



The Evolution of Dynamic Justice in the Lijiang River Basin in China

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Abstract. Judicial activism is deeply embedded in the area of environmental issues. In recent years, the Lijiang River Protection Tribunal has effectively utilized judicial activism in its trials and has achieved notable success in the "three-in-one" centralized jurisdiction trial system. Nonetheless, shortcomings remain: from the external arrangement, the current jurisdictional distribution does not encompass complete basin protection, the court's organizational framework struggles to align with the specialization of environmental justice; concerning the specific trial domains, the current evaluation and identification mechanisms impede the advancement of criminal trial processes, while the traditional administrative litigation trial jurisdiction finds it challenging to safeguard public interest. This study employs qualitative meta-analysis to examine the theoretical discussions, current issues, and potential solutions surrounding environmental energy justice in the Lijiang River Basin. The findings of this study indicated that to fully harness judicial activism, we need to rebuild the environmental jurisdiction across the entire basin from a macro perspective and reorganize the structure of specialized environmental courts; from a micro perspective, we ought to enhance the evaluation and assessment system to advance criminal trials and expand the approach of administrative public interest litigation to safeguard public interest. By implementing the aforementioned programs, the environmental judicial protection framework in the Lijiang River Basin is enhanced, and a more accurate pathway for judicial activation for Lijiang River Basin.

Keywords: Environmental Justice, Dynamic Justice, Lijiang River Basin, "Three-in-one" Trial Mechanism

1 Introduction

In the "Three-in-one" trial practice in the Lijiang River Basin, the centralized jurisdiction of criminal cases is the earliest, and has basically formed a more mature mechanism; the current stage of development in the civil field is a critical period of exploration.

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tion, and the relevant mechanism is being gradually improved and established; the number of administrative litigation cases is relatively low, and there have been almost no cases with the Lijiang River Scenic and Historic Spot Management Committee ("Lijiang Management Committee") as the administrative defendant. The number of administrative litigation cases is relatively low, and cases in which the Lijiang River Scenic Spot Management Committee (hereinafter referred to as the "Lijiang Management Committee") is the administrative defendant have almost never occurred.

1.1 The Current Situation of the Criminal Trial Field of Ecological and Environmental Judicial Activation in the Lijiang River Basin

Criminal liability because of its stronger punitive, for the judicial protection of the Lijiang River ecological environment has a greater deterrent, warning effect, effectively realizing the unity of the legal effect and ecological effect. For example, a defendant in the case of illegal fishing, although the crime occurred in Guilin Xufeng District, but because the main facts of the case occurred in the Lijiang River waters, belonging to the Lijiang River environmental crimes, and ultimately by the People's Procuratorate of the Qixing District to file a public indictment, the People's Court of the Qixing District in accordance with the law to make the defendant committed the crime of illegally catching aquatic products verdict. The centralized jurisdiction of environmental criminal cases is a judicial safeguard exercised by the judicial department of Qixing District under the leadership of Guilin Municipal Judiciary, which is conducive to the ecological environmental protection of the Lijiang River basin, breaking the territorial jurisdiction of the traditional grass-roots courts, and is a vivid embodiment of the judiciary's response to the characteristics of the basin, and its initiative to play the role of the judiciary's mobility.

1.2 The Current Situation in the Civil Trial Field of Judicial Activation of the Ecological Environment in the Lijiang River Basin

Depending on the basis of different divisions, the following situations may arise in the field of environmental civil trials: civil private interest litigation, civil public interest litigation, criminal incidental civil litigation, and criminal incidental civil public interest litigation. However, the situation involving the Lijiang River Basin centralized jurisdiction, including only the "criminal incidental civil public interest litigation" in the "incidental civil public interest" part. The author believes that the emergence of the above situation is caused by a combination of several factors, need to accurately analyze the characteristics of judicial activism, from the environmental needs of the public welfare and the judicial level of analysis. First of all, the environmental tort to the public interest as the main body of the perspective of environmental restoration and ecological restoration, public welfare is more in line with the characteristics of environmental protection. Secondly, the first instance court level of pure civil public interest litigation is the Intermediate People's Court, if this trial, the Lijiang River Basin civil public interest litigation cases will be heard by the Provincial High Court, which is a waste of judicial resources. Lastly, according to the hierarchy of trials, it is more appropriate for the first

instance civil public interest cases to be heard by the basic level courts. If the principle of procedural law is to be followed, the independence of the civil public interest needs to be dealt with in an incidental manner, i.e., the basic-level courts will include the civil public interest portion of the judgment on the basis of the ordinary first-instance criminal case. The active application of the above hearing mechanism effectively links the civil part of the "three-in-one" centralized jurisdiction, fully reflecting the initiative of the judiciary in protecting the ecological environment of the Lijiang River.

1.3 Problem Statements

The problem statements addressed in this study are divided into external set-up dilemma and specific trial areas, as explained below.

1.3.1 External Set-Up Dilemma.

Establishing jurisdictional boundaries to oversee the environmental protection of the entire river basin poses a challenge for current courts. The jurisdiction of the Lijiang Management Committee covers the core area of the Li River Scenic and Historic Spot (hereinafter referred to as the "core section of the Lijiang River"), and according to the Regulations on Ecological Environmental Protection in the Lijiang River Basin of the Guangxi Zhuang Autonomous Region (hereinafter referred to as the "Lijiang River Regulations"), the scope of According to the Regulations on Ecological Environmental Protection of the Lijiang River Basin of the Guangxi Zhuang Autonomous Region ("Lijiang River Regulations"), the scope of ecological environmental protection of the Lijiang River Basin (hereinafter referred to as the "entire section of the Li River") involves the entire boundaries of five districts and part of the boundaries of five county-level zones. The entire section of the Lijiang River as delineated in the Lijiang River Ordinance is much larger than the core section of the Lijiang River under the overlapping jurisdiction of the Tribunal and the LMC. It is easy to see that the existing Lijiang River Protection Tribunal is not sufficient to cover the whole river basin. In terms of number, there are still vacancies in the number of courts (including circuit courts), and in terms of location, the jurisdiction is still limited to the core section of the Lijiang River in the middle and lower reaches of the river, which is relatively small in scope.

Adapting the current Tribunal's organizational structure to fit the specialized needs of environmental justice is a challenging task. First, there is a gap between the specialized staff and the actual handling of cases. From the establishment of the court to date in judicial practice, in addition to a few cases to the place of occurrence, the parties involved in the location of the circuit trial, the majority of cases are concentrated in the Lijiang River Protection Court, and the court's "three-in-one" centralized jurisdiction team to handle the case of fewer staff and at the same time to take into account the region related to civil and commercial disputes and other trial business. Second, the existing organizational structure is difficult to meet the environmental trial specialization. The court is attached to an independent trial court at the basic court level, which is not conducive to the coordination of trial operations in the entire Lijiang River basin.

1.3.2 Specific Trial Areas.

The current evaluation and valuation system struggles to advance the criminal trial process. To protect the ecological environment with the most stringent rule of law is the fundamental guideline in the field of environmental protection rule of law, the rate of initiation of criminal cases directly affects the strength of ecological environment protection. Such as Jiangxi Python Peak case, the perpetrator of the loss caused by the mountain is difficult to quantify, and at present there is no statutory appraisal institutions can be identified, but constitutes a serious damage to the judgment is precisely to determine the defendant constitutes the core of the crime, so the judicial organs give full play to the characteristics of the dynamic, actively seeking "high level of expert opinion" instead of the "environmental resources professional appraisal". "Environmental resources professional appraisal organization opinion", the judicial organs commissioned scientific research institutions to make ecological damage value assessment report. In the subsequent prosecutor's request for compensation, including the evaluation cost of 150,000 yuan spent on hiring experts, the parties involved, not to mention the amount of ecological compensation, only the expert appraisal cost has become a large amount of expenditure. Similar problems have also arisen in the Lijiang River Basin area, for example, in the case of Jin and three others who caused a fire that burned down the key public welfare forest of Da Mian Shan in the Lijiang River Basin, damaging the public interest of the society. Due to law enforcement authorities, Guilin Municipal People's Procuratorate found in the performance of its duties, after investigation and evidence collection, damage identification, announcement and other procedures, Guilin Municipal Procuratorate filed a civil public interest litigation in accordance with the law, v. the three defendants to bear the cost of ecological environment restoration, ecological environment damaged to the completion of the period of restoration of the loss of the service function caused by loss of loss of costs, identification and other costs, but also due to the appraisal of the issue of not filing a criminal indictment.

Protecting the public interest in traditional administrative litigation is a challenging task. First, the scope of the defendant of the case is limited. In practice, the number of cases in which the Lijiang River Management Committee and its subordinate units are the defendants is negligible, which leads to the protection of a small number of such cases, and fails to cover the administrative acts of the Ministry of Ecology and Environment, the Ministry of Natural Resources, the Bureau of Agriculture and Rural Development, and other administrative departments involved in the protection of the Lijiang River. Second, the scope of cases is limited. Among the several departments of the Lijiang Management Committee, the administrative departments involved in ecological environmental protection are concentrated in the Comprehensive Law Enforcement Bureau, whose jurisdiction focuses on the essence of the Lijiang River in Yangshuo, Guilin, and does not certainly cover ecological environmental protection in the middle and upper reaches of the Lijiang River. Thirdly, the means of resolving the case is limited. The solution of administrative litigation focuses on litigation confrontation rather than non-litigation form, but the non-litigation way to solve judicial cases is the orientation of today's practice. Ecological damage is irreversible, the approach of ex ante protection has not been emphasized in the traditional administrative litigation, the

original ex post facto relief program is not conducive to ecological environment protection in the Lijiang River Basin, and it is difficult to comply with the principle of "prevention first" of the Environmental Protection Law. In summary, the current methods of administrative litigation have not yet achieved a non-adversarial and proactive approach.

1.4 Research Objectives

The aim of this research is to explore the environmental justice practices in the Lijiang River Basin. The specific objectives are to

(a) explore methods to improve the current set-up of the jurisdictions and the organizational structure of the Tribunal.

(b) investigate ways to safeguard the public interest throughout criminal trial procedures and trials in traditional administrative litigation.

2 Literature Review

In this section, two main issues are discussed. First, the difference between the judicial activism represented by the United States and the new era of activist justice in the Chinese context, focusing on the concept of activist justice in China through the discernment of characteristics. Second, the examination of dynamic justice in the environmental sector involves assessing the compatibility between environmental justice and dynamic justice. This specific analysis aims to establish dynamic justice as a crucial concept for guiding court decisions regarding environmental resources in the Lijiang River Basin.

2.1 Theoretical Review between Dynamic Judicialism and Chinese-Style Dynamic Justice

First, the background and objectives of the establishment of the distinction. The so-called judicial activism, which originated in the United States, refers specifically to the judicial review and evaluation of legislative activities and administrative enforcement actions in the name of constitutional interpretation under the political system of separation of powers.^[1] In our country, judicial activism started later, its purpose is to strengthen the social function assessment by judicial means by playing the social role of justice.^[2] In a nutshell, the focus of our country's dynamic justice is the judiciary to take the initiative to actively act, give full play to the dynamic and integrate into the social governance. Secondly, the distinction of specific practices in practice. The United States of America's judicial activism is mainly manifested in the unconstitutional review, judicial legislation, judges make law.^[3] And our judicial activism is mainly manifested in the judicial organs to serve the overall situation of the party and the country, through the formulation of judicial interpretation, adjusting judicial policy, improve the trial mechanism for dispute prevention and conflict resolution.^[4] In other words, the former belongs to the confrontation type, applicable to the separation of

powers model; the latter belongs to the compliance type, applicable to our local situation. Thirdly, the distinction of specific meaning in theory. For judicial activism, it is summarized according to Wolf's analytical framework and Komik's specific performance: it is a kind of judicial theory that allows the court to discover the unconstitutionality of the legislation by means of judicial review without following the precedents, and to safeguard the rights and realize the social justice by means of judicial judgment.^[5] Some scholars have also summarized the core of its definition as a refusal to conform to the administrative actions of other branches of government, a deviation from constitutional and interpretive fidelity, and an overruling of sentencing precedents.^[6] And then the rise and development of Japan's magistrate system in the last century, has become an important initiative to realize judicial democracy and improve the rule of law in Japan. In the author's view, the above views together highlight the non-restraint of judicial activism.^[7]

2.2 Examination of the Compatibility between Dynamic Justice and Environmental Justice

First, the loopholes in environmental laws need to be compensated for by judicial activism. Currently, environmental issues are of great concern, the environmental field of law is in a period of rapid development, such as simply in accordance with the provisions of the law, do not fully take into account the realities of the situation, there is no appropriate innovation case, easily lead to judicial activities in the environment in front of the case of the passive, not only threaten the authority of the judiciary, but also detrimental to the environment and the public interest.^[8] Secondly, the public interest of the environment needs to be protected by judicial activism. The biggest feature of the environmental case is that it protects not only private interests, also includes the public interest, most of the cases can not accurately determine the relative (including environmental pollution, ecological damage, resource loss of the injured party). Some scholars have pointed out that the combination of judicial activism and environmental public interest litigation is consistent with the trend of promoting judicial activism, the core of judicial activism and environmental public interest litigation to achieve the social justice required by the judicial power is essentially the same, which also formed the globalization of the public interest protection of judicial activism form.^[9] Thirdly, the specialization of environmental justice requires judicial activism jurisdiction. Environmental justice specialization is the field of environmental cases must answer the question of trial, through the establishment of environmental protection court + designated jurisdiction, the formation of special environmental cases jurisdiction pattern.^[10] In terms of judicial activism, some scholars believe that it is necessary to go beyond a single legal dimension in judicial activities, to comprehensively, integratively and holistically analyze and consider the various factors involved in the object, to reasonably balance the relationship between various claims and interests, and to appropriately resolve the conflict of various rules and values.^[11] Some scholars have pointed out that the degree of environmental judicial activism in China has even surpassed the traditional sectoral areas of law in some respects. Due to the natural cross-cutting, hotspot, urgency and

public nature of environmental issues, environmental justice is more likely to be influenced by policy factors, international factors and social factors. ^[12]

3 Research Methodology

In this section, a qualitative meta-analysis method is utilized to examine the theoretical discussions, current issues and potential solutions surrounding environmental energy justice in the Li River Basin, following mainly the meta-analysis steps outlined by Heidi et al. (2018). Specifically, the meta-analysis on the environmental energy justice pathways is shown in Table 1.

Table 1. The meta-analysis on the environmental energy justice pathways

Theme	Perspective	References	Idea
Studies Re-viewed	Energetic judicialism and Chinese-style energetic justice	a)Wang Shengjun. Give full play to the role of judicial activism to ensure stable and rapid economic development[N]. People's Court News, 2010-01-06(001). b)Wang Yi. The Meaning and Limitations of “Energetic Justice” in China--A Comparative Analysis with “Judicial Energeticism”[J]. Contemporary Law,2012,26(03):11-16. c)Fang Yin. Outline of the people's court's environmental judicial activism[J]. Journal of Gansu University of Political Science and Law,2015,(04):79-95.	Judicial activism, represented by the courts, is a way for judicial organs to give full play to their own subjective initiative, responding to the needs of development in specialized fields and gradually adjusting and improving their existing adjudication mechanisms, with a view to achieving the effect of serving the Party and the State.
	The alignment of dynamic justice and environmental justice	a)Qin Tianbao. The development direction of environmental justice under judicial activism[J]. Tsinghua Law,2022,16(05):147-162. b)Fu, S.M., Liu, T.Y.. Environmental judicial activism: mechanism, limit and realization[J]. Journal of Central South Forestry University of Science and Technology (Social Science Edition),2019,13(02):53-59. c)Pan RJ. Boundary of ecological environment judicial energiza-	First, environmental legal loopholes need to be filled by judicial activism. Second, the public interest in the environment requires dynamic judicial protection. Third, the specialization of environmental justice requires dynamic judicial jurisdiction.

		tion[J]. Journal of Taiyuan College (Social Science Edition),2017,18(05):31-34.	
Macroscopic Perspective	Jurisdiction of the Court	a)XIAO Ai, TANG Shihao. Judicial Specialization of Watershed Ecological Environment: Roots, Compliance and Development[J]. Journal of Nanjing University of Technology (Social Science Edition),2024,23(01):82-95+114.	Setting up jurisdictions with basin-wide coverage to form a pattern of environmental justice protection.
	Setting up the organizational structure of the Tribunal	b)WU Yong, LIU Ping. Development of environmental judicial mechanism in watersheds: from environmental tribunal to environmental court[J]. China Environmental Management,2024,16(01):145-153	Strengthening the Lijiang River Protection Court and expanding the team of specialized judges.
Microscopic Perspective	Criminal Appraisal and Assessment Mechanism	a)SUN Haitao, SONG Xinran. Risks and Countermeasures of the Operation of Environmental Administrative Public Interest Litigation System under the Perspective of Judicial Activity[J]. Journal of Hohai University (Philosophy and Social Science Edition),2022,24(05):117-126+130	The expert opinion may be regarded as an appraisal opinion, and a judicial fund for ecological and environmental protection to be established.
	Administrative Public Interest Litigation Model	b)Wu, Kai-Jie. On Preventive Environmental Public Interest Litigation[J]. Theory and Reform,2017,(03):146-161.	Adding an administrative public interest litigation model to protect the public interest.

4 Improvement Path of Environmental Energy Justice in Lijiang River Basin

From the examination of the evolution of the energetic justice theory, it can be concluded that this theory can be effectively and realistically implemented in the assessment of environmental resources. Different ecological and environmental factors within the basin engage with one another to create an extensive system of connections and dependencies, necessitating environmental resource assessments in the basin to rely on systematic thinking and proactively employ subjective initiative. This study suggests a program to enhance the judicial safeguarding of the ecological environment in the Lijiang River basin based on the theory of dynamic justice. The summary is shown in Table 2, and the details are expanded below.

4.1 Macroscopic Perspective

Reconstructing the environmental jurisdiction of the basin-wide Lijiang River Tribunal. First, set up jurisdiction with basin-wide coverage. At present, the core section of the Lijiang River has achieved initial results, which mainly corresponds to the management of the downstream section of the essence, while the middle and upper reaches of the Lijiang River have been neglected to some extent, for example, along the coast of the Qingshi Lake Reservoir, although there are ecological damages, but it is difficult to file a case for environmental cases to accept, while the Qingshi Lake Reservoir as an important source of the Lijiang River upstream water replenishment, such as the occurrence of serious environmental damages, the fear of Li River, resulting in unforeseeable consequences. At present, including resources, Xing'an, Lingchuan and other places, including the upper and middle reaches of the region is still in accordance with the principle of territorial jurisdiction, to take a matter of fact, do not sue, the traditional trial of environmental protection has not been separated from the state, I believe that the need for the upper and middle reaches of the same into the Lijiang River Court of Protection of the scope of special judicial protection, more conducive to the realization of the Lijiang River, the unity of the trial of environmental protection cases. Second, the formation of environmental judicial protection pattern. According to the aforementioned, Guilin City currently includes only two spots, the Lijiang River Protection Court and the Xingping Circuit Court, but in the context of the above jurisdictional setting, it is difficult for the two existing courts to cover the whole area. According to the setting of the nature reserve in Guilin City, Guangxi, and combining with the geographical characteristics of the Lijiang River Basin, the author believes that a new Lijiang River environmental judicial protection pattern can be created on the basis of the existing foundation, which consists of "a main base in the urban area + four circuit protection points in the southeast, northwest and north".

Reconstructing the organizational structure of specialized environmental justice trials. First, the Lijiang River Protection Court should be strengthened. First of all, the former Lijiang River Protection Court should be independent as an exclusive trial court, with the same level as the criminal trial court of Qixing District, and the staffing of the court should be subordinate to the department of Qixing District People's Court, and named "Guangxi Guilin Lijiang River Basin Ecological and Environmental Protection People's Court". At the same time, Guilin Intermediate People's Court set up the first environmental resources trial court in Guangxi. Because it involves multiple counties and districts to coordinate the trial of the basin, it continues to strengthen the exploration of a relatively centralized case jurisdiction system. In terms of specific case handling operations, the Environmental Resources Division of the Intermediate Court and the Qixing District People's Court serve as the common superior of the Lijiang River Protection Court, while the Environmental Resources Division of the Intermediate Court accepts second-instance cases that are unsatisfied with the judgment of the Lijiang River Protection Court.

In addition, the Environmental Resource Division of the Guilin Municipal Intermediate Court has set up the Environmental Resource Consultation and Coordination Organization, which coordinates the coordination and deployment of matters involving

the administrative jurisdictions in the Lijiang River Basin, and manages the People's Courts of various cities, counties and districts to cooperate with the People's Courts of Ecological and Environmental Protection of the Lijiang River Basin in its trial work. Second, expanding the team of specialized trial personnel. First of all, to increase the number of trial staff team, increase the number of court establishment, with the expansion of jurisdiction, with the criminal and civil law enforcement experience of the composite post judge is the first to consider the inclusion of the talent team. At the same time, to solidly promote the specialization of the trial team personnel, consider setting up a think tank of environmental professionals, as the Lijiang River Protection Court reserve service institutions, such as reference to the latest introduction of the "people's jurors with specialized knowledge to participate in the trial of environmental resources cases in a number of provisions," to absorb the local Guangxi outstanding experts and scholars in the field of environmental experts and scholars into the library, for the trial of the local environmental protection cases to provide the most professional services to protect.

4.2 Microscopic Perspective

Sound evaluation and appraisal mechanism to vigorously promote the criminal trial. First, the expert opinion can be regarded as an appraisal opinion at present the domestic ecological appraisal institutions are not many, such as in the case of complex cases are also difficult to competent, the situation can be referred to the "Python Peak case" experience and practice, relying on the local universities and colleges of professional research and technology, the way to negotiate the cooperation of the project subject, the expert opinion issued by its professionalism and identification costs are cost-effective. The cost is cost-effective. Guilin can also explore this kind of practice in case of emergency. Second, establish a judicial fund for ecological environmental protection. Although the practice of commissioning universities can solve the urgent need, but to promote the results of the appraisal opinion, still need financial support. The parties in the judgment before the entry into force did not bear the obligation of the appraisal costs, resulting in the prosecuting authorities of the prosecution initiation process and commissioned the appraisal of the cost of advancing the issue of the formation of a stark contradiction between the conflict. Can consider from the successive cases for the source of the implementation of the cost, set up a special judicial fund for ecological environmental protection library, the procuratorial organs after the application for approval can apply the funds, after winning the case to the parties to recover.

Increasing the number of administrative public interest litigation models to protect the public interest. Some scholars have pointed out that the implementation of the environmental administrative public interest litigation system requires the judiciary to give full play to its initiative, which is more conducive to bringing the judiciary closer to socially disadvantaged groups, enhancing the level of human rights protection in the judiciary and promoting collaboration between the judiciary and the administrative entities.^[13] At present, the Lijiang River Basin three-in-one centralized jurisdiction model, the administrative field only includes traditional administrative litigation, in order to give full play to the judicial initiative, administrative public interest litigation

should be included. Administrative public interest litigation has preventive color. Administrative public interest litigation for the procuratorial organs to exercise the pre-litigation recommendations, urge the administrative organs to perform their duties in accordance with the law, this program has become the core of the implementation of the concept of preventive. Environmental administrative public interest litigation through the supervision and correction of administrative organs, directly affecting the administrative behavior of government organizations, but also indirectly adjusted the perpetrators of environmental damage practices, this type of litigation is more in line with the need to prevent ecological and environmental damage.^[14]

Table 2. The Improvement Path of Environmental Energy Justice in the Lijiang River Basin

Macroscopic Perspective		Microscopic Perspective	
Refactoring the jurisdiction area of the Lijiang River court environment in the entire basin	Refactoring the organizational structure of specialized judicial trials in the environment	Establishing a sound evaluation and appraisal mechanism to effectively promote criminal trials	Increase the mode of administrative public interest litigation to protect public interests

5 Conclusion

In practice, the judiciary should give full play to judicial activism, not only by reconstructing the environmental judicial jurisdiction of the whole basin and reorganizing the organizational structure of environmental judicial specialization, but also by strengthening the judicial protection of the ecological environment in the Lijiang River Basin through the sound assessment and appraisal mechanism to promote the criminal trial, and by increasing the mode of administrative public interest litigation to protect the public interest. This study has made an analysis of the Lijiang River Basin as a research object, however, looking at the development of environmental justice energy, there are still a lot of research gaps, and it is believed that there is still room for exploration in many areas in the future.

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