation: procuratorial
recommendation

民事公益诉讼：公告
Administrative Public
Interest Litigation: notice

诉讼程序 litigation proceedings

向法院起诉
Court action



公益诉讼

Public Interest Litigation

案件类型 Types of Litigation

行政
公益诉讼
Administrative Public
Interest Litigation

民事
公益诉讼
Civil Public Interest
Litigation

刑事附带民事公益诉讼
an add-on civil public
interest litigation filed
in tandem with the
criminal proceeding



案 例

- 位于湖北省黄石市市区的磁湖风景区是省级风景名胜区，2018年之前，有居民在已被征收的土地上擅自搭建建筑物，并在鱼塘中围栏投肥养殖，破坏磁湖生态环境，对磁湖的水质造成污染。要拆除违法建筑和收回被占用的鱼塘涉及的行政机关众多，包括黄石市园林局、市规划局、市国土局、市水利水产局、下陆区城管局等，而且各部门之间存在着管理权限不清等问题，该行为持续14年未能解决。公益诉讼工作开展后，黄石市西塞山区检察院向上述5家行政机关发出检察建议，督促联合执法，携手破解了这个难题。该案成功办理后，区政府又主动将另一湖泊投肥养殖污染案线索转至检察机关。

Case Study

The Ci Lake located in the urban area of Huangshi City, Hubei province, is designated as a tourist attraction site under provincial protection. A local resident put up constructions on the designated area without government approval and fenced an area for fish farming, causing damage to the lake ecosystem and the wrongful act went on till 2018. Because of the tangle of overlapping responsibility between different administrative agencies in charge of landscaping, planning, land and resources and water resources and aquatic products, demolition of the illegal structures was postponed for 14 years. The local prosecutors stepped in by issuing pre-litigation recommendations to 5 agencies involved to urge them to perform their duties according to the law. After the case was resolved, the district volunteered evidence on another similar case to prosecutors and request actions from prosecutor's side.



诉讼理念

“诉前实现保护公益目的是最佳司法状态”

——检察公益诉讼为协同之诉，督促之诉，目标并不是将行政机关告上法庭，检察机关与行政机关的关系并非对立

“双赢多赢共赢”

——检察公益诉讼的本质，是助力政府依法行政，共同维护公共利益，促进问题的妥善解决

Philosophy of Public Interest Litigation

“The pre-litigation proceeding is the best judicial pathway to achieving the end of protecting the public interest”

——Prosecutors file a public interest lawsuit for the purpose of collaboration and supervision, not taking the government to court or antagonizing the government.

“Winning for All”

——The procuratorial public interest litigation by nature is to nudge the government to do their job to protect the public interest and work out the best solution to problems

1、重点办理生态环境和资源保护领域的公益诉讼案件



- 办理生态环境和资源保护领域公益诉讼案件112250件
- 112,250 environmental PILs filed
- 督促恢复被污染、破坏的耕地、林地、湿地、草原303.64万亩
- 3,036,400 mu of polluted arable lands, woodlands, wetlands and grasslands recovered

1. Data on Public Interest Litigation Handled by Prosecutors

- 督促清理固体废物、生活垃圾2840万吨
- 28.4 million tons of solid waste and domestic waste cleaned up
- 追偿修复生态、治理环境费用33.7亿元
- The cost of ecological restoration and environmental treatment worth 3.37 billion yuan recovered





2、增强协作、完善制度

- 会同最高人民法院发布《关于检察公益诉讼案件适用法律若干问题的解释》
- 会同生态环境部等9个部委建立行政执法与公益诉讼检察的衔接机制
- 会商司法部给予大力支持，增加了专业鉴定机构。司法部部署推出一批对检察公益诉讼不预收鉴定费的鉴定机构，承诺先鉴定后收费
- 最高人民检察院与中国科学院成立了生态环境鉴定联合实验室
- 部分地方检察机关与本地的环境检测中心合作建立快速检测或鉴定机构

2、Better Collaboration for Better System

- Working with the Supreme People's Court to issue the Judicial Interpretations on the Application of Laws for PILs Filed by Procuratorates
- Working with 9 ministries, including the Ministry of Ecology and Environment, to set up a link-up mechanism connecting between administrative law enforcement and public interest prosecution
- Supported by the Ministry of Justice to create more specialized forensic identification centers. The Ministry of Justice has appointed several forensic identification centers to waive the upfront payment for identification service when the public interest litigation is filed by prosecutors.
- Working with the Chinese Academy of Sciences to set up a joint laboratory for environmental damage assessment.
- Some procuratorate at the local level are working with local environmental testing centers to set up fast-track testing or assessment agencies

3、建立区域协同



1、2018年，上海、重庆、湖北、安徽、江苏等长江沿线11个省市检察机关，部署开展长江流域生态环保专项检察工作，并建立检察机关办理长江流域生态环境资源案件协作配合机制。如重庆市检察机关在公益诉讼专项行动中，共摸排相关线索336件，立案228件，发出诉前检察建议178件。

2、针对损害黄河生态环境等问题，最高人民检察院会同水利部开展“携手清四乱、保护母亲河”专项行动。自2018年12月起，黄河流域9省区检察机关共受理线索2339件，立案办理公益诉讼案件1097件，督促清理污染水域1707亩，督促清理生活和建筑垃圾138.7万吨，督促拆除违法建筑80.8万平方米。

3、2019年2月，中国检察机关部署沿海11省区市开展“守护海洋”检察公益诉讼专项监督。重点围绕入海排污口设置、陆源污染防治、海上污染防控等领域突出问题，督促有关行政机关依法履职，保护海洋生态环境和海洋资源。

3. Regional Collaboration

1. In 2018, procuratorates of 11 provinces and cities along the Yangtze River, including Shanghai, Chongqing, Hubei, Anhui and Jiangsu, carried out special task on protecting the ecosystem of the Yangtze River Basin. A cooperation mechanism for prosecutors to handle environmental cases arising from the Yangtze River Basin was set up. For example, during the special PIL action carried out by Chongqing procuratorates, a total of 336 clues were investigated, 228 cases filed, and 178 pre-trial warnings issued.
2. Regarding the ecological damage in the Yellow River, area, the SPP and the Ministry of Water Resources launched a special campaign of "Together for Clean-up of the Mother River." Since December 2018, the procuratorates in 9 provinces and autonomous regions in the Yellow River Basin have investigated a total of 2,339 clues, filed 1,097 public interest cases, supervised the clean-up of 1,707 mu of polluted waters, and urged the clean-up of 1.387 million tons of household and construction waste. They also urged the demolition of 808,000 square meters of illegal buildings.
3. In February 2019, China's procuratorates launched thematic campaign- "Champion of Ocean" to supervise related public interest litigation in 11 coastal provinces, autonomous regions and cities. The Campaign focuses on pressing issues of pollution prevention and control at the sewage outlet, land and marine pollution prevention and control, and urge competent authorities to perform their duties in accordance with the law and protect the marine environment and resources.



4. 刑事司法与公益诉讼相配合

案例：进口铜污泥案

2015年初，安徽某回收公司、宁波某贸易公司及两名被告人在明知铜污泥系国家禁止进口固体废物的情况下，共同商议、分工合作、进口铜污泥，危害我国生态环境安全。上海市人民检察院第三分院起诉后，各自然人被告人分别被判处2-4年有期徒刑，罚金60余万元。同时，检察机关在公告后提起刑事附带民事公益诉讼，要求四被告连带偿付非法进口固体废物的处置费用人民币100余万元。2019年9月5日，上海市第三中级人民法院当庭作出判决，依法支持了公益诉讼起诉人提出的全部诉讼请求。

4. Combining Criminal Justice with Public Interest Litigation

Case 1. : Illegal import of copper sludge

In early 2015, a recycling company in Anhui, a trading company in Ningbo and two defendants collaborated to import copper sludge, even though they were fully aware that copper sludge was among the solid waste prohibited from importing. Considering the environmental damage they caused, the 3rd Shanghai People's Procuratorate prosecuted the crime. Each of the natural persons was sentenced to 2-4 years of imprisonment and fined more than 600,000 yuan.

At the same time, an add-on civil public interest litigation was filed by the prosecutors in tandem with the criminal proceeding, requiring the four defendants to pay more than 1 million yuan for the disposal of the illegally imported solid waste.

On September 5, 2019, Shanghai 3rd Intermediate people's Court decided to support all claims raised by public interest litigant.



5、加强国际协作和区域协作

- 10月25日，中越边境地区检察机关生态环境资源和食品安全协同保护座谈会在中国南部边境城市崇左召开，各方签署会议纪要，明确在走私固体废物案件办理、跨境河流与界河的水质保护、边境森林保护等问题上定期会晤，加强司法合作。

5. Stronger International and Regional Collaboration

- On October 25, a forum on coordinated protection of environment , resources and food security by procuratorates along the border of China and Vietnam was held in Chongzuo, a border city in southern China. All participating parties signed the minutes of the meeting, declaring that they shall meet regularly on such issues as handling cases of smuggling of solid waste, protecting water quality of rivers running across borders and forests in border areas, and further strengthening judicial cooperation.



6、充分运用科技手段

- 公益诉讼研究中心
- 卫星遥感
- 大数据信息平台

6、Application of Technologies

- Research Center for Public interest Litigation
- Satellite remote sensing
- Big-data information platform



- 中国检察官愿与欧洲各国检察官携手努力，共同解决全球环境治理中的司法难题，共同维护地球这个美好家园。

Chinese prosecutors are willing to work with European colleagues to champion our common home using the tool of law.



感谢聆听
**Thank you for your
attention!**