Enforcing law through authoritarian environmentalism? State and non-state actors in China's environmental public interest litigation

Ma, Yi; Xiang, Wen

Research Article

GIGA | Journal of Current Chinese Affairs

Enforcing Law Through Authoritarian Environmentalism? State and Non-State Actors in China's Environmental Public Interest Litigation

Journal of Current Chinese Affairs
2023, Vol. 52(3) 464–487

DOI: 10.1177/18681026231185791
journals.sagepub.com/home/cca
Sage

Yi Ma[1] and Wen Xiang[2]

Abstract

Numerous studies have examined China's authoritarian environmentalism, with a focus on policy-making and implementation. We argue that law enforcement should also be investigated as a crucial stage. Specifically, we examine environmental public interest litigation (EPIL) and analyse a novel dataset of 7010 EPIL court judgements from 2015 to 2020. We find that state prosecutors dominate EPIL activities, while the role of non-governmental organisations (NGOs) is strictly limited. We also show great variations in EPIL lawsuits filed by state prosecutors across provinces, indicating high local discretion over environmental law enforcement. Lastly, we doubt whether the great number of EPIL outputs from state prosecutors will produce significant environmental outcomes, because they tend to target low-hanging fruit, in contrast to the more challenging and environmentally profound EPIL cases initiated by NGOs. We highlight the value of using the authoritarian environmentalism framework to contextualise debates surrounding the development of EPIL in China.

Manuscript received 24 November 2022; accepted 16 June 2023

Keywords

Authoritarian environmentalism, environmental public interest litigation, law enforcement, procuratorial organs

[1]Department of Cross-Cultural and Regional Studies, University of Copenhagen, Copenhagen, Denmark
[2]Faculty of Law, University of Copenhagen, Copenhagen, Denmark

Corresponding Author:
Yi Ma, Department of Cross-Cultural and Regional Studies, University of Copenhagen, Karen Blixens Plads 8, Building 10, 2300 Copenhagen S, Denmark.
Email: ym@hum.ku.dk

Introduction

China's environmental governance has been widely discussed as a model of authoritarian environmentalism (Ahlers and Shen, 2018; Beeson, 2010, 2018; Gilley, 2012; Lo, 2015), which can be understood as:

> [A] public policy model that concentrates authority in a few executive agencies manned by capable and uncorrupt elites seeking to improve environmental outcomes. Public participation is limited to a narrow cadre of scientific and technocratic elites while others are expected to participate only in state-led mobilisation for the purposes of implementation. The policy outputs that result include a rapid and comprehensive response to the issue and usually some limits on individual freedoms. (Gilley, 2012: 288)

Accordingly, numerous studies on China's environmental policy-making process have shown that it is dominated by state actors and accepts only limited input from non-state actors (Gilley, 2012; Li and Shapiro, 2020; Liu and Xu, 2018; Lo, 2010). In addition, China's environmental policy implementation is largely top-down, state-driven, and performance-based, but nevertheless leaves much discretion to local governments (Ahlers and Shen, 2018; Eaton and Kostka, 2014; Kostka and Goron, 2021; Li et al., 2019; Lo, 2015; Ran, 2013; Shin, 2018).

Although inquiries into China's authoritarian environmentalism often focus on policy-making and implementation, it is important to recognise law enforcement as a distinct stage of environmental governance in China. Later in this article, we will make it clear that law enforcement and policy implementation differ in at least three essential ways: the actors who are involved, the type of policy being enforced or implemented, and the ultimate goals. Moreover, while numerous implementation activities have been carried out by the central government, such as conducting central inspections (Kostka and Goron, 2021), hardening environmental targets (Kostka, 2016), and launching top-down campaigns (Kostka and Zhang, 2018), local governments tend to have weak motivation in the enforcement of environmental laws and regulations largely due to the top-down gross domestic product-orientated evaluation mechanisms (Qi and Zhang, 2014). In addition, there are poor incentives for both governments and private actors to voluntarily comply with environmental laws (Mol and Carter, 2006: 155; see also Beyer, 2006; Ran, 2013; Yee et al., 2016), which are even treated as "castles made of sand" (Carpenter-Gold, 2015: 241). Therefore, to comprehensively discuss China's authoritarian environmentalism, we must include law enforcement as a crucial stage of analysis. Thus, the question arises: does environmental law enforcement operate under its own logic that deviates from authoritarian environmentalism, or does it simply serve as a tool for the party-state, displaying all the key features of authoritarian environmentalism?

To answer those questions, we summarise three key features of China's authoritarian environmentalism from the previous literature, namely limited public participation (Beeson, 2010; Gilley, 2012; Lo, 2010), local discretion in environmental governance

(Beeson, 2010; Gilley, 2012; Li et al., 2019; Lo, 2015; Ran, 2013), and a focus on policy outputs but not necessarily outcomes (Gilley, 2012; Shin, 2018). Then, we investigate whether and how these three features are reflected in the developments in environmental public interest litigation (EPIL) (环境公益诉讼, *huanjing gongyi susong*) in China from 2015 through 2020. As a key initiative to improve environmental law enforcement in China, both procuratorial organs (state prosecutors) and non-governmental organisations (NGOs), including both grassroots NGOs and government-organised NGOs, were granted legal standing to initiate EPIL in 2015 (Zhai and Chang, 2018; Zhang and Mayer, 2017; Zhuang and Wolf, 2021). This case presents an opportunity to compare the roles of different actors in enforcing China's environmental law and evaluate public participation. It allows for an exploration of law enforcement discretion in local governments and provides a plausible examination of both the outputs and outcomes of law enforcement activities.

Analysis of our unique dataset of 7010 EPIL court judgements from 2015 to 2020 shows that environmental law enforcement activities in China display all three key features of authoritarian environmentalism. First, EPIL is dominated by procuratorial organs, which filed 98.6 per cent of all EPIL lawsuits in our dataset. This is due largely to the strict legal standing requirements for NGOs (Gao and Whittaker, 2019; Zhai and Chang, 2018) and their limited capacity (Xie and Xu, 2021; Zhang and Mayer, 2017; Zhuang and Wolf, 2021). Second, both the quality and quantity of EPIL initiated by procuratorial organs vary significantly across provinces. This indicates that the local government still retains much discretion at the law enforcement stage, despite a general trend of centralisation of environmental governance since Xi Jinping took power in 2012 (Kostka and Zhang, 2018). Third, while the number of EPIL cases initiated by procuratorial organs increased significantly during the period under study, the potential for this kind of enforcement strategy to improve environmental outcomes seems to be rather limited. Largely due to requirements embedded in the performance management regime (Shi and Rooij, 2016), procuratorial organs tended to target low-hanging fruit by focusing on criminal–civil cases (刑事附带民事案件, *xingshi fudai minshi anjian*) (as will be introduced later) that already are a part of their routine prosecutor work, instead of initiating administrative cases (行政案件, *xingzheng anjian*) or civil cases (民事案件, *minshi anjian*) that require extra effort. Further, when they pursued civil litigation, the cases they chose tended to involve individuals and minor damages, rather than businesses and potentially bigger environmental impacts. In comparison, the few civil cases that NGOs managed to initiate tended to be more challenging; they involved businesses instead of individuals and took much more time and resources to process, but their potential impact was much bigger. Our findings present a rather ironic implication: China's law enforcement compels its relatively powerful procuratorial organs to go after low-hanging fruit and produce a significant number of enforcement outputs, yet it relies on the country's less resource-rich NGOs to stand against potentially more polluting and powerful businesses, against which procuratorial organs have few incentives to litigate.

Our study makes a few contributions. First, we distinguish between policy implementation and law enforcement in China, enriching the discussion of the authoritarian

environmentalism framework by focusing on the law enforcement stage, which expands on previous research that primarily focused on policy-making and implementation (e.g. Ahlers and Shen, 2018; Beeson, 2018; Gilley, 2012; X. Li et al., 2019; Ran, 2013). Additionally, most prior studies utilised an empirical legal studies approach to provide valuable insights into EPIL (Gao, 2018; Wang and Xia, 2023; Xiao and Ding, 2021; Xie and Xu, 2021; Zhuang and Wolf, 2021). But we apply one of the most important political theories on China's environmental governance – authoritarian environmentalism – to recent developments in EPIL. Moreover, we contribute new knowledge through our rigorous comparison between procuratorial and NGO activities in China's environmental litigation, which complements previous research into public enforcement by local Environmental Protection Bureaus (now often named Bureau of Ecology and Environment) (Lo and Fryxell, 2003; Lo and Tang, 2006; Ran, 2013; Tilt, 2007; Yee et al., 2016). Methodologically, we compile and utilise a comprehensive and unique dataset of EPIL court judgements to explore EPIL. In this way, we provide a useful toolbox for studying EPIL and go beyond a reliance on selected case studies or small samples of cases that dominate existing research (Gao, 2018; Gao and Whittaker, 2019; Wang and Xia, 2023; Xiao and Ding, 2021; Xie and Xu, 2021; Zhai and Chang, 2018; Zhang and Mayer, 2017; Zhuang and Wolf, 2021).

Our article is organised as follows: We introduce the key features of the authoritarian environmentalism framework and discuss their implications for law enforcement in China in the next section. Then, we give an overview of EPIL in China, including its historical development since the early first decade of the twenty-first century, evolving conceptualisations of legal standing, and different types of EPIL. After that, we present and analyse the dataset. We then conclude and indicate some implications for future research.

China's Authoritarian Environmentalism: Policy-Making, Implementation, and Law Enforcement

Although the idea of an authoritarian approach to dealing with environmental challenges has long been discussed (Wells, 2007), the concept of authoritarian environmentalism did not attract huge academic interest until 2010, when Beeson (2010) provocatively claimed that authoritarian environmentalism (or in his words, environmental authoritarianism), guided by China's developmental model, was highly likely to dominate in East and Southeast Asia. In addition, he suggested that authoritarian regimes "may […] prove more capable of responding to the complex political and environmental pressures in the region than some of its democracies" (Beeson, 2010: 276).

Following Beeson, many scholars started to investigate the concept of authoritarian environmentalism more deeply. China is the key case of authoritarian environmentalism and has received the most academic inquiries. In general, these studies focus on policy-making and implementation, and have generated three key insights into China's authoritarian environmentalism: limited public participation, local discretion in policy implementation, and a tendency towards producing policy outputs but not necessarily

desired outcomes. We address each characteristic in turn. Note that there are other important features of authoritarian environmentalism, such as restrictions on the freedom of individuals in the name of environmental protection (Beeson, 2010). Still, these three features are most relevant for a discussion on law enforcement, so we take them as the focus of this study.

First, strictly restricted public participation, the defining feature of authoritarian environmentalism, can be observed at both the environmental policy-making and implementation stages (Gilley, 2012: 289). Policy-making is often concentrated in a few central government ministries, such as National Leading Group to Address Climate Change (Gilley, 2012), the National Development and Reform Commission (Lo, 2010, 2015), and recently the Ministry of Ecology and Environment (formerly called the Ministry of Environmental Protection) (Kostka and Zhang, 2018). Discussions about climate change "take place almost exclusively within technocratic and regulatory discourses that make little or no mention of society" (Gilley, 2012: 291). Consequently, environmental NGOs and the wider public play only a marginal and indirect role in the political debates (Zhang et al., 2013: 1035). Still, Not In My Backyard (NIMBY) movements show how citizen activists have made great efforts to help promoting more inclusive decision-making processes in China's environmental governance (Johnson, 2010). As for policy implementation, China relies heavily on a command-and-control approach. The Target Responsibility System is a pressurised performance management system whereby scores are assigned to policy areas from a higher-level government to a subordinate government (O'Brien and Li, 1999). It has been used increasingly by the central government, which imposes rigid environmental targets onto local governments without much consideration of issues such as "fairness" (Kostka, 2016; Kostka and Goron, 2021). Frequent central environmental inspections are carried out to uncover environmental problems and punish bad performance at the local government level (Kostka and Goron, 2021; Kostka and Zhang, 2018). In addition, a centralised verification programme has been established to improve central monitoring (Zhang, 2017). Not unexpectedly, none of those implementation measures leaves much room for public participation. Still, occasionally, NGOs have helped the central government to monitor local governments (Anderson et al., 2019). Public participation from local residents has been selectively and strategically mobilised by the local government to facilitate policy implementation (Ahlers and Shen, 2018).

Second, despite the fact that policy-making is highly centralised, the local government still has considerable discretion over environmental policy implementation. China is essentially a fragmented party-state where the local government retains a certain amount of bargaining power (Lieberthal and Oksenberg, 1988). Consequently, "ensuring that edicts and initiatives from the centre are actually implemented at all in the far-flung provinces, let alone in the way that was actually intended, has been a perennial problem in China" (Beeson, 2018: 38). Despite the central government's recent efforts to consolidate and recentralise power, gaps in the implementation of environmental policies are still widely reported across China (Li et al., 2019; Liang and Langbein, 2019; Shin, 2018; Zhang, 2017). This indicates that the local government still has discretionary power in China's authoritarian environmentalism.

Third, while China's authoritarian environmentalism is good at producing measurable policy outputs, these might not lead to desired environmental outcomes (Gilley, 2012). Here, policy outputs are understood as actions of state actors (Ma, 2021), such as the number of EPIL cases initiated by procuratorial organs, while outcomes are understood as the effect of state actions on the environment, such as air quality. Shin (2018) finds that local environmental policy innovations tend to be output-driven to showcase political achievements, instead of facilitating genuine efforts to improve environmental outcomes. Similarly, Liang and Langbein (2019) find that, while high-powered performance incentives can improve the local government's pollution mitigation activities, they do not lead to lower SO_2 emission outcomes.

While those studies provide valuable and insightful discussions of authoritarian environmentalism in China, they focus primarily on the stage of policy-making and policy implementation. Arguably, law enforcement should be considered as another important stage in China's environmental governance. There are at least three key differences between policy implementation and law enforcement in China. Firstly, the government is the main actor in policy implementation, whereas state organs such as the judiciary, procuratorial organs, and administrative organs with enforcement powers are the main actors during law enforcement. Secondly, while the government implements a broad range of public policies, state organs only enforce binding laws and regulations. Here, the concept of soft law may be useful. Soft law can be defined as "legal norms which cannot apply state coercion to ensure their enforcement," while hard law should be understood as "those legal norms that need state coercion to ensure their enforcement" (Luo and Song, 2013: 229). In China, besides laws and regulations, environmental policies include a huge amount of soft law, such as plans, notices, and opinions. These soft law types of public policies usually rely on political sanctions instead of legal sanctions to ensure implementation. Li et al. (2019) make a similar distinction between law-based environmental policies and plan-based environmental policies in China, and they find that local governments prioritise plan-based policies during implementation. Thirdly, the ultimate goal of law enforcement is to ensure compliance with legally binding norms, whereas the goal of policy implementation is to achieve various desired outcomes beyond regulatee compliance. For instance, the desired outcomes may also include increased awareness of the citizens to protect the environment, which is obviously voluntary but not legally binding. Therefore, it is crucial to recognise the differences between policy implementation and law enforcement to better understand China's environmental governance.

Accordingly, we believe that it is necessary to expand the discussion of the authoritarian environmentalism framework beyond policy-making and implementation to include law enforcement. Indeed, the country's widespread implementation gaps suggest that further improvements in China's environment are crucially dependent upon improvements in China's law enforcement. As a key framework for understanding environmental governance in China, the authoritarian environmentalism theory must be re-evaluated in light of empirical evidence on law enforcement.

Importantly, we anticipate that the three characteristics of authoritarian environmentalism identified from the policy-making and implementation stages will also shape law

enforcement activities. First, environmental law enforcement is likely to have limited public participation. There are two major forms of environmental law enforcement, namely public enforcement and private enforcement. Public enforcement is mainly the administrative and/or judicial activities carried out by state agencies, such as the Environmental Protection Agency in the United States (Naysnerski and Tietenberg, 1992). In contrast, private enforcement comprises the judicial actions carried out in the public interest by citizens and environmental NGOs (Greve, 1990). For instance, citizen lawsuits have been an important part of US environmental law enforcement since the 1970s (Greve, 1990; Naysnerski and Tietenberg, 1992). Similarly, the Aarhus Convention, which lays down an important principle of access to justice, has compelled both the European Commission and the Court of Justice of the European Union (EU) to take many measures that promote the role of NGOs in the enforcement of EU environmental law (Hofmann, 2019; Ryall, 2016). In China, private enforcement of environmental laws faces various obstacles, such as challenges in filing cases, finding legal representation, and paying high acceptance fees. However, the most significant obstacle is the ambivalence of the state towards environmental litigation, which sends conflicting and confusing signals to citizens and NGOs (Stern, 2013). As a result, it has been extremely difficult for them to file environmental lawsuits (Stern, 2011, 2013). Accordingly, we expect China's authoritarian environmentalism to rely primarily on public enforcement, such as administrative sanctions by local Environmental Protection Bureaus, and much less on enforcement by NGOs and citizens. Ultimately, the central government in general distrusts the fire-alarm monitoring from the masses (O'Brien and Li, 1999) largely due to the fear that it might lead to collective actions that could undermine political stability (Anderson et al., 2019). Still, given the weak enforcement capacities of environmental agencies (Lo and Tang, 2006; Mol and Carter, 2006) and the fact that society "does not become dormant even in an authoritarian model" (Gilley, 2012: 292), there may be a limited role for private enforcement to play in China.

Second, public enforcement activities are likely to vary significantly at the local government level. As mentioned earlier, the local government is often granted discretion in terms of policy implementation. At the stage of law enforcement, this discretion is likely to continue, especially given that many enforcement activities are in the hands of street-level bureaucracies (Lipsky, 1980), which normally enjoy certain autonomy (Tilt, 2007). For instance, Cao et al. (2022) find that local regulators in China display a high degree of agency, and they impose different levels of de facto stringency across firms as a function of firm asset mobility during their enforcement of environmental regulations. In addition, local leaders may have their own preferences towards enforcement of environmental laws, just like they do in terms of economic policies (Cheung, 1998) or social policies (Ma and Liu, 2022). Therefore, local China is likely to see significant variations in public enforcement of EPIL activities.

Third, China's authoritarian environmentalism is likely to produce a great number of enforcement outputs, namely enforcement activities carried out by state agencies. Still, whether those enforcement activities could lead to improved environmental outcomes

remains a question. Like policy implementation, China's law enforcement activities are also incentivised under the Target Responsibility System (Minzner, 2009; Shi and Rooij, 2016). This performance management regime may lead enforcement agencies towards generating quantifiable and measurable outputs, but these might not produce the desired environmental outcomes.

Based on the above discussion, authoritarian environmentalism may shape China's law enforcement activities as follows: In terms of law enforcement, China's authoritarian environmentalism relies primarily on public enforcement, limits the involvement of private enforcement, displays significant local variations in terms of public enforcement activities, and produces a large number of enforcement activities, but these may not necessarily lead to significantly improved environmental outcomes.

Enforcing Laws Through EPIL

China has long relied on Environmental Protection Bureaus at different governmental levels to enforce environmental laws. However, limited capacity (Beyer, 2006), weak environmental values and beliefs of enforcement officials (Ran, 2013; Yee et al., 2016), and dependence on the local government (Lo and Tang, 2006; Mol and Carter, 2006) are some of the most common challenges to the effectiveness of public enforcement. Under this background, EPIL was gradually established in China to improve the enforcement of environmental laws.

EPIL follows largely the policy experiment cycle as laid out by Sebastian Heilmann (2008), namely from local experimentation to national promotion, and eventually to a national legislation. From the middle of the first decade of the twenty-first century, some local experiments allowed local procuratorial organs and NGOs to file lawsuits in the name of the public interest. Most importantly, local environmental courts were established in provinces such as Jiangsu, Yunnan, and Guizhou to undertake experimental practices in EPIL (Carpenter-Gold, 2015; Zhai and Chang, 2018). This variety of litigation lacked a clear legal basis until 2012, when a revision of the *Civil Procedure Law* granted "legally mandated administrative organs and relevant organizations" legal standing for EPIL (Zhai and Chang, 2018: 371). Note that other types of social organisations, such as consumer organisations, and government agencies are also granted legal standing to file Public Interest Litigation (Gao and Whittaker, 2019; Zhuang and Wolf, 2021). Since those actors have filed a limited number of EPIL, we will not focus on them in this study.

Two years later, the *Environmental Protection Law* was revised to stipulate the specific standing requirements for social organisations and took effect in 2015 (Zhai and Chang, 2018). Around the same time, in July 2015, the Supreme People's Procuratorate started a two-year pilot project that authorised and encouraged local procuratorial organs in thirteen provincial governments to initiate EPIL (Qian, 2017), including Beijing, Jilin, Inner Mongolia, Shandong, Jiangsu, Anhui, Hubei, Fujian, Guangdong, Guizhou, Yunnan, Shaanxi, and Gansu. The experiment culminated on 27 June 2017, when the Standing Committee of the National People's Congress

passed the *Decision on Amending the Civil Procedure Law and the Administrative Procedure Law of the People's Republic of China*, which empowers procuratorial organs nationwide to file EPIL (Qian, 2017).

In sum, since 2015, both NGOs and procuratorial organs have been allowed to initiate EPIL cases to improve environmental law enforcement in China. Still, their legal standing differs in two significant ways. First, NGOs are allowed to file only civil cases, while procuratorial organs are allowed to file both civil and administrative cases (Gao, 2018; Gao and Whittaker, 2019). Civil cases are judicial actions against individuals and/or businesses, while administrative cases are judicial actions against government agencies (Zhuang and Wolf, 2021). Second, while legal standing for procuratorial organs is automatic, NGOs have to fulfil several requirements in order to secure standing, including being legally registered under the civil affairs department, and continuous work in environmental protection for the last five years, with no record of illegal activities, and without pursuit of economic interest (Carpenter-Gold, 2015: 265). Needless to say, those formal restrictions on NGOs reflect the key feature of authoritarian environmentalism: limited public participation in all aspects of governance, from policy-making to implementation, and eventually to law enforcement. As we will show, this is indeed one of the factors that limit the number of EPIL lawsuits initiated by NGOs.

Still, awareness of the formal institutional structure provides only a preliminary understanding of EPIL. In order to assess the roles of NGOs and procuratorial organs more comprehensively and deeply, as well as examining local variations and enforcement outputs and outcomes, there is a need to carefully investigate the actual enforcement activities of these actors.

Research Design: A Novel and Comprehensive Dataset of EPIL Court Judgements

We compiled a novel dataset of EPIL court judgements from China Judgments Online (中国裁判文书网, *zhongguo caipan wenshu wang*) from 2015 to 2020. Since 2014, courts on every level have been required to disseminate their judgements on China Judgements Online, a centralised website run by the Supreme People's Court (SPC) (Ahl and Sprick, 2018; Liebman et al., 2020). More than 93 million documents had been posted by June 2020 (Liebman et al., 2020) and all are publicly available after registration. We used a five-step data collection process.

First, we identified all files that are formatted as a "court judgement" (判决书, *panjueshu*) and include the phrase, "public interest litigation" (公益诉讼, *gongyi susong*). When we conducted the search on 13 May 2021, 12,833 results were produced from the website. Second, we removed duplicate court judgements from the corpus by identifying and deleting all except one case with the same case number. Third, based on case number, we removed court judgements that were recorded before 2015 or after 2020. Fourth, we skimmed the remaining files and removed court judgements that in fact are not public interest cases. Lastly, we removed judgements that are tangential to environmental

issues as well as judgements on cases where an entity other than an NGO or procuratorial organs (such as consumer organisations or government agencies), was the plaintiff.

This procedure yielded 7010 EPIL court judgements. We understand that some cases are missing, despite the requirement that Chinese courts disclose all judgements (Ahl and Sprick, 2018; Liebman et al., 2020). Just like other central policies, the SPC's disclosing policy is likely to have significant implementation gaps at the local government level, and courts might be pressured to keep judgements on sensitive cases private. Still, based on the white papers – *Environment and Resources Adjudication of China* (《中国环境资源审判》, *zhongguo huanjing ziyuan shenpan*) published each year by the SPC, there were in total 7905 concluded EPIL cases between 2015 and 2020 (The Supreme People's Court, 2021). Of these cases, the 7010 EPIL court judgments in our dataset represented approximately 88.68 per cent of the total. Specifically, 6861 court judgments from our dataset were first-instance cases, accounting for around 86.79 per cent of the concluded cases. These figures indicate that our dataset is sufficient to provide a relatively comprehensive understanding of EPIL and to achieve the primary goal of the study, which is to explore to what extent EPIL displays the three key features of authoritarian environmentalism.

There is another important caveat: EPIL court judgements are only part of all EPIL activities. Many EPIL cases are resolved through pre-litigation procedures, such as mediation (调解, *tiaojie*), largely in order to save judicial resources (Ma and Xiang, 2021). Indeed, the majority of EPIL cases initiated by procuratorial organs are resolved before referring to the judiciary (Ma and Xiang, 2021; Qian, 2017; Wang and Xia, 2023; Xiao and Ding, 2021). Similarly for NGOs, filing an EPIL case is a step in a negotiation process, and many NGO-initiated cases also end up being resolved through mediation (Zhang and Mayer, 2017: 211). Therefore, our dataset only shows the final stage of and the most extreme form of EPIL activities in China. Still, collecting data on all forms of EPIL activities is beyond our capacity, as it requires access to data that are not yet easily available, such as those pre-litigation cases from procuratorial organs.

Exploring Authoritarian Environmentalism Through EPIL Court Judgements

We extracted and coded a number of important metadata from each EPIL court judgement in our dataset, such as the type of plaintiff, the geographical location, the case year, and the type of case. These data facilitated our exploration of the three key features of authoritarian environmentalism.

Limited Participation of NGOs

Among the 7010 court judgements, only ninety-five were filed by NGOs and the remaining 6915 records were from procuratorial organs. This huge difference in the number of EPIL court judgements clearly demonstrates the key feature of authoritarian

environmentalism, namely limited public participation in environmental governance. In addition, as Figure 1 shows, while the number of EPIL court judgements from NGOs is relatively stable from 2015 to 2020, there has been a dramatic increase in the number of court judgements from procuratorial organs. Our finding is in line with previous studies (Xie and Xu, 2021: 9; Zhuang and Wolf, 2021: 7). It reflects the Chinese government's "commitment to address environmental degradation and enhance oversight of public agencies through reliance on government agents rather than civil organizations" (Zhuang and Wolf, 2021: 6).

There are many reasons for these huge performance gaps. First, as introduced earlier, there are several strict legal standing requirements for NGOs, while no such requirements are set for procuratorial organs. Second, NGOs are only allowed to initiate civil cases, while procuratorial organs are allowed to pursue both civil and administrative cases. Third, NGOs in China face significant capacity limits. Many EPIL lawsuits take a long time to process. For instance, Friends of Nature, the first domestic NGO in China, shared that most EPIL lawsuits take two or three years and some even five or more years from being filed to being closed (Zhuang and Wolf, 2021: 9). In addition, the high court fees, attorney fees, and damage assessment costs create a huge burden that many NGOs in China cannot afford (Xie and Xu, 2021: 17–18). For example, in a lawsuit against a glass-making firm, the All-China Environmental Federation spent at least 700,000 RMB (~US$110,000) prior to reaching the courtroom, which is more than the entire annual budget of many small environmental NGOs (Zhang, 2016). Due to the complexity of EPIL, lack of professional expertise is a fourth obstacle (Zhai and Chang, 2018: 386). Lastly, the structure of EPIL may lead to competition between NGOs and procuratorial organs (Zhuang and Wolf, 2021: 11), and this competition favours the latter. According to the *Civil Procedural Law*, procuratorial organs may bring EPIL only if no suitable government department or NGO is able to litigate, or if such department or organisation refuses to litigate (Xie and Xu, 2021: 11). Still, this provision leaves much room for manipulation (Gao, 2018: 60), and NGOs are under huge pressure from the competition of procuratorial organs as well as other eligible government bureaus (Gao and Whittaker, 2019: 339; Xie and Xu, 2021). Once procuratorial organs initiate EPIL, then NGOs are excluded from further legal action on the case due to the legal principle of claim preclusion (*res judicata*) (Gao and Whittaker, 2019: 339). NGOs thus have to back down in some cases (Gao, 2018).

Significant Variations of EPIL Lawsuits Filed by Procuratorial Organs

As discussed, the authoritarian environmentalism framework grants much discretion to local governments over policy implementation. This discretion is also apparent during public enforcement activities. As Figure 2 shows, there are significant variations in the total number of EPIL court judgements from procuratorial organs across different provinces. Indeed, while there were 821 EPIL court judgements in Sichuan Province, the number in Tibet was only five. We cannot explain this huge difference by simply arguing that Sichuan Province may have more environmental problems than in Tibet.

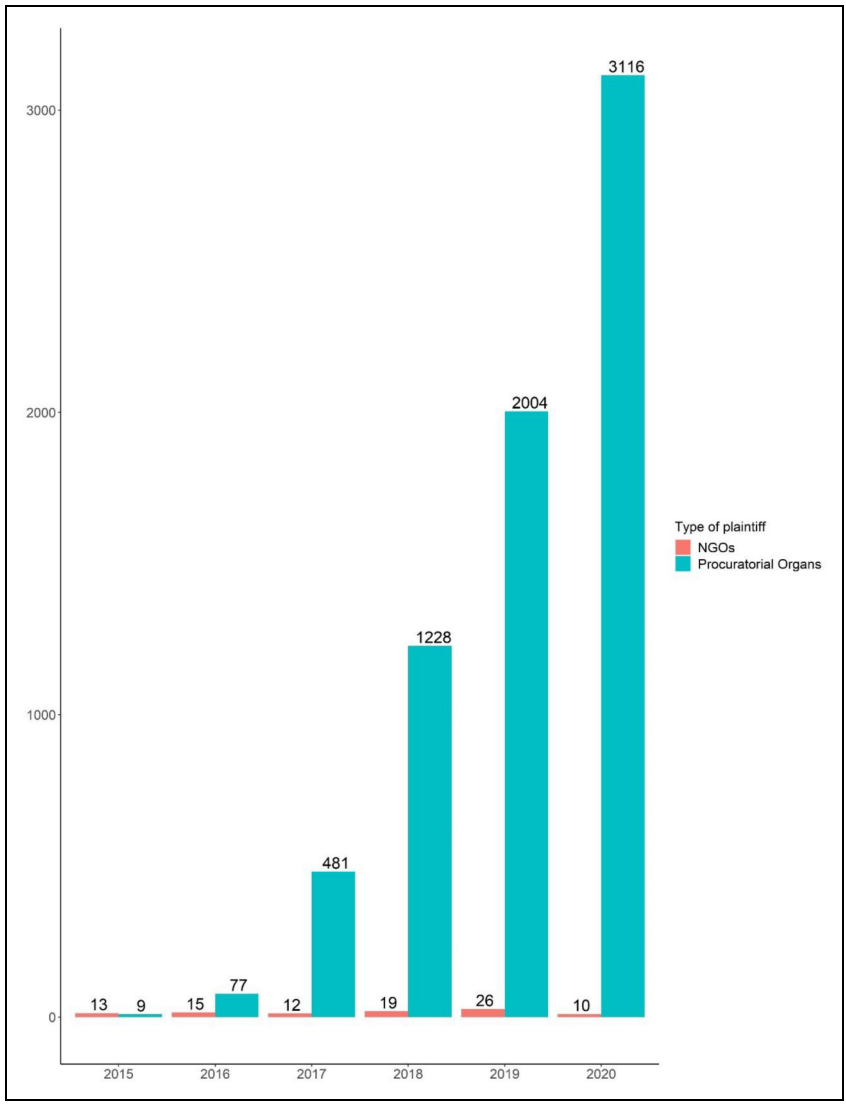

Figure 1. Yearly change of the number of environmental public interest litigation (EPIL) court judgements by different actors.
Source: Data compiled by the authors from China Judgements Online.

Instead, it is more likely that the local government leaderships have different preferences towards EPIL, which consequently facilitated or restrained EPIL filed by local procuratorial organs.

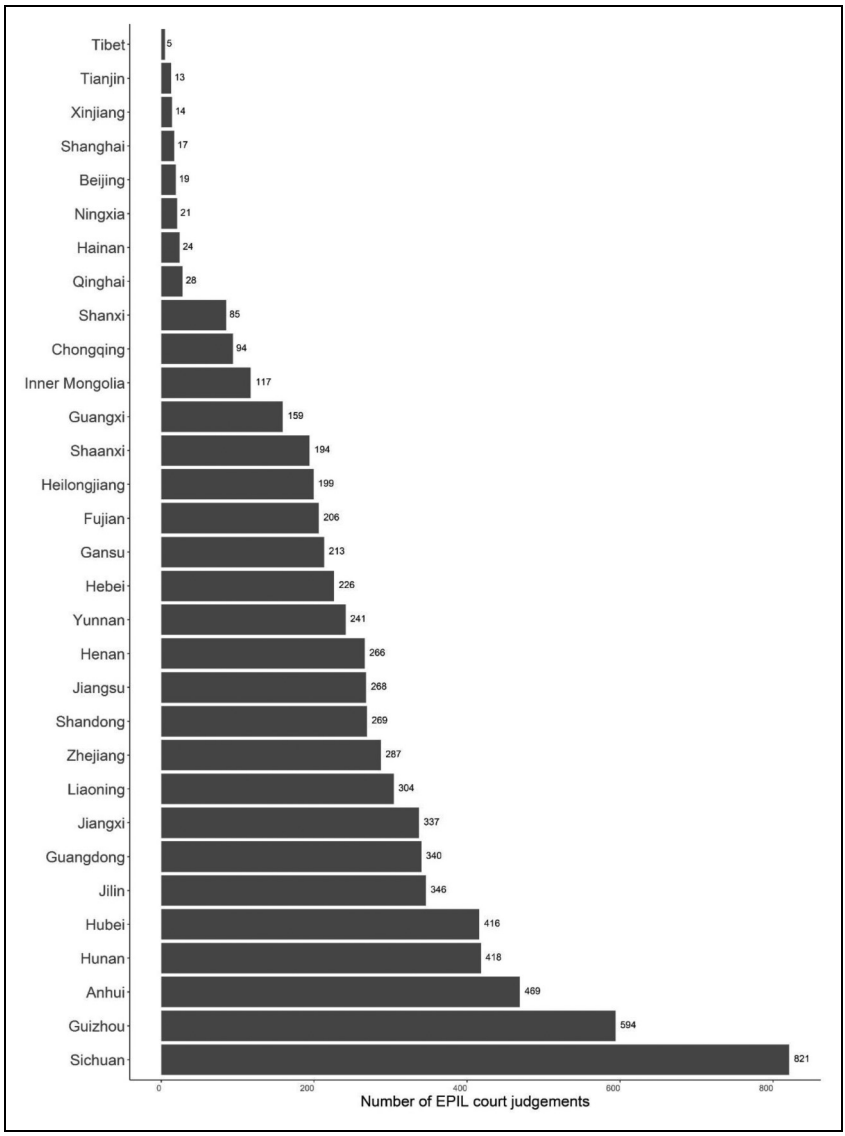

Figure 2. Total number of environmental public interest litigation (EPIL) court judgements from procuratorial organs across provinces.
Source: Data compiled by the authors from China Judgements Online.

More interestingly, provinces show not only different degrees of preference towards EPIL, but also varied preferences towards different types of EPIL, which can be pursued in administrative cases, civil cases, and criminal–civil cases. The last type

involves an alleged crime that caused harm to other members of society, and the procuratorial organs litigate both the civil and criminal elements of the case. This type is different from "pure" civil cases, which emphasise harm caused despite no allegation that a crime had been committed by a citizen. Prosecuting criminals is part of procuratorial organs' routine work, so litigating an accompanying civil case does not add much extra work. In contrast, civil cases and administrative cases usually require extra effort that has little relevance to the work on which the procurate is evaluated, namely successful criminal prosecution. Therefore, criminal–civil cases are easy targets for procuratorial organs, while civil and administrative cases are more of a stretch. Indeed, among the 6915 court judgements, 5548 are criminal–civil cases, while only 388 and 979 are civil and administrative cases, respectively. As Figure 3 shows, significant variations exist in terms of the three types of EPIL. For criminal–civil cases, southern provinces dominate, especially southwest provinces and most notably Sichuan Province. In terms of civil cases, provinces in the eastern coastal regions see a much bigger number than the rest of the country. As for administrative cases, provinces along the northeast and southwest diagonal seem to pursue the majority of them. These variations demonstrate local governmental discretion at the environmental law enforcement stage.

Numerous EPIL Outputs, but not Necessarily Improved Outcomes

As introduced earlier, procuratorial organs were only granted legal standing to file EPIL in 2015. It is thus impressive that they have produced 6915 EPIL court judgements in only five years, especially in comparison with the relatively stable number of EPIL court judgements from NGOs. Therefore, there is little doubt that procuratorial organs in China can generate a huge number of enforcement activities within a short time. However, we are still unclear whether those enforcement activities can have much potential impact on environmental outcomes.

As mentioned earlier, procuratorial organs primarily initiate easy criminal–civil cases, instead of more challenging civil or administrative cases. In particular, administrative cases have a great potential to compel local government agencies, especially environmental agencies, to improve their environmental protection performance. Indeed, government failure poses a more severe and profound problem for environmental governance in China than market failure (Gao, 2018: 54). Still, as Figure 4 shows, while criminal–civil EPIL court judgements increased spectacularly during the five years under study, civil cases increased much more slowly and the number of administrative cases actually dropped after 2018. This is understandable, as the period between 2015 and 2017 was the trial period, during which the central government might have put a lot of pressure on the local government to showcase EPIL achievements (Gao, 2018: 63). Then, after the trial period, EPIL was deemed a success, local procuratorial organs' interest in litigating administrative cases decreased. After all, administrative cases are like clashes of local titans between procuratorial organs and local government agencies (Ma and Xiang, 2021). Although China is a fragmented party-state, there is a tendency to portray a

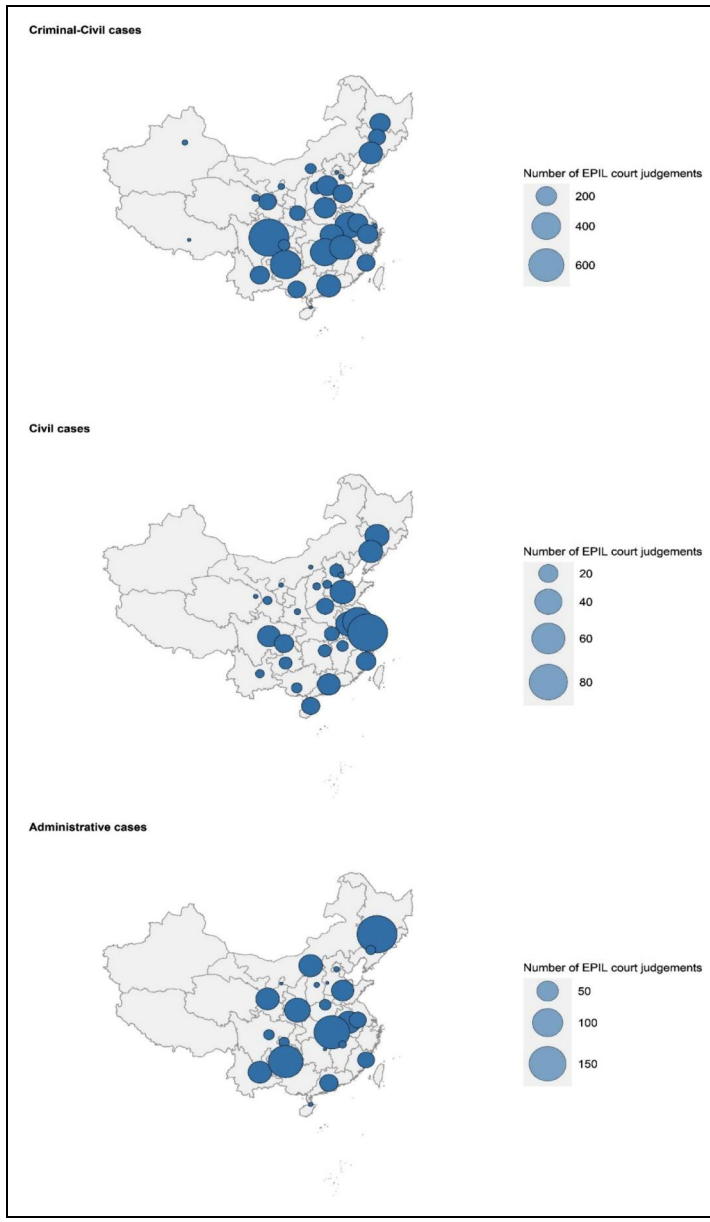

Figure 3. Provincial variations in terms of different types of environmental public interest litigation (EPIL) filed by procuratorial organs.
Source: Data compiled by the authors from China Judgements Online.

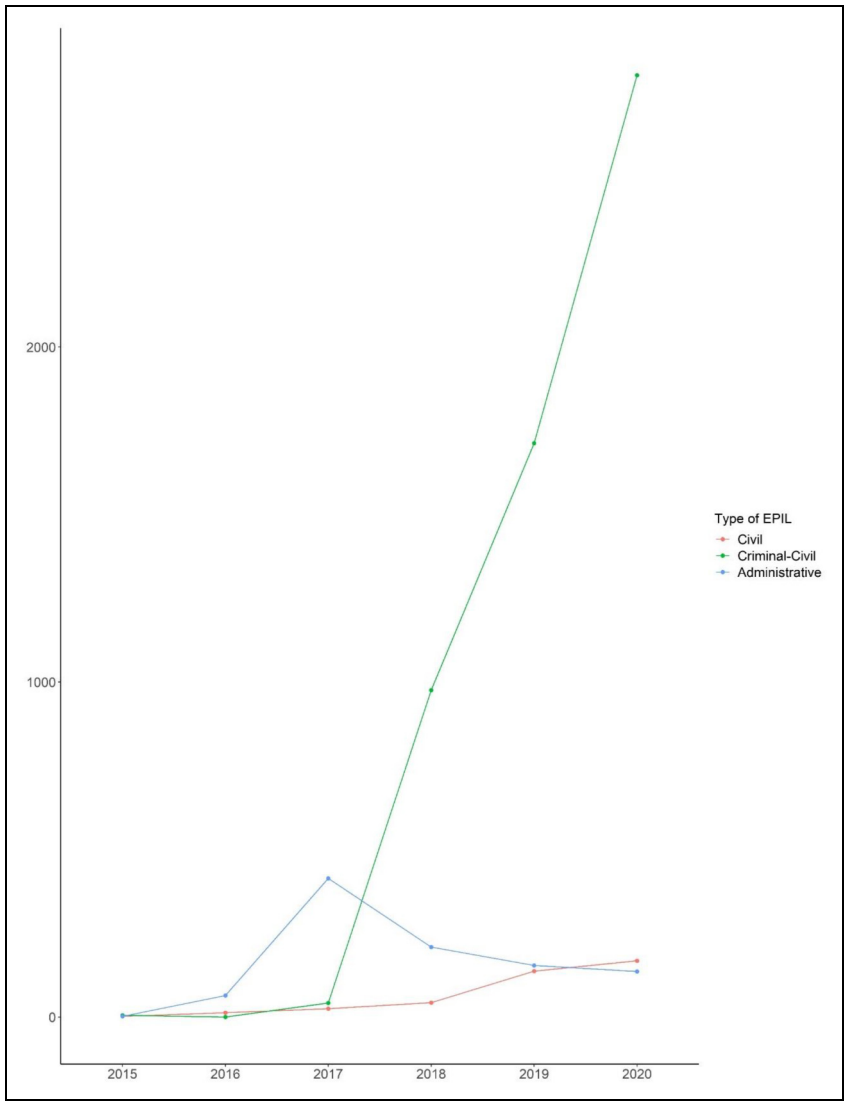

Figure 4. Development of the three types of environmental public interest litigation (EPIL) initiated by procuratorial organs from 2015 to 2020.
Source: Data compiled by the authors from China Judgements Online.

unified image towards the outside world. It is also likely that procuratorial organs, which are dependent on the local government, face significant obstacles in litigating against local government agencies (Gao, 2018; Gao and Whittaker, 2019: 339). Therefore, while both administrative and civil cases are likely to produce meaningful environmental

outcomes, their decrease or slow increase in China indicates that procuratorial organs are rather unenthusiastic about them.

By examining civil EPIL cases closely, we can draw a more revealing comparison between the enforcement activities of procuratorial organs and NGOs. We exclude criminal–civil cases from our analysis because NGOs do not have standing in such cases, making it difficult to draw a meaningful comparison. Focusing on civil cases provides a higher degree of comparability between the two groups. As Table 1 shows, procuratorial organs win almost 100 per cent of their civil EPIL cases, while NGOs have lost a significant proportion of theirs (21.5 per cent). EPIL lawsuits from procuratorial organs are

Table 1. Procuratorial Organs and NGOs: Civil EPIL Court Judgements.

Procuratorial organs		NGOs
388	*Total number of court judgements*	95
First instance: 364 Second instance: 24	*Instances*	First instance: 68 Second instance: 27
127 days NA: 4	*Average case processing time for first instances*	483 days NA: 5
Won: 387 Lost: 0 NA: 1	*Results*	Won: 75 Lost: 20
Businesses: 47 Individuals: 306 Both businesses and individuals: 32 Other: 3	*Different types of defendants*	Businesses: 59 Individuals: 21 Both businesses and individuals: 9 Other: 6
Minimum: 500 RMB First quartile: 18,000 RMB Median: 95,724.71 RMB Mean: 1,332,284.13 RMB Third quartile: 585,383.20 RMB Maximum: 130,585,400.4 RMB NA: 31	*Sum of compensation required by the plaintiff at the first instance*	Minimum: 600 RMB First quartile: 621,275.1 RMB Median: 1,800,000 RMB Mean: 12,539,723.8 RMB Third quartile: 8,875,000 RMB Maximum: 206,147,500 RMB NA: 17

Source: Data compiled by the authors from China Judgements Online.
Note: NGO = non-governmental organisation; EPIL = environmental public interest litigation. The average case processing time at first instances is calculated as the difference between the date of case registration (立案日期, *li'an riqi*) and the date of the court judgement. To minimise missing data, we occasionally used the date of case acceptance (受理日期, *shouli riqi*), or the date of initiating (提起日期, *tiqi riqi*) as a proxy, when the date of case registration is not available, because those three dates are often close. A case's "winner" is the party that pays a smaller proportion of court fees stipulated by the final court decision (Zhai and Chang, 2018: 394). The sum of compensation required by the plaintiff at the first instance covers the direct environmental damages and the compensations for the damage, while excluding other litigation costs, such as attorney fees and damage assessment costs.

also less likely to be appealed by the defendants than those from NGOs. Their average case processing time is also much shorter at the first instance. On the one hand, this may be interpreted as evidence of procuratorial organs' greater power and capability, relative to NGOs. On the other, however, another interpretation seems even more plausible: procuratorial organs mainly target easy prey. Indeed, most of the targets of civil cases for procuratorial organs are individuals, who tend to produce less harm than businesses. In contrast, NGOs often target businesses. The compensation sought by NGOs is typically much higher than that sought by procuratorial organs, suggesting that NGOs are pursuing cases that have greater potential impact on the environment. The high success rate, short processing time, and low appeal rate of procuratorial organ cases indicate that they tend to pursue cases that are easier to win, which may have limited implications for the environment despite their large number. For example, a typical procuratorial organ case may involve a farmer who has illegally cut down a few protected trees in a state-owned or collectively owned forest. While the procuratorial organ is likely to win such a case quickly, it is unlikely to have a significant potential impact on the environment. In contrast, a civil case against a polluting company with a much higher compensation may not only have a potential direct impact on the environment, but also raise public awareness of environmental protection, generating broader potential indirect impacts. Thus, the comparison in Table 1 does not provide convincing evidence of procuratorial organs' genuine interest in using EPIL to improve environmental outcomes in China.

Procuratorial organs tend to target low-hanging fruit for many reasons. Most important is the performance management system, which pressures procurators to produce quantifiable enforcement achievements and minimise losses (Gao, 2018; Gao and Whittaker, 2019; Shi and Rooij, 2016; Wang and Xia, 2023; Xiao and Ding, 2021). They have a much higher chance to win easy civil cases than administrative cases against powerful local government agencies, or civil cases involving businesses that can equally be challenging to litigate (Wang and Xia, 2023; Xiao and Ding, 2021). As a result, criminal–civil cases are the easiest. Similarly, civil cases involving individuals are much easier than those involving businesses, which may involve powerful state-owned enterprises.

Second, limited procuratorial capacity might also influence their choices. Environmental lawsuits are notoriously challenging, so procuratorial organs are likely to lack expertise and resources in this regard (Shi and Rooij, 2016; Wang and Xia, 2023). Third, procuratorial organs may be afraid to take over the role of Environmental Protection Bureaus, which have primary responsibility for dealing with civil cases through administrative sanctions and, thus further reduce the procuratorial organs' incentives to go after civil cases. In comparison, the incentive structures for NGOs may be very different. Despite their limited capacities, they tend to go after bigger, headline-making cases (Xie and Xu, 2021), in order to generate a greater social impact (e.g. public debates and public awareness) and to gain the expertise and influence that might secure access to the policy-making process (Zhuang and Wolf, 2021). Still, as noted earlier, due to the competition from the local procuratorial organs, NGOs may not have many choices, as procuratorial organs could have dealt with the majority of small cases already (Ren and Liu, 2020).

Conclusion and Implications

Much discussion has focused on how authoritarian environmentalism in China characterises its policy-making and implementation. Still, we argue that law enforcement is another distinct stage of China's environmental governance and should be brought into the discussion of authoritarian environmentalism. The question is whether and how the features of authoritarian environmentalism continue to shape law enforcement activities. Investigating the recent development of EPIL in China, and by building up a unique dataset of EPIL court judgements between 2015 and 2020, we explore the three key features of authoritarian environmentalism at the law enforcement stage, namely limited public participation, local discretion in environmental governance, and a tendency to produce numerous outputs but not necessarily desired outcomes.

We find that all three key features of authoritarian environmentalism continue to define EPIL in China. First, procuratorial organs play the dominant role during EPIL, while the participation of NGOs is strictly limited. NGOs face significant challenges in terms of limited capacity, difficulty in claiming legal standing, and competition from procuratorial organs. Second, the environmental preferences of procuratorial organs show significant variations across provinces, not only in terms of the total number of EPIL court judgements, but also in terms of the types of EPIL cases pursued. This demonstrates a high level of discretion at the local government level during the law enforcement stage. Third, while public enforcement tends to produce numerous outputs, its effects on the final outcomes are dubious. Procuratorial organs target low-hanging fruit that has weak environmental implications. In contrast, NGOs tend to target more challenging cases that can potentially generate better environmental outcomes. Paradoxically, China's authoritarian environmentalism compels the more resourceful and powerful state organs to go after easy targets that have weaker environmental implications, but it relies on the less resource-rich and capable NGOs to go after more challenging cases that potentially have a greater environmental impact.

On the one hand, the findings demonstrate that even authoritarian China can come up with new legal instruments to tackle environmental challenges. Different from the Target Responsibility System, central inspections, or other command-and-control tools, EPIL is a legal rather than political instrument to tackle environmental challenges. The decision to grant procuratorial organs legal standing against administrative agencies is also a historic achievement. The fact that NGOs are allowed to file EPIL is also a laudable step. More importantly, despite the strict limitations of legal standing and many other obstacles faced by NGOs, they are actively and steadily utilising the opportunity structure created by EPIL to shape China's environmental governance and help protect China's environment. Therefore, we share the view that China's legal reform in the environmental governance potentially "will open new pathways for robust social participation and signify a more formal rule of law in the long term" (Ren and Liu, 2020: 109).

On the other hand, however, public participation is still very restricted. Citizens are not granted legal standing to file EPIL cases, as they are in the United States. NGOs also face

stringent barriers to legal standing. Most importantly, the fact that procuratorial organs tend to go after low-hanging fruit casts doubt on the development of EPIL in China: Gao (2018: 73) concludes that it is "merely window-dressing." Occasionally, cases from procuratorial organs are ground-breaking, but most of the time this is not the case. Their dependence on the local government and their pressure under the performance management system will likely keep them doing less instead of doing more. Our findings are thus consistent with those of Shi and Rooij (2016: 54): all things considered, procuratorial organs are unlikely to become a strong regulatory force in China's environmental governance. Therefore, our findings cast doubt on the ability of EPIL to solve China's environmental challenges. Indeed, EPIL seems not able to break the logic of authoritarian environmentalism. A crucial question is to understand when, where, and why procuratorial organs do go out of their comfort zone and tackle more substantive environmental challenges. Only by understanding this can we perhaps find a way to promote procuratorial organs to do more. This is an important task, especially given that China is likely to rely on public enforcement instead of private enforcement for the foreseeable future. Therefore, understanding factors behind the significant local variations will be a good start.

Still, investigating how NGOs may contribute to the development of EPIL is equally important. NGOs are an important force in driving the development of civil society in China's environmental governance (Zhuang and Wolf, 2021). Therefore, it is important to understand better the factors that limit their potential and the possible remedies for them. Given that NGOs are tackling more challenging cases, we support the proposal that NGOs should be provided better legal remedies and support (Zhai and Chang, 2018; Zhang and Mayer, 2017). While we support the idea that the requirements for NGO legal standing should be relaxed (Gao and Whittaker, 2019), we consider this as rather unlikely. The authoritarian environmentalism approach taken by China is not likely to open up for public participation during the law enforcement stage any more than it does during policy-making and implementation.

In conclusion, we believe the authoritarian environmentalism framework is a valuable perspective for us to contextualise the debates over the development of EPIL in China. First, this framework allows us to align our expectations and take a more realistic view on procuratorial organs' role in China's environmental governance. In other words, their preference towards easy targets is a natural extension of the logic of the authoritarian environmentalism's focus on producing outputs rather than improving actual environmental outcomes. Second, the huge provincial variations in procuratorial organs' performance in EPIL indicate local governments' discretion even under the highly centralised authoritarian party-state. This indicates that implementation or enforcement gaps are still an inherent feature of China's environmental governance. Lastly, the limited role of NGOs in EPIL shows the deep-rooted distrust of China's authoritarian environmentalism towards public participation. We should thus search for possible remedies or support for NGOs and other important actors of public participation under this fundamental constraint.

Acknowledgements

We would like to thank the anonymous reviewers for their useful comments.

Data Availability Statement

The data that support the findings of this study are available from the corresponding author, Yi Ma, upon reasonable request.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) disclosed receipt of the following financial support for the research, authorship, and/or publication of this article: This work was supported by the S.C. Van Fonden under (grant number: 2020-0144).

ORCID iD

Yi Ma https://orcid.org/0000-0003-1955-6853

References

Ahl, Björn, and Daniel Sprick (2018) Towards judicial transparency in China: the new public access database for court decisions. *China Information* 32(1): 3–22.

Ahlers, Anna L., and Yongdong Shen (2018) Breathe easy? Local nuances of authoritarian environmentalism in China's battle against air pollution. *The China Quarterly* 234: 299–319.

Anderson, Sarah E., Mark T. Buntaine, Mengdi Liu, et al. (2019) Non-governmental monitoring of local governments increases compliance with central mandates: a national-scale field experiment in China. *American Journal of Political Science* 63(3): 626–643.

Beeson, Mark (2010) The coming of environmental authoritarianism. *Environmental Politics* 19(2): 276–294.

Beeson, Mark (2018) Coming to terms with the authoritarian alternative: the implications and motivations of China's environmental policies. *Asia & the Pacific Policy Studies* 5(1): 34–46.

Beyer, Stefanie (2006) Environmental law and policy in the People's Republic of China. *Chinese Journal of International Law* 5(1): 185–211.

Cao, Xun, Qing Deng, Xiaojun Li, et al. (2022) Fine me if you can: fixed asset intensity and enforcement of environmental regulations in China. *Regulation & Governance* 16(4): 983–1004.

Carpenter-Gold, Daniel (2015) Castles made of sand: public-interest litigation and China's new environmental protection law. *Harvard Environmental Law Review* 39: 241–274.

Cheung, Peter T.Y. (1998) Introduction: provincial leadership and economic reform in post-Mao China. In: Peter T.Y. Cheung, Jae Ho Chung and Zhimin Lin (eds.) *Provincial Strategies of Economic Reform in Post-Mao China: Leadership, Politics and Implementation*. Armonk, NY: Sharpe, pp. 25–26.

Eaton, Sarah, and Genia Kostka (2014) Authoritarian environmentalism undermined? Local leaders' time horizons and environmental policy implementation in China. *The China Quarterly* 218: 359–380.

Gao, Qi (2018) 'Public interest litigation' in China: panacea or placebo for environmental protection? *China: An International Journal* 16(4): 47–75.

Gao, Qi, and Sean Whittaker (2019) Standing to sue beyond individual rights: who should be eligible to bring environmental public interest litigation in China? *Transnational Environmental Law* 8(2): 327–347.

Gilley, Bruce (2012) Authoritarian environmentalism and China's response to climate change. *Environmental Politics* 21(2): 287–307.

Greve, Michael S. (1990) Private enforcement of environmental law. *Tulane Law Review* 65(2): 339–394.

Heilmann, Sebastian (2008) Policy experimentation in China's economic rise. *Studies in Comparative International Development* 43(1): 1–26.

Hofmann, Andreas (2019) Left to interest groups? On the prospects for enforcing environmental law in the European Union. *Environmental Politics* 28(2): 342–364.

Johnson, Thomas (2010) Environmentalism and NIMBYism in China: promoting a rules-based approach to public participation. *Environmental Politics* 19(3): 430–448.

Kostka, Genia (2016) Command without control: the case of China's environmental target system. *Regulation & Governance* 10(1): 58–74.

Kostka, Genia, and Coraline Goron (2021) From targets to inspections: the issue of fairness in China's environmental policy implementation. *Environmental Politics* 30(4): 513–537.

Kostka, Genia, and Chunman Zhang (2018) Tightening the grip: environmental governance under Xi Jinping. *Environmental Politics* 27(5): 769–781.

Li, Xiaoliang, Xiaojin Yang, Qi Wei, et al. (2019) Authoritarian environmentalism and environmental policy implementation in China. *Resources, Conservation and Recycling* 145: 86–93.

Li, Yifei, and Judith Shapiro (2020) *China Goes Green: Coercive Environmentalism for a Troubled Planet*. Cambridge: Polity.

Liang, Jiaqi, and Laura Langbein (2019) Linking anticorruption threats, performance pay, administrative outputs, and policy outcomes in China. *Public Administration* 97(1): 177–194.

Lieberthal, Kenneth G., and Michel Oksenberg (1988) *Policy Making in China: Leaders, Structures and Processes*. Princeton, NJ: Princeton University Press.

Liebman, Benjamin L., Margaret E. Roberts, Rachel E. Stern, et al. (2020) Mass digitization of Chinese court decisions: how to use text as data in the field of Chinese law. *Journal of Law and Courts* 8(2): 177–201.

Lipsky, Michael (1980) *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*. New York: Russell Sage Foundation.

Liu, Dawei, and Hang Xu (2018) The politics of curtailment: multi-level governance and solar photovoltaic power generation in China. *Environmental Politics* 27(5): 852–871.

Lo, Alex Y. (2010) Active conflict or passive coherence? The political economy of climate change in China. *Environmental Politics* 19(6): 1012–1017.

Lo, Carlos W.H., and Gerald E. Fryxell (2003) Enforcement styles among environmental protection officials in China. *Journal of Public Policy* 23(01): 81–115.

Lo, Carlos W.H., and Shui-Yan Tang (2006) Institutional reform, economic changes, and local environmental management in China: the case of Guangdong province. *Environmental Politics* 15(2): 190–210.

Lo, Kevin (2015) How authoritarian is the environmental governance of China? *Environmental Science & Policy* 54: 152–159.

Luo, Haocai, and Gongde Song (2013) *Soft Law Governance: Towards an Integrated Approach*. Buffalo, NY: William Shein & Co.

Ma, Yi (2021) Improved local implementation under central inspection? Evidence from social mandates in China. *Public Performance & Management Review* 44(4): 817–841.

Ma, Yi, and Chunrong Liu (2022) The politics of policy reformulation: implementing social policy in provincial China. *Journal of Contemporary China* 31(134): 301–318.

Ma, Yi, and Wen Xiang (2021) Clash of local titans – lawsuits between procuratorial organs and environmental bureaus in China. *ThinkChina Policy Brief, 18 May. ThinkChina – University of Copenhagen*. Available at: https://www.thinkchina.ku.dk/publications/thinkchina-policy-brief/clash-of-local-titans-lawsuits-between-procuratorial-organs-and-environmental-bureaus-in-china/ (accessed 18 May 2021).

Minzner, Carl (2009) Riots and cover-ups: counterproductive control of local agents in China. *University of Pennsylvania Journal of International Law* 31: 53–123.

Mol, Arthur P.J., and Neil T. Carter (2006) China's environmental governance in transition. *Environmental Politics* 15(2): 149–170.

Naysnerski, Wendy, and Tom Tietenberg (1992) Private enforcement of federal environmental law. *Land Economics* 68(1): 28–48.

O'Brien, Kevin J., and Lianjiang Li (1999) Selective policy implementation in rural China. *Comparative Politics* 31(2): 167–186.

Qi, Ye, and Lingyun Zhang (2014) Local environmental enforcement constrained by central–local relations in China. *Environmental Policy and Governance* 24(3): 216–232.

Qian, Zhang (2017) Empirical analysis on pilot project of the procuratorial Organs' institution on public interest litigation in China. *China Legal Science* 5(5): 32–55.

Ran, Ran (2013) Perverse incentive structure and policy implementation gap in China's local environmental politics. *Journal of Environmental Policy & Planning* 15(1): 17–39.

Ren, Xiangyi, and Lili Liu (2020) Building consensus: support structure and the frames of environmental legal mobilization in China. *Journal of Contemporary China* 29(121): 109–124.

Ryall, Áine (2016) Access to justice in environmental matters in the member states of the EU: the impact of the Aarhus Convention. *Jean Monnet Working Paper 5/16, May, New York University School of Law*. Available at: https://jeanmonnetprogram.org/paper/access-to-justice-in-environmental-matters-in-the-member-states-of-the-eu-the-impact-of-the-aarhus-convention/ (accessed 26 August 2021).

Shi, Yifan, and Benjamin van Rooij (2016) Prosecutorial regulation in the global south: environmental civil litigation by prosecutors in China compared to Brazil. *Regulation & Governance* 10(1): 44–57.

Shin, Kyoung (2018) Environmental policy innovations in China: a critical analysis from a low-carbon city. *Environmental Politics* 27(5): 830–851.

Stern, Rachel E. (2011) From dispute to decision: suing polluters in China. *The China Quarterly* 206: 294–312.

Stern, Rachel E. (2013) *Environmental Litigation in China a Study in Political Ambivalence*. Cambridge, UK: Cambridge University Press.

The Supreme People's Court 最高人民法院 (2021) 《中国环境资源审判》白皮书 [Environment and Resources Adjudication of China]. Available at: http://wej.court.gov.cn/news/more-17.html (accessed 14 February 2023).

Tilt, Bryan (2007) The political ecology of pollution enforcement in China: a case from Sichuan's rural industrial sector. *The China Quarterly* 192: 915–932.
Wang, Yueduan, and Ying Xia (2023) Judicializing environmental politics? China's procurator-led public interest litigation against the government. *The China Quarterly* 253: 90–106.
Wells, Peter (2007) The green junta: or, is democracy sustainable? *International Journal of Environment and Sustainable Development* 6(2): 208–220.
Xiao, Huina, and Chunyan Ding (2021) A paper tiger? Prosecutorial regulators in China's civil environmental public interest litigations. *Fordham Environmental Law Review* 32(3): 323–379.
Xie, Lei, and Lu Xu (2021) Environmental public interest litigation in China: a critical examination. *Transnational Environmental Law* 10(3): 441–465.
Yee, Wai-Hang, Shui-Yan Tang, and Carlos Wing-Hung Lo (2016) Regulatory compliance when the rule of law is weak: evidence from China's environmental reform. *Journal of Public Administration Research and Theory* 26(1): 95–112.
Zhai, Tiantian, and Yen-Chiang Chang (2018) Standing of environmental public-interest litigants in China: evolution, obstacles and solutions. *Journal of Environmental Law* 30(3): 369–397.
Zhang, Chun (2016) Environmental law blunted by crippling court costs. *China Dialogue*. Available at: https://chinadialogue.net/en/pollution/9203-environmental-law-blunted-by-crippling-court-costs/ (accessed 25 August 2021).
Zhang, Lei, Guizhen He, Arthur P.J. Mol, et al. (2013) Power politics in the revision of China's environmental protection law. *Environmental Politics* 22(6): 1029–1035.
Zhang, Richard, and Benoit Mayer (2017) Public interest environmental litigation in China. *Chinese Journal of Environmental Law* 1(2): 202–228.
Zhang, Xuehua (2017) Implementation of pollution control targets in China: has a centralized enforcement approach worked? *The China Quarterly* 231: 749–774.
Zhuang, Hao, and Steven A. Wolf (2021) Environmental public interest litigation: new roles for civil society organizations in environmental governance in China. *Environmental Sociology* 7(4): 393–406.

Author Biographies

Yi Ma, PhD, holds a postdoctoral position at the Department of Cross-Cultural and Regional Studies, University of Copenhagen. His research interests include policy design and implementation, central–local relations, and judicial politics in China.
Email: ym@hum.ku.dk

Wen Xiang, PhD, Associate Professor at iCourts, Faculty of Law, University of Copenhagen. Wen Xiang' s research interests include law and sustainable investment, environmental law, risk regulation, and law and digitalization in China.
Email: wen.xiang@jur.ku.dk