The Mission and Challenge of China’s Environmental Court

Li Zhiping
Professor of Law of Sun Yat-Sen University
Main Contents

- The Creation of China’s Environmental Court
- What reason hasten the parturition of Environmental Court
- What cases does Environmental Courts treat
- The Legal Ground of the Establishment of Environmental Court
- What can we Expect from the Environmental Court
- The current Challenge Faced by the Environmental Court
- Questions to be Further Explore
The Creation of China’s Environmental Court

- 20, Nov 2007, a environmental law division was established in Guiyang municipal intermediate people's court of Guizhou Province.
- 20, Nov 2007, a environmental law division was established in Qingzhen county people’s court of Guizhou Province.
- 6, May 2008, Wuxi municipal intermediate people's court of Jiangshu Province established the environmental law division.
The Creation of China’s Environmental Court

- 28, August 2008, a mobile environmental law division was established in Xinbei District of Changzhou city of Jiangshu Province.
- 19, August 2008, an environmental collegiate panel was established in Qianxi County of Guizhou Province.
- Kunming, the capital city of Yunnan Province, has submitted a plan to the city government for the approval of an environmental law division in intermediate people’s court.
What reason hasten the parturition of Environmental Court

Immediate reasons created by environmental crisis, mainly by “Water” Problems

- Guiyang and Qingzheng—mainly to protect “Two lakes and one reservoir”. They are three extremely important “water jars” of millions of Guiyang citizens.
- Wuxi and Changzhou—mainly to protect Taihu Lake, it is one of the most polluted water areas of China.
- Kunming—mainly to protect Dianchi Lake, it is also one of the most polluted water areas of China.
清镇市

清镇市位于贵州省中部，为省会贵阳市辖县，面积1533平方千米，人口25.5万。清镇市地形复杂，气候温和，物产丰富。清镇市是贵州省的重要工业基地，以煤炭、电力、化工、建材、机械制造等为主。清镇市是贵州省的交通枢纽，交通便利，是贵州省的重要门户。
What reason hasten the parturition of Environmental Court

Deep reasons

- Reallocate the judicial resources and adapt to environmental cases’ character
- Enhance the capacity of environmental enforcement
- Deal with inter-regional environmental pollution disputes
What reason hasten the parturition of Environmental Court

Symbolize meaning

- Express the government’s strong determination toward the environmental protection.
- Respond to the increasing appeal from public to participation into environmental protection. Provide a stage to environmental public interest suit.
What cases does Environmental Courts treat

- Environmental criminal, civil, and administrative cases
- Environmental public interest suit case
- Other related cases designated by court in higher level
- Enforce the decision of environmental court
What cases does Environmental Courts hear

- environmental law division of Kunming intermediate people’s court will have jurisdiction over appeals by companies that have been found guilty of violating environmental laws in cities throughout the province.
The Legal Ground of the Establishment of Environmental Court

The Article 24 of Organic Law of the People’s Court of the PRC: “Each intermediate people's court shall set up a criminal division, a civil division, an economic division, and such other divisions as are deemed necessary.”

That is say, it doesn’t breach the exist legal framework to set up a environmental division in intermediate people’s court.

But there is not law delegate a basic people's court to set up a environmental division.
What can we Expect from the Environmental Court

- To resolve environmental dispute in a manner of more expeditious and more efficiency.
- To some extent to resolve across-regional environmental dispute more effectiveness.
- To enhance the supervisory powers of environmental protection bureau,
The current Challenge Faced by the Environmental Court

- Lack of related procedure rule
- The standing issues of the public interest suit have remain unresolved.
- Have no enough case to feed the court.
The current Challenge Faced by the Environmental Court

From Nov, 2007—Sep, 2008, Guiyan Environmental Court have heard about 90 cases, 85% of them are related to forest violation, only 5% of them related to water pollution, this situation is not match with the original intention of set up the environmental court, as well as the water pollution situation of Guiyang City.
Questions to be further Explore

- Does EC make environmental litigation more accessible and affordable?
- Can EC resolve the inefficiency of environmental law enforcement issue?
- Can EC break through the local protectionism?
- Can EC resolve Cross regional pollution issues?