

An Analysis of Cross-Administrative Environmental Public Interest Litigation: A Case Study of the Wanfeng Lake Project

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Abstract: Cross-administrative environmental public interest litigation is a significant issue within the scope of environmental public interest litigation. The Wanfeng Lake case, highlighted as a guiding case by the Supreme People's Procuratorate this year, has brought this topic into the spotlight once again. This paper examines the concept, practical challenges, and future prospects of cross-administrative environmental public interest litigation through the lens of the Wanfeng Lake case. The goal is to further clarify and explore practical pathways for handling such litigation.

Keywords: Wanfeng Lake, cross-administrative, environmental public interest litigation

1. Introduction

As an essential part of public interest litigation, environmental public interest litigation plays a crucial role in reinforcing judicial penalties, enhancing judicial cooperation, and promoting judicial remedies. Due to the interconnectedness and mobility of environmental factors, some cases involve multiple administrative regions and various stakeholders, including individuals, social organizations, and government agencies. Cross-administrative environmental public interest litigation is a vital approach to resolving such cases. This paper aims to explore the fundamental principles of cross-administrative environmental public interest litigation, analyze the significance of the Wanfeng Lake case, and discuss the reasons for emphasizing and improving this type of litigation. It also addresses the current challenges faced by such litigation and suggests possible solutions.

2. The Wanfeng Lake Project: Pioneering New Avenues for Public Interest Litigation

2.1 Water Pollution and Public Remedies

Wanfeng Lake is located in the southeast of Xingyi City, the capital of the Qianxinan Autonomous Prefecture in Guizhou Province. It is a freshwater lake formed by the reservoir created by the construction of the Tianshengqiao Dam, a key national hydroelectric project. The lake, part of the Nanpan River system, which is the source of the Pearl River, covers a water surface area of 816 square kilometers. The water quality of Wanfeng Lake is crucial for the livelihood of tens of thousands of people along its shores and the sustainable development of the Pearl River basin.^[1]

However, for many years, Wanfeng Lake has suffered from severe water pollution, leading to various environmental problems, including deteriorating water quality in the lake, with some areas classified as inferior to Grade V water quality. Central environmental inspections in 2016 and 2017 identified multiple environmental issues in the lake area. Despite remedial efforts organized by the Guizhou Province Qianxinan Prefecture and the Baise City government of the Guangxi Zhuang Autonomous Region, these problems were not fundamentally resolved.

In November 2019, the Guizhou Provincial People's Procuratorate reported the ecological pollution issues of the Wanfeng Lake basin to the Supreme People's Procuratorate. Considering the circumstances, the Supreme People's Procuratorate decided on December 11, 2019, to directly file a public interest lawsuit based on the environmental damage in the Wanfeng Lake basin.

2.2 "The First Case Directly Handled by the Supreme People's Procuratorate"

The Wanfeng Lake case, formally known as the public interest litigation case for urging the rectification of the ecological damage in the Wanfeng Lake basin, marks the first public interest litigation directly filed by the Supreme People's Procuratorate. This case holds a significant place in the development of public interest litigation. Wanfeng Lake is situated at the junction of Guangxi, Guizhou, and Yunnan provinces (regions) and belongs to the Nanpan River system, which spans numerous administrative regions. The basin faces various pollution issues, including illegal cage fish farming, floating houses, fishing platforms, ships, garbage belts, and wastewater, resulting in severe and complex pollution problems in the lake area. The case involves multiple regions, various levels of administrative agencies, and both administrative entities that failed to perform their duties according to the law and civil entities that committed illegal acts. There were also jurisdictional disputes among the procuratorates. To protect public interests effectively and promptly, the Supreme People's Procuratorate decided to file a public interest lawsuit based on the ecological damage in the Wanfeng Lake basin, pioneering a new approach in cross-administrative environmental public interest litigation.

3. Overview of Cross-Administrative Environmental Public Interest Litigation

3.1 Unified Prevention and Control of Cross-Regional Pollution

According to the law, environmental public interest litigation in China, whether civil or administrative, generally follows the principle of territorial jurisdiction, which establishes clear jurisdictional boundaries based on administrative divisions. However, "administrative management has boundaries, but environmental issues do not." As one scholar noted, "Using administrative divisions as the basis for environmental judicial jurisdiction artificially fragments the spatial dimensions of environmental protection, disconnecting the allocation of judicial power from the principles of ecosystem management." This makes it difficult to resolve cross-administrative environmental issues at both the administrative enforcement and judicial levels.^[2]

China has many rivers and lakes, and environmental pollution often exhibits strong diffusibility and externality. A pollution source may be located upstream of a river or on the opposite shore of a lake, and a single pollution source may cause pollution across multiple locations and times. Environmental public interest litigation should not and cannot be confined by administrative boundaries.

Article 20 of the revised Environmental Protection Law stipulates that the state shall establish a joint prevention and control coordination mechanism for key regions and river basins across administrative areas to implement unified planning, standards, monitoring, and prevention measures. As an important judicial tool for protecting the ecological environment, environmental public interest litigation should undoubtedly be applicable to this provision and guided by the legislative spirit of overall environmental governance. Therefore, cross-administrative public interest litigation can target multiple illegal entities and assume multiple legal responsibilities, allowing for concentrated and unified case handling and supervision of environmental pollution issues.

3.2 Plaintiffs in the Litigation

Cross-administrative environmental public interest litigation is a type of environmental public interest litigation. Strictly speaking, the law stipulates that plaintiffs eligible to initiate such litigation include procuratorates, social organizations meeting legal requirements, and individuals. However, cross-regional environmental public interest litigation often presents complex and large-scale cases, making evidence collection and assessment difficult. Engaging with numerous involved parties adds to the challenge, making it particularly difficult for weaker and more dispersed social organizations or individual citizens to handle.

While procuratorates face certain limitations in public interest litigation, they remain the primary entities for initiating such litigation under the current judicial landscape, holding a significant proportion of environmental public interest litigation cases.^[3]

The Wanfeng Lake case clearly demonstrates the pivotal role of the Supreme People's Procuratorate, the highest prosecutorial authority in China, in major environmental public interest litigation. In this case, the lake pollution problem involved multiple counties and cities. After filing the case, the Supreme People's Procuratorate initiated an integrated case-handling mechanism, forming a task force led by chief

prosecutors and integrating the resources of four levels of procuratorial organs to maximize the functions of different levels. The Supreme People's Procuratorate issued a unified work plan to the procuratorates of the three provinces (regions), establishing a "unified and case-specific, integrated promotion" model. The task force unified case line review, case task allocation, and resource deployment, controlling case quality through case approval and filing review, and providing guidance through notifications and reminders, thereby aiding the various task groups in overcoming difficulties and advancing the overall case progress.

4. Necessity of Cross-Administrative Environmental Public Interest Litigation

4.1 The Mobility of Ecological Elements and the Diffusibility of Environmental Pollution

Among all types of public interest litigation, cross-administrative litigation is most commonly environmental. Ecological environments are integral and cannot be divided by spatial dimensions; various elements are interconnected and influence each other, such as the uncontrollable flow of rivers and lakes, air dispersion, or soil seepage. Cross-administrative environmental pollution and damage are characterized by wide pollution ranges, long durations, and difficult restoration of damages, presenting governance challenges like "inconsistent actions between upstream and downstream areas" and "difficult restoration of ecosystems after destruction." If pollution sources are not promptly managed and restored, pollution will continue to spread, extending from the source area and causing broader and deeper pollution consequences. Strict administrative divisions cannot violate natural laws to stop this spread.

In the Wanfeng Lake case, besides direct pollution from illegal cage fish farming leading to severe water quality deterioration, issues included direct pollution from household garbage and sewage discharge, as well as indirect pollution from the movement of ecological elements. Examples include wastewater from fishponds being discharged into the Manyi River, flowing into Wanfeng Lake; garbage belts along water bodies floating to the lake surface; harmful substances from illegal construction seeping into the soil and being washed into Wanfeng Lake by rainwater.^[4]

4.2 The Practical Requirements of Environmental Judicial Reform

As society continues to develop and transform, traditional environmental judicial models have shown many drawbacks. The emergence and development of cross-administrative environmental public interest litigation align with the trend of judicial reform. The early judicial attempts at cross-regional cooperation for protecting the Yangtze River basin's environment indicate a clear determination to break through the limitations of territorial jurisdiction in environmental judicial reform.

4.2.1 Breaking the Constraints of Local Protectionism in Environmental Justice

Local protectionism is a significant obstacle to promoting environmental protection, especially at the grassroots level. Local governments may abandon environmental protection in pursuit of economic interests, exacerbating environmental pollution. Courts divided by administrative regions may also favor violating parties for economic reasons, while procuratorates may neglect their duties to supervise and rectify, resulting in judicial injustice and increasing the difficulty of judicially restraining environmental pollution. Thus, it is necessary to have more authoritative bodies directly handle and rectify cases to effectively promote environmental protection and uphold judicial authority.

4.2.2 Promoting "Integrated Case Handling" to Improve Judicial Efficiency

Traditional judicial models exhibit clear hierarchical boundaries between higher and lower judicial organs. Cross-administrative environmental public interest litigation provides a path and opportunity for "integrated case handling," enhancing collaboration and communication between different levels of judicial organs. Higher courts have the advantage of coordinating case handling and addressing issues difficult for lower courts, while lower courts, familiar with local conditions and case details, can directly and concretely handle case practices and supervise rectification. "Integrated case handling" effectively saves judicial costs and improves judicial efficiency.

In the Wanfeng Lake case, the Supreme People's Procuratorate directly filed the case, adopting an integrated case-handling model, lawfully deploying procuratorial personnel from different jurisdictions to form a case-handling team or set up case-handling groups in lower-level procuratorates. The Supreme People's Procuratorate coordinated the handling of specific illegal activities and public damage clues, delegating the filing and handling of cases to lower-level procuratorates through assignment or

designated jurisdiction. Lower-level procuratorates could request the higher-level procuratorates' intervention for difficult issues, fostering a cooperative yet divided labor structure to maximize functional advantages, leading to significant governance results within a year.

4.2.3 Promoting Litigation Source Governance to Reduce the Risk of Rebound in Governance Effectiveness

Cross-administrative environmental public interest litigation reflects the current direction of cross-regional watershed governance issues. Judicial organs collaborate across jurisdictions, fulfilling their duties together, while urging and coordinating relevant administrative organs to strengthen unified supervision and enforcement, promoting litigation source governance. This approach effectively avoids governance issues like inconsistent actions between upstream and downstream areas.^[5]

Since the Supreme People's Procuratorate filed the Wanfeng Lake case in December 2019, effective solutions and rectifications were achieved within a year, but this did not mark the end of the case. In January 2021, the task force guided procuratorates from the three provinces (regions) to conduct follow-up reviews, tracking rectification implementation and guiding the procuratorates of the three bordering cities to sign a collaborative mechanism for protecting the ecological environment and resources of the Wanfeng Lake basin. Subsequently, procuratorial agencies from the five counties (cities) agreed to establish a joint procuratorial mechanism for the lake, and the local governments decided to set up a joint law enforcement command center for unified supervision of the lake area. These policies and measures, aimed at sustained and effective improvement, demonstrated the correctness and necessity of cross-regional watershed governance, continually advancing the modernization of ecological environment governance.

5. Realistic Challenges and Future Prospects of Cross-Administrative Environmental Public Interest Litigation

5.1 Strengthening Collaboration to Solve Jurisdictional Challenges

Procuratorial organs, as the primary entities participating in cross-administrative environmental public interest litigation, face significant jurisdictional challenges in practice.

Firstly, there is a lack of clear legal basis for procuratorial organs to engage in cross-administrative litigation. Current procedural laws do not clearly stipulate the jurisdiction of procuratorial organs over cross-administrative litigation. Even when following traditional jurisdiction models, the procuratorates refer to the court's jurisdictional divisions, with only the Administrative Litigation Law providing a clear basis for environmental resource administrative cases. There is still a lack of explicit provisions in existing laws that can alter jurisdiction rules for other types of environmental resource cases. The current practice of centralized jurisdiction and cross-regional jurisdiction is essentially a derivative of designated jurisdiction rules, which have been broadly interpreted to allow higher-level procuratorates or courts to designate environmental resource cases within a specific administrative region to another region's procuratorate or court. However, this practice somewhat transforms designated jurisdiction into a principle applied in batches, potentially conflicting with the legislative intent of applying designated jurisdiction to individual cases.

Secondly, procuratorial jurisdiction is challenging. Case handlers are not entirely independent and face a large workload that requires collaboration among multiple procuratorates. In judicial practice, local procuratorates already face difficulties in coordinating with local administrative organs, and cross-regional jurisdiction introduces even greater coordination challenges across provinces or cities. The solution to this issue lies in fundamentally raising the importance placed by legislative, judicial, and enforcement bodies on environmental public interest litigation and environmental protection and governance. Cross-regional litigation should be leveraged to promote collaborative case handling among multiple procuratorates, avoiding inconsistencies in case judgments due to dispersed handling. There is a need to establish a more comprehensive and interconnected legislative, enforcement, and judicial environmental governance system to enhance collaboration among various organs.

5.2 Breaking Barriers to Broaden Practical Scope

Existing litigation cases often involve participation by the Supreme People's Procuratorate or judicial organs in regions with higher judicial standards, and only when environmental pollution is severe, public interest harm is profound, and social impact is significant, does cross-administrative environmental public interest litigation come to the forefront. This leaves considerable room for expansion in practical

applications.

Cross-regional comprehensive governance is a crucial step in reform but also carries significant risks. Judicial organs within general administrative divisions may not proactively apply this litigation method, as it implies a tug-of-war between judicial and administrative powers, easily leading to conflicts. However, environmental governance must consider holistic requirements, and both administrative and judicial entities must make certain concessions for environmental protection. Therefore, under the trend of cross-regional governance, it is essential to advocate the widespread application of cross-administrative litigation systems, applying them to lower-level judicial practices and gradually establishing an environmental concept of shared success or failure within river basins.

5.3 Timely Introduction to Ensure Litigation Effectiveness

Although pollution issues in relevant regions are effectively resolved through litigation and rectification, delayed justice can never fully restore the ecological environment or entirely compensate for public interest damage. Thus, how to more fully leverage the role of public interest litigation to minimize or even eliminate potential damage at the onset of pollution is a critical area for academic and judicial exploration. Cross-administrative environmental public interest litigation, as a type of remedial litigation, inherently has a delayed disadvantage.

In the Wanfeng Lake case, before the Supreme People's Procuratorate filed the case, the Central Environmental Protection Inspectorate had conducted multiple inspections and rectifications in the relevant areas. It was only after these efforts failed to achieve fundamental remediation that the Supreme Procuratorate intervened. However, by then, the damage to parts of the ecological environment was irreversible, and permanent harm had been done to the legal rights and interests of the people. Therefore, it is crucial to timely introduce cross-regional litigation procedures within the broader context of environmental public interest litigation development, breaking the mindset that only major cases deserve concentrated efforts, and better addressing the severe environmental pollution challenges in China.

In recent years, public interest litigation, as a vital remedy and path to maintaining social fairness and stability, has made continuous reform strides. While there have been successful cross-regional litigation practices in various public interest litigation fields, when considering environmental public interest litigation within the broader environmental judicial framework, there remains a need to explore more practical and effective development directions.

6. Conclusion

In the current era, the environmental protection concept that "lucid waters and lush mountains are invaluable assets" has taken root in people's hearts. Environmental protection and ecological governance are goals and directions for collective societal efforts. The successful handling of cases like Wanfeng Lake, with its efforts in governance and restoration of polluted areas, undeniably demonstrates the value and advantages of the environmental public interest litigation system, providing a Chinese solution to the "tragedy of the commons." In summary, the exploration and practice of cross-administrative environmental public interest litigation, and the broader reform and development of the environmental judicial system, are essential and challenging tasks that require ongoing effort.

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