



ARTICLE



<https://doi.org/10.1057/s41599-025-04738-7>

OPEN

Public interest litigation protection policy of commemorative architectural cultural heritage: a case study from China

Bowen Yang^{1,3}✉, Xinmiao Yang^{2,3}✉ & Huang Xiao^{1,3}

Memorial architectural cultural heritage imbues a nation's essence and vitality. The public interest litigation mechanism effectively shields against infringements on this heritage. Drawing upon the Interest Balance theory, this article employs quantitative statistical analysis and case studies to emphasize the crucial role of the public interest litigation protection mechanism in safeguarding memorial architectural cultural heritage. By examining public interest litigation cases involving the Great Wall's historical and cultural heritage, this article discusses the interplay between China's judicial policy preferences and public interest litigation in balancing social, national, economic, and government interests. This study broadens the scope of judicial protection measures for commemorative architectural cultural heritage. It aims to curb risky behaviors that might harm cultural relics, safeguarding the social public interests through public interest litigation.

¹ College of Humanities and Social Development, Nanjing Agricultural University, No.1 Weigang, Xuanwu District, Nanjing, Jiangsu, China. ² Faculty of Law, Tianjin College, University of Science and Technology Beijing, No.1, the Pearl River North Ring East Road, Jing-Jin New Town, Baodi District, Tianjin, China.

³ These authors contributed equally: Bowen Yang, Xinmiao Yang, Huang Xiao. ✉email: 2021011@njau.edu.cn; 263093029@qq.com

Introduction

Commemorative architectural cultural heritage constitutes a fundamental component of human civilization, embodying the tangible essence of a country's cultural identity. In China, notable examples of such heritage include the Forbidden City, the Great Wall, and the Terracotta Warriors, a testament to the nation's ancient culture and rich history. These structures are the product of human creativity and ingenuity, reflecting distinct cultural inheritances spanning various historical epochs. Undeniably, commemorative architecture is an artistic creation with sentiments and ideas. Preserving commemorative architectural cultural heritage is crucial for maintaining historical and cultural continuity. It serves as a means of inheriting remarkable traditional cultural values. (Koci et al., 2014).

Amid contemporary societal development, commemorative architectural cultural heritage faces significant threats from various factors, including climate change, inadequate operational management, and human destruction. A case in point is Hurst Castle in the United Kingdom, which was constructed in 1544 as an artillery fort and served military purposes until the conclusion of World War II. Subsequently, it became a popular tourist attraction, offering visitors insights into England's coastal defence history. Regrettably, in 2021, a portion of the eastern ramparts of Hurst Castle suffered collapse, a direct consequence of the adverse impacts of climate change (Tsioulas, 2019). Although the relevant authorities in the UK responded promptly, the management pointed out that within the next 100 years, the sea level will inevitably rise by about 1.5 meters, causing damage to the site. La Maison du Peuple in Africa, built in 1965, was once praised as "one of the most important examples of African modernism" (Dian et al., 2024). The building symbolizes the independent democratic ideas of the time. Due to a long-term lack of maintenance and legal protection, it has fallen into disrepair and urgently needs repair. Notre-Dame de Paris is one of France's most representative cultural relics and a world heritage site. It is an emblem of Paris. On April 15, 2019, a major fire broke out at Notre-Dame de Paris, lasting over four hours and causing severe damage to multiple parts of the church, including the spire (Gard'Ner, 2004). The threat of fire permanently shadows world heritage buildings. Similarly, the National Museum of Brazil, which housed the region's richest collection of artefacts, also suffered a devastating fire. The entire three-story building was destroyed, with the flames consuming 90% of the museum's precious collections. Armed conflicts have also caused severe damage to historical architecture (Andretta et al., 2016). Palmyra, once the most prosperous city on the ancient Silk Road, was known as the "pearl of the desert". Before being occupied by ISIS, the ancient city of Palmyra including palaces, temples, and tombs (Parsova et al., 2019). It could be said to be an open-air museum and was also a tourist destination in Syria. Today, the most famous structures in the ancient city, including the Temple of Baal Shamin, the Temple of Bel, the Arch of Triumph, the Tower of Elahbel, and many statues and stone pillars, have been destroyed (Shan, 2008).

Commemorative architectural cultural heritage is a social public resource with typical public attributes, it should be remedied through public interest litigation. Protecting commemorative architectural cultural heritage through public interest litigation is essentially protecting the public interest and building a judicial bridge between the protection of cultural heritage and the public interest (Xie and Xu, 2022). Filing civil public interest lawsuits against individuals who make the malicious destruction of cultural relics and administrative public interest lawsuits against administrative entities that fail to perform their duties can have a deterrent effect on those who harm public interests. This approach also strengthens the supervision of administrative

actions, increases public participation in the protection of commemorative architectures, and maximizes the protection of these architectures while safeguarding national and social public interests (Blake, 2000). Since 2012, China has preliminarily established a public interest litigation system (Biao et al., 2012). It was not until 2017 that the mechanism for the procuratorial organs to initiate public interest litigation was perfected, forming a pattern of civil and administrative public interest litigation dominated by the procuratorial organs and involving social organizations that meet specific qualifications (Licchelli et al., 2011).

Chinese legislative characteristics and outcomes of public interest litigation for memorial architectural cultural heritage

China has lost over 40,000 immovable cultural relics, of which over half have been destroyed by various construction activities (Logan, 2007). In some places, illegal demolition of historical buildings and destruction of the environment of cultural relics have occurred from time to time (Wang et al., 2023). The enforcement of cultural relics protection laws is weak, and there is a phenomenon of lax enforcement and failure to investigate violations, which leads to the repeated occurrence of crimes such as theft and excavation of cultural relics. This causes irreparable losses to national cultural relics and property (Bortolotto, Ubertazzi 2023). Therefore, China has begun to attach importance to protecting architectural commemorative cultural heritage and ensuring that cultural heritage is not destroyed through legislation.

Primary characteristics. The core interest pursued in public interest litigation to protect memorial architectural cultural heritage lies in its cultural resource benefits, essentially encompassing historical information, humanistic spirit, and national sentiment. Administrative public interest litigation constitutes the primary cases concerning memorial architectural cultural heritage, with the main objects of protection being immovable cultural relics and historic sites. From 2022 to 2023, Chinese procuratorial organs handled over 11,000 public interest litigation cases related to protecting cultural relics and heritage.

In terms of characteristics, on the one hand, this reflects a joint protection mechanism combining the "Law on the Protection of Cultural Relics," the Urban Planning Law, and the Law on the Protection of Environmental Resources. This has promoted the establishment of mechanisms such as information sharing and joint investigations for the protection of memorial architectural cultural heritage, fully leveraging the functions of procuratorial organs and administrative agencies responsible for this protection. It has improved the coordination between administrative law enforcement concerning historic buildings and procuratorial public interest litigation, strengthened legal supervision over the performance of duties by relevant administrative agencies, fostered a collaborative effort for public interest protection, and better served the protection of memorial architectural cultural heritage. Procuratorial organs take diversified approaches to conserve memorial architectural cultural heritage. Considering the nature, characteristics, types of damage, and protection methods of cultural relics and heritage, procuratorial organs in China often initiate public interest litigation focusing on protecting natural resources and state-owned property. By promoting source governance in the protection of memorial architectural cultural heritage, strengthening sectoral regulation, and plugging management loopholes in this area, the Chinese judicial organs have contributed to its preservation.

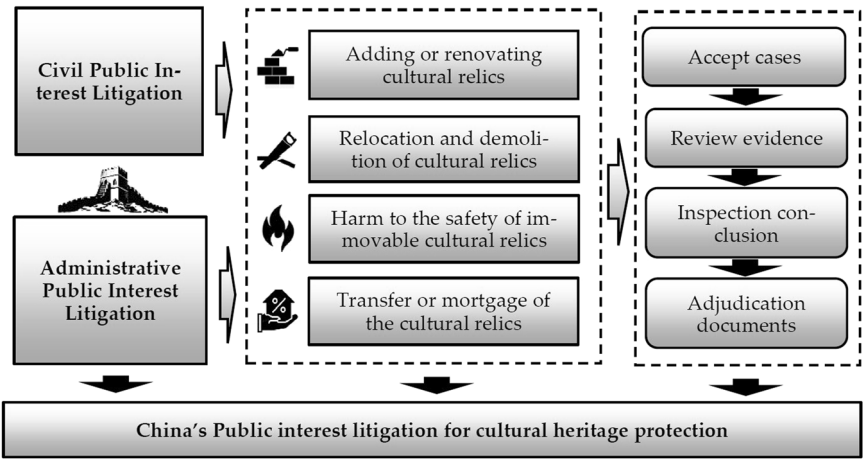


Fig. 1 Route of China's public interest litigation policy for cultural heritage protection.

Table 1 Public interest litigation for memorial architectural cultural heritage in China.		
Public interest litigation governance effects	Concretization	Effects of public interest litigation
Physical Damage to Heritage Sites	Cultural relics face issues such as fractures, collapses, deterioration of wooden structures, and theft and excavation.	Procuratorial organs initiate criminal-attached civil public interest litigation by the law.
Destruction of Traditional Features	Cultural relics are often subjected to unauthorized demolition, modification, additions, and modernization.	
Threats to Cultural Relic Security	Unregulated activities such as excavation of mountains, quarrying of stones, land reclamation, soil extraction, illegal construction within the protected scope or control zone of cultural relics, and accumulation of waste and flammable materials around cultural relics pose significant threats to cultural heritage.	Offenders are required to undertake the responsibility for cultural relic restoration.
Inadequate Protection Measures	There are failures to describe protected areas and control zones for cultural relics, as well as damage to and absence of protection signs and boundary markers.	Pre-litigation procuratorial suggestions are issued to relevant administrative agencies.
Poor Repair and Maintenance	There is a failure to fulfill repair obligations and inadequate performance of assistance in repair obligations by local governments.	

Source: Compiled by the author based on information from the Chinese Procuratorate.

To protect cultural relics from damage through judicial means, China established a public interest litigation system for cultural relics protection in 2020. This system covers ancient sites, traditional buildings, traditional villages, and other related heritage areas. The public interest litigation procedure for cultural relics protection in China is shown in Fig. 1. It effectively enhances the joint efforts of cultural relics and historical and cultural heritage protection through public interest litigation policies.

System effects. Extending the functions of public interest litigation in handling cases has facilitated the governance of cultural relics. By leveraging the combined advantages of civil and administrative public interest litigation systems, procuratorial organs have effectively promoted the joint protection of memorial architectural cultural heritage by government agencies, social organizations, and the public. This has improved the long-term mechanism for pursuing compensation liability for memorial architectural cultural heritage damages, fostered collaborative governance efforts, and addressed enforcement challenges related to such heritage. The public interest litigation system has produced significant effects in protecting memorial architectural cultural heritage, including addressing physical damage to heritage sites, ensuring the security of cultural relics, and facilitating repair and maintenance (Table 1).

Procuratorial organs have supervised administrative agencies that neglect their regulatory responsibilities to protect memorial architectural cultural heritage. Through public interest litigation, they have supervised the performance of regulatory duties by relevant departments to preserve cultural relics and safeguard the integrity of memorial architectural cultural heritage. The public interest litigation system has effectively achieved a triple integration of the right of use, territorial protection obligations, and the revitalization and utilization of memorial architectural cultural heritage. It has also balanced the legitimate interests between the protection of memorial architectural cultural heritage and economic development, aroused greater public attention to cultural relic protection, and prompted various social entities to take on the social responsibility of cultural relic protection.

Methods and data analysis

Through qualitative and quantitative analysis, this article presents the panorama of China's public interest litigation to protect architectural memorial cultural heritage through judicial means (Lavanya, 2007). This article uses quantitative analysis to describe the sample of public interest litigation for the protection of architectural commemorative cultural heritage in China. It also calculates the trend of changes in the number of cases and judicial effectiveness between 1982 and 2023 (Helson et al., 2010). Through qualitative analysis, the article selects typical cases and

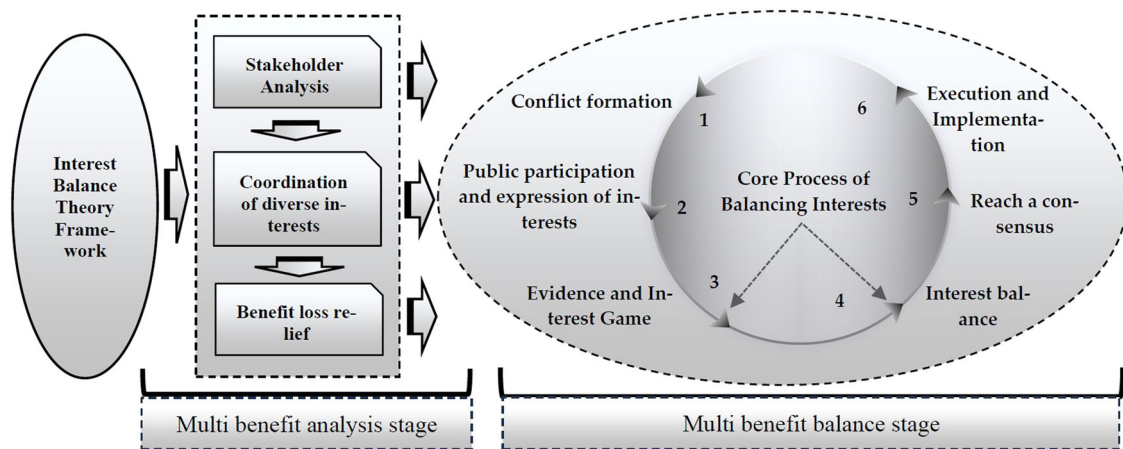


Fig. 2 Analytical framework of interest balance.

interviews the judges handling these cases. It analyzes how to balance and coordinate multiple interest demands in China's public interest litigation for the protection of memorial architectural cultural heritage using the framework of interest balance theory. Finally, the article proposes the functions and roles that public interest litigation should have in the future protection of memorial architectural cultural heritage (Bhagwati, 1989).

Analysis framework of Interest Balance Theory. The jurisprudence of interests proposes balancing interests as a slogan against the jurisprudence of concept. The jurisprudence of interests is the study of interests from a broad perspective (Shi, Van Rooij 2016). In the concept of "interest" in the jurisprudence of interests, attention should be paid to the extension of interests. Interests include the group interests, social group interests, public interests, national interests, economic interests, and even the interests of all mankind (Chu, 2018). Different social entities have different interest needs, and under the objective conditions of limited resources, conflicts of interest inevitably exist among social entities (Forrest, 2009). To maintain normal relations between social entities, it is necessary to establish legal rules that coordinate these conflicts and maintain social order by balancing their interests (You et al., 2023). In the jurisprudence of interests, the law's core task and function is to resolve conflicts of interest and reflect a particular interest orientation in legislation (Cohen, 2006).

The concept of balancing interests refers to the need to achieve a maximum total amount of benefits when conflicts arise (Tiantian, YenChiang 2018). It aims to ensure an equilibrium of interests among all parties involved, promoting the long-term development of such equilibrium. Coordination is necessary between economic interests and the preservation of monumental architectural cultural heritage. Some developers, driven by the pursuit of short-term financial gains, may neglect the protection of cultural heritage, leading to irreversible losses. When conflicts arise between economic and social development and cultural heritage preservation, economic interests should yield as necessary to conserve these non-renewable and precious cultural assets.

The public interest litigation system for monumental architectural cultural heritage should be integrated with sustainable development to foster a balanced development paradigm. Balancing interests is an essential pursuit of legal value. From a substantive law perspective, it clarifies the scope and content of different forms of interest, constructs various levels of benefit distribution methods, and establishes models for

safeguarding interests. From a procedural law perspective, it regulates the procedures for realizing various interests, ensures remedies for damaged interests, and specifies principles and methods for resolving conflicts of interest (Jin, 2021). These legal procedural requirements are necessary for achieving a balanced distribution of interests. The theory of interest balancing can also be applied in exploring judicial remedies for commemorative architectural cultural heritage (Gandhi et al., 2021). The mechanism of public interest litigation plays a role in coordinating and integrating the efforts of various parties by balancing their interests in the protection of commemorative architectural cultural heritage.

The public interest litigation system encompasses various interest balance policy processes, including social public participation and expression, evidence and interest negotiation, consultation and conflict resolution, consensus building, and implementation confirmation (Fig. 2). The theory of interest balancing emphasizes the analysis of stakeholders, explicitly identifying the interest groups involved in damage to monumental architectural cultural heritage. Simultaneously, multiple participation channels are provided to stakeholders to facilitate interest expression (Li, Li 2009). Public participation channels are offered to vulnerable stakeholders, and necessary judicial remedies are granted during public participation to promote a balance between public participation and interest expression. Judicial institutions are organized to analyze and manage the viewpoints and positions presented during public participation and interest expression, structuring conflicts appropriately to clarify their focal points and providing a foundation for subsequent evidence and interest coordination (Lika, 2024). The analysis focuses on factual conflicts and value conflicts associated with the differing viewpoints held by all parties. Finally, various methods such as consensus building, dispute resolution, and fair distribution are utilized to promote interest coordination and conflict resolution solutions.

The theory of interest balancing addresses the multifaceted conflicts of interest involved in preserving monumental architectural cultural heritage, encompassing governments, social organizations, the public, and potential developers. It ensures that while protecting cultural heritage, the reasonable needs of other stakeholders are also considered, achieving a balance between public interests and economic, governmental, and other interests. Quantitative analysis provides a scientific basis for formulating and making decisions regarding public interest litigation systems by collecting and analyzing specific data. It clarifies infringers' liability and compensation amounts, ensuring the fairness and effectiveness of public interest litigation (Huang

Table 2 Statistical analysis of the distribution of public interest litigation cases for the protection of commemorative architectural and cultural heritage in China^a.

Year	Cases number of different regional (Quantity)		Cases number of competent courts (Quantity)			Compensation for damages or average compensation amount (Ten thousand yuan)
	Economically developed regions	Economically underdeveloped regions	Superior Courts	Intermediate Court	Grassroots Court	
2023	75	81	5	97	54	5.12
2022	87	99	3	112	71	7.09
2021	88	85	3	103	67	7.23
2020	67	75	6	93	43	4.26
2019	85	58	3	89	50	5.31
2018	68	96	5	117	42	6.48
2017	58	87	5	86	54	3.87
2016	72	79	2	102	49	4.68
2015	58	78	2	78	55	4.67
2014	77	80	7	116	34	6.36
2013	71	56	3	77	47	5.22
2012	46	69	2	81	32	4.63
2011	37	42	3	58	18	3.18
Total	1874		1874			68.1

^aData source: China judgment document database, Wolters Kluwer database.

et al., 2024). By evaluating the implementation effects of the system, such as the number of lawsuits and amounts of damages awarded, quantitative analysis facilitates the further improvement of the public interest litigation system (Hao, 2024). The integration of the theory of interest balancing and quantitative analysis allows for a comprehensive and scientific study of the public interest litigation system for monumental architectural cultural heritage. This ensures that while protecting cultural heritage, it also accommodates the interests of all parties and realizes social equity and justice in heritage conservation.

Descriptive statistics of public interest litigation cases for architectural commemorative cultural heritage protection in China. In collecting data and cases, based on the Chinese Court Case Database and Judgment Document Database, a sample of civil and administrative public interest litigation cases related to commemorative architectural cultural heritage is determined. Since public interest litigation usually involves public interests, the selection of cases focuses on the number of affected people, the extent of impact, and the amount of compensation for damages. The data and case collection methods include conducting on-site investigations of some cases to obtain more detailed information and interviewing relevant legal and cultural heritage protection experts to obtain professional opinions. The scope of case selection spans from 2011 to 2023. Chinese commemorative architectural cultural heritage is precious, fragile, diverse in type, and widely distributed. By 2023, about 500 architectural cultural heritage sites in China had suffered losses to varying degrees, including 76 primary historical and cultural sites protected at the national level and 187 provincial cultural relics protection sites. Among the damaged cultural relics, ancient bridges have been washed away, ancient city walls have collapsed, and cultural buildings and houses have collapsed more severely (Huang, Fang, 2023). The disappearance rate has reached around 20%, with a significant proportion of urban and rural construction being artificially demolished.

In the process of continuously improving the policy system for protecting commemorative architectural cultural heritage in China, a total of 1874 public interest litigation cases involving architectural commemorative cultural heritage were filed from 2011 to 2023. Of these, civil public interest litigation cases

accounted for 36.7%, while administrative public interest litigation cases accounted for 63.3% (Zhu, Liang, 2020). The cases included 732 involving social and public interests, 143 involving construction land planning, and 103 involving natural resource protection (Table 2).

From the overall analysis, the number of cases in economically underdeveloped areas is higher than that in economically developed regions. At the same time, the number of cases heard in the Intermediate People's Court accounted for 61.5%, indicating that most public interest litigation cases related to architectural memorial cultural heritage are more complex. These cases focus on the damage, relocation, and demolition of architectural memorial cultural heritage. The destruction of architectural memorial cultural heritage by most offenders is irreversible. In economically developed regions, compensation standards are typically higher. Compensation in these regions extends beyond monetary awards to include restoration to the condition, conservation efforts, and other measures (Yan, Tuo 2021). Conversely, in less developed regions, lower economic development results in lower compensation standards and more limited compensation methods, primarily monetary compensation. Law enforcement in these areas may be weaker, and enforcing compensation judgments may face difficulties (Hu, Zhao, 2017).

Case study: evidence from China

The typical cases in China involve various types of Great Wall resources and multiple situations of public welfare damage. The damage affects the main body of the Great Wall, such as walls, beacon towers, enemy towers, and involves illegal construction within the scope of cultural relics protection and construction control zones. This construction damages the landscape and surrounding ecological environment of the Great Wall (Li et al., 2021). The illegal subjects include legal persons engaged in illegal construction and administrative agencies that fail to consider the safety of cultural relics in fulfilling their responsibilities, such as construction planning and resource protection. This results in damage to cultural relics. The article includes in-depth, semi-structured interviews with Chinese judicial practitioners and lawyers.

Public interest litigation case for the historical view and features of the Great Wall in China. “Ming Great Wall Zi-Jing-Guan Section” is a key memorial building cultural heritage protection unit in China. From 2014 to 2017, Yixian Stone Processing Co., Ltd. illegally occupied the protected area, construction control zone, and forest land of the Great Wall without the approval of the cultural relics protection and forestry authorities to build a stone processing plant. This caused severe damage to the historical and environmental features of the Great Wall ruins, as well as the ecological environment of the forestry industry (Su, Wall, 2012).

Illegal construction that damages the Great Wall’s historical style and ecological environment infringes on national and social public interests. The procuratorial organ filed a civil public interest lawsuit by the law, appealing for a judgment to dismantle the illegal construction and protect the style and features of the Great Wall. It also proposed punitive damages for environmental damage, which punished the illegal subjects who damaged cultural relics and the environment, and ensured the effective repair of the damaged public interest (Lin et al., 2022). The Great Wall has essential historical and cultural value for studying ancient Chinese military history, the natural environment, ethnic relations, and agricultural and animal husbandry production and life along the route. The prosecutor raised his views on the process of handling the case:

“In this case, the procuratorial organs carried out special activities based on the rich resources and characteristics of the local Great Wall. These activities promoted the government’s fulfillment of its primary responsibility for cultural relic protection, reported safety hazards of the Great Wall, sought support from all sectors of society, facilitated the introduction of institutional norms, clarified the division of responsibilities of various administrative organs in the protection and management of the Great Wall, promoted linkage and cooperation, established and improved long-term mechanisms, and effectively promoted the security of the Great Wall.” [Ding XX, Assistant Prosecutor of the People’s Procuratorate of Jiang-Ning District, Nanjing, Jiangsu Province, China]

The court found that the evidence submitted by the public interest litigation prosecutor was sufficient to prove that the defendant’s stone processing company illegally occupied the protection scope and construction control zone of the “Ming Great Wall Zi-Jing-Guan Section.” The company built stone processing plants and roads, mined raw materials, and conducted crushing and screening operations. These activities resulted in the exposed cavitation of large areas of forest land around the ruins and caused damage to the Great Wall ruins and the surrounding ecological environment. The defendant’s actions have damaged the historical and environmental features of the Great Wall, harming the cultural relics themselves and the surrounding environment, thereby damaging social and public interests. The defendant should undertake corresponding legal responsibilities by the law. Regarding this case:

“The important city sites related to the Great Wall have been damaged due to illegal construction. Procuratorial organs have utilized the advantages of public interest litigation and procuratorial functions to promote the joint performance of multiple departments and correctly handle the relationship between the protection and utilization of the Great Wall. This restores the historical landscape around cultural relics, and promotes the integration of cultural heritage protection and tourism development.” [Zheng XX, lawyer of China Da-Cheng Law Firm]

“Ming Great Wall Zi-Jing-Guan Section” is a national key memorial building cultural heritage protection unit and a representative section of the Great Wall with typical cultural landscape characteristics. Protecting the Great Wall is a shared responsibility of the entire society. In response to the illegal destruction of the Great Wall resources by enterprises, the procuratorial organs have filed civil public interest lawsuits by the law. They hold the violators responsible for public welfare compensation for the damage to the historical and environmental features of the Great Wall, as well as the surrounding ecological environment.

Administrative Public Interest Litigation Case of Qing-Shui-Ying Cultural Site in China. The film and television company built a wooden film and television shooting base without approval. During the construction process, the construction unit did not take enclosure and fire prevention measures around the Qing-Shui-Ying city site. They also left a large amount of wooden construction waste at the corner of the city wall, which affected the safety of cultural relics, historical features, and the surrounding environment. This damaged national, social, and public interests (Carol et al., 2023). After investigation and verification, the People’s Procuratorate of Ling-Wu issued a public announcement to the relevant functional departments regarding the procuratorial recommendations before the public interest litigation. It urged the restoration of the damaged part of the Qing-Shui-Ying city site and the demolition of all illegal wooden buildings (Cui, 2018).

As a crucial military strategic defence garrison castle of the Ming Great Wall, the Qing-Shui-Ying cultural site holds significant archeological and historical value (Du Cros et al., 2005). Given the destruction of historical features and the ecological environment of cultural relics in the use of cultural heritage, the procuratorial organ has fully utilized its public interest litigation function. It actively coordinates with the Cultural Relics Protection Department to organize experts to conduct demonstration guidance on the protection and utilization of the Ming Great Wall and Qing-Shui-Ying city sites. This effort promotes reasonable utilization, urges relevant departments to perform their duties according to the law, restores the historical features of cultural relics, and strengthens environmental protection. Regarding this case:

“Protecting cultural relics requires multi-party collaboration and cohesion. It is essential to continuously improve the cultural relic protection system, which is led by the Party committee, implemented by the government, coordinated by the departments, supported by judicial protection, and enhanced through social participation.” [Liu XX, People’s Procuratorate of Hebei District, Tianjin, China]

The procuratorial organs filing administrative public interest litigation should meet two conditions: “national interests or social public interests are in a state of infringement” and “the deadline for responding to pre-litigation procuratorial suggestions has expired.” Most judicial practitioners tend to use results as the standard in judging public interest litigation cases related to commemorative architectural and cultural heritage. They focus on whether the damaged public interests have been effectively restored and whether the dangerous state of public interests has been eliminated (Cheng et al., 2024).

Administrative public interest litigation is a lawsuit that aims to protect public interests by urging administrative agencies to perform their duties by the law and coordinating with supervised agencies. It is both a supervisory lawsuit and a coordinative lawsuit. In this case, the procuratorial organs gathered consensus

among all parties, urged the lawful performance of their duties, and formed a joint governance force through supervisory methods such as procuratorial suggestions, litigation, consultation during litigation, and hearings. This approach achieved adequate protection of commemorative architectural cultural heritage through the rule of law (Hu, Li 2022). Public interest litigation for the protection of commemorative architectural cultural heritage is a new means of protecting cultural relics in China. The non-renewable nature of commemorative architectural cultural heritage and the fragility of its environmental style determines that all protection work must be carried out under the premise of laws, regulations, and scientific norms. In the judicial practice of public interest litigation for the protection of commemorative architectural and cultural heritage, China has strengthened its ability to protect cultural relics and integrated national interests with social and public interests (Wang et al., 2022).

Interest balance mechanism of public interest litigation for the protection of Chinese memorial architecture and cultural heritage

The public interest litigation protection mechanism for commemorative architectural cultural heritage plays a balancing and preventive role in four dimensions: social public interest, national interest, economic interest, and government interest (Fig. 3). By protecting society's public interest, it prevents significant risk behaviors that damage cultural relics and society's public interest. At the level of national interests, it protects the value of national cultural dissemination in the context of globalization (Dugard and Langford, 2011). Regarding economic interests, it ensures the sustainable development of commemorative architectural cultural heritage. It reduces the damage caused by urban construction to cultural relics to safeguard government interests. The public interest litigation protection mechanism for commemorative architectural cultural heritage has fully balanced these interests, and better "lets culture and history speak" through the "four-interests" protection measures.

Social public interest dimension: preventing the risk of damaging cultural relics to the social public interests. The public interest litigation system aims to safeguard the public interest of unspecified individuals, with the public interest serving as the object of such litigation. From the cultural significance of cultural relics, commemorative architectural cultural heritage can be regarded as a social public resource, possessing distinct public attributes (Parvin and Ashabi, 2023). By protecting it through public interest litigation, the essence of such protection lies in safeguarding the public interest.

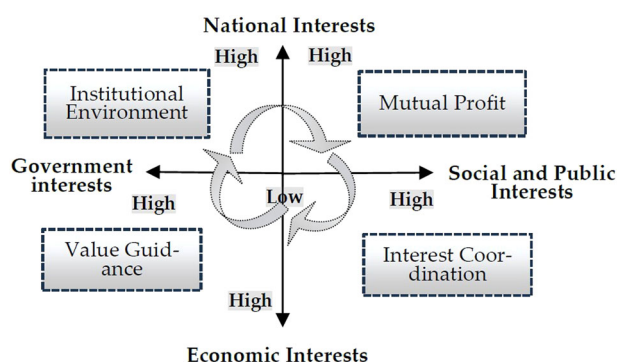


Fig. 3 Four interests" balance of commemorative architectural cultural heritage.

In Chinese ordinary litigation, protecting cultural heritage is primarily conducted through government-led initiatives. These initiatives typically rely on a top-down administrative management system as the core mechanism for safeguarding (Liang and Sun, 2020). This administrative approach demonstrates high control and organization, significantly preserving commemorative architectural cultural heritage. However administrative authority also has limitations, such as the ineffectiveness of specific administrative penalties issued by government agencies in deterring violators. Salvage or remedial measures are taken only after receiving information through public reports or media coverage. It is necessary to rely on third parties to protect public interests and prevent further harm. In public interest litigation in China, plaintiffs—who can be individuals or organizations—possess obvious non-specificity and broad applicability. This allows multiple entities to initiate lawsuits, ensuring the realization of public interest protection and allowing relevant interest parties to benefit from the litigation, even if they do not directly participate. This encourages public participation in conservation efforts and contributes to the sustainable development and preservation of cultural heritage in commemorative architecture while enhancing the public's cultural awareness and consciousness. The conditions for initiating public interest litigation are not contingent upon substantial harmful consequences. It can involve either an act that has already caused severe consequences infringing upon public interests or a potential act that may infringe upon public interests. This serves as a preventative measure against acts of cultural heritage infringement, thereby avoiding irreversible outcomes.

Public and social organizations are crucial in the composition of plaintiffs in public interest litigation concerning monumental architectural cultural heritage. Their involvement diversifies the structure of plaintiffs in such litigation, and enhances its effectiveness, opening new avenues for the sustainable protection of cultural heritage.

Public and non-governmental organizations (NGOs) provide leads and evidence for public interest litigation. They assist procurators in identifying and investigating public interest litigation cases by furnishing leads and evidence. For instance, in a series of public interest litigation cases concerning solid waste pollution governance at the Oujiang Shanfuzhuangyan Section in Lucheng District, Wenzhou City, Zhejiang Province, the procuratorate conducted investigations by collecting leads and evidence. Secondly, the public and NGOs perform pre-litigation procedures (Mohammad and Karim, 2019). Before the initiation of public interest litigation by procuratorates, the public and NGOs can influence the filing and handling of such litigation through participation in pre-litigation procedures, such as submitting proposals and participating in hearings. As stipulated in the "Regulations on Handling Public Interest Litigation Cases by People's Procuratorates" issued by the Supreme People's Procuratorate, procuratorates must issue a public notice before filing a civil public interest litigation, with a notice period of 30 days. During this period, the public and NGOs can voice their demands and suggestions. Thirdly, NGOs support other eligible entities in initiating litigation. NGOs can support other eligible entities in filing public interest litigation through legal consultation, financial assistance, and other means. In public interest litigation, NGOs can support other eligible entities in various ways.

An example is the environmental pollution civil public interest litigation case filed against three individuals, including Yuan, with the support of the Dongguan Environmental Science Society and the Dongguan Municipal People's Procuratorate. Finally, NGOs participate in legislation and policy advocacy. NGOs can promote the improvement of laws and policies related to public interest

litigation by participating in legislation and policy advocacy, thereby creating a better institutional environment for public interest litigation. Public interest litigation hearings serve as an essential means of public participation, providing a platform for the public to directly participate in the discussion and decision-making processes of public interest litigation cases. This enables public involvement and oversight.

National interest dimension: protection of the value of national cultural communication. The mechanism of public interest litigation enables the public and NGOs to participate in the supervision and maintenance of the protection of commemorative architectural cultural heritage by providing legal channels. This encourages relevant institutions and individuals to pay more attention to protecting cultural heritage and preventing illegal infringement and destruction. It helps to stimulate public participation in cultural preservation and enhance public awareness of the value of national cultural dissemination. Cultural rights and cultural characteristics, as symbolic expressions of cultural nationalism, exhibit strong national and state interests. Commemorative architectural cultural heritage embodies a nation's unique spiritual values and ways of thinking, reflecting the creativity of the Chinese nation and representing the crystallization of the wisdom of various ethnic groups. As a means of affirming and strengthening national characteristics, it enhances national identity, reshapes national cohesion, and establishes national features in globalization. Protecting cultural heritage carries a strong sense of nationalism, as preserving cultural heritage means preserving the inheritance of national culture.

The non-renewable nature of commemorative architectural cultural heritage means that once damaged, it cannot be fully restored to its appearance. The Chinese culture and spirit it embodies would also be severely damaged. Most cultural relics still serve essential functions in visiting, commemorating, and tourism, benefiting the public and involving national interests. Damage to commemorative architectural cultural heritage is detrimental to the protection of state-owned property, cultural heritage safety, and national interests. The public interest litigation mechanism for China's commemorative architectural cultural heritage is an essential manifestation of the procuratorial organs' fulfillment of their legal supervision and management responsibilities for cultural relic protection.

Government interests Dimension: reducing damage to cultural relics caused by urban construction. With the development of the economy, urban construction activities tend to increase, posing potential risks to the cultural heritage of commemorative buildings. For example, the planning and construction of new high-rise and modern architecture in urban development may lead to the covering or destruction of historical buildings. Some urban planning and architectural designs do not fully consider the factors of cultural heritage conservation. This makes it difficult for the value of cultural heritage buildings to be fully displayed. Protecting the surrounding environment and landscape of cultural heritage buildings is often not given enough attention during the urban construction process. This can impact them, such as causing environmental damage to the surrounding natural environment. The pressure of urban expansion makes the balance between protecting cultural heritage buildings and urban development important (Shehade et al., 2016).

The procuratorial organs can initiate cases based on specific incidents, investigate and evaluate the damages and protection characteristics of different types of public interests, and coordinate supervision paths accordingly. Administrative public interest litigation mainly supervises cultural heritage management

departments and other administrative agencies to fulfill their duties by the law through consultations, pre-litigation prosecutorial recommendations, and lawsuits. Through pre-litigation roundtable conferences and open hearings by the procuratorial organs, combined with rigid procedural safeguards, targeted solutions can be provided for problems such as inadequate performance of administrative agencies, unclear functional overlaps, and poor interdepartmental coordination. Considering the irreversibility of the consequences of cultural damage, proactive public interest litigation can be conducted to identify and eliminate significant risks that may harm the public interests of cultural heritage. In cases of corporate illegal destruction, the procuratorial organs can hold them accountable for civil liability through civil public interest litigation.

Symbiosis of interests: ensure the sustainable development of commemorative architectural cultural heritage. The relationship between economic interests and protecting monumental architectural cultural heritage through public interest litigation is not a simple opposition. The two can mutually reinforce each other, achieving a win-win situation. Protecting cultural heritage through public interest litigation preserves the economic value of monumental architectural cultural heritage, thereby fostering sustainable economic development. Economic growth provides additional financial and technological support for conserving monumental architectural cultural heritage, making preservation efforts more effective and sustainable. Achieving a balance between economic interests and protecting monumental architectural cultural heritage through public interest litigation is essential.

In China, controversies surrounding the classification and identification criteria for monumental architectural cultural heritage have led to some economically valuable heritage sites not being protected promptly and effectively. Meanwhile, insufficient penalties for illegal activities prioritizing short-term gains over preserving monumental architectural cultural heritage exacerbate the conflict between economic development and heritage conservation (Li, 2019). When contradictions arise between economic and social development and cultural heritage conservation, some regions in China still prioritize development over protection. Hence, while pursuing economic interests, developers should strengthen their fulfillment of social and environmental responsibilities. They should adhere to the principles of ESG (Environmental, Social, and Governance) and emphasize the preservation and transmission of monumental architectural cultural heritage. Public interest litigation serves as a judicial remedy for balancing economic development and the protection of monumental architectural cultural heritage. In court rulings, the judiciary recognizes illegal facts, clarifies legal responsibilities, and adopts corresponding legal measures to restore damaged monumental architectural cultural heritage or prevent further harm. This aids in restoring the historical and cultural value of monumental architectural cultural heritage, and promotes sustainable development.

Conclusion

Commemorative architectural cultural heritage is the precious wealth of the country and the nation, and plays a crucial role in inheriting history, condensing national spirit, and highlighting national characteristics. From existing cases, there are many types of objects for public interest litigation and protection of commemorative architectural and cultural heritage, including ancient sites, traditional buildings, and traditional villages. But cultural relics resources are non-renewable and non-replicable. Once damaged, they are not easily recoverable. Pre-prevention is more

valuable than post-relief. Prevention of damage should be the core principle. Consider establishing a preventive public interest litigation system in the field of commemorative building cultural heritage protection. This system would stipulate that procuratorial organs and relevant organizations may initiate civil or administrative public interest litigation against acts of destruction of commemorative building cultural heritage that pose significant risks to public interests, achieving comprehensive protection of these heritage resources.

Examining the status of public interest litigation concerning monumental architectural cultural heritage in China reveals that, despite regulations on cultural heritage protection such as the “Cultural Relics Protection Law,” specific clauses related to public interest litigation for monumental architectural cultural heritage remain unclear. This has led to an imbalance in interest protection and constrained the scope and intensity of cultural heritage protection efforts by procuratorial organs. Procuratorial organs face numerous challenges. Procuratorial organs encounter difficulties in collecting evidence and determining damage outcomes. The criteria for assessing whether administrative organs fulfill their duties according to the law are vague, resulting in a lack of a clear basis for procuratorial organs to supervise administrative organs. The responsibilities of administrative organs in protecting monumental architectural cultural heritage are not clearly defined, making it difficult for procuratorial organs to judge whether administrative organs are fulfilling their duties according to the law. It is challenging for procuratorial organs to identify a responsible party during supervision. Monumental architectural cultural heritage often spans multiple administrative regions, and applying law and evidence collection usually becomes complicated due to differences in administrative regions and areas. This complicates balancing interests in cross-regional cases and poses challenges for procuratorial organs in collaboration and communication.

Implementing the procuratorial public interest litigation mechanism can effectively protect the integrity and safety of the commemorative architectural cultural heritage and maintain the national interests carried by it. Commemorative architectural cultural heritage is an essential component of the cultural industry, containing rich historical and cultural value and possessing high economic and social value. While strengthening the protection of commemorative architectural cultural heritage, public interest litigation mechanisms can crack down on cultural relic crimes and violations of cultural heritage, maintain market order and a fair, competitive environment, and protect the legitimate rights and interests of cultural industry practitioners.

Procuratorial organs implementing the public interest litigation mechanism to protect commemorative building cultural heritage can make the protection of such heritage more legal and normative. It strengthens legal protection, helps prevent and combat criminal behavior, and avoids illegal infringement of commemorative building cultural heritage. The application of public interest litigation mechanisms can promote the legal standardization and institutionalization of the protection of commemorative architectural cultural heritage. The destruction and loss of such heritage damage the cultural heritage of the country and ethnic groups, and impact the lives and interests of the public. Implementing the procuratorial public interest litigation mechanism can safeguard social public interests and promote the development of social justice, fairness, and openness.

Promoting the smooth implementation of commemorative architectural cultural heritage protection is essential. Protecting commemorative architectural cultural heritage is a long-term task that requires the participation of multiple stakeholders in China. Implementing China’s procuratorial public interest litigation mechanism can promote the joint

involvement of various forces in the protection of commemorative architectural cultural heritage and strengthen the smooth implementation of this protection. Procuratorial organs should continue to focus on public interest litigation for cultural relics protection, especially administrative public interest litigation cases.

Received: 1 August 2024; Accepted: 11 March 2025;

Published online: 27 March 2025

References

- Andretta M, Coppola F, Modelli A, Santopoli N, Seccia L (2016) Proposal for a new environmental risk assessment methodology in cultural heritage protection. *Journal of Cultural Heritage*. <https://doi.org/10.1016/j.culher.2016.08.001>
- Bhagwati (1989) Judicial activism and public interest litigation. *Am J Comp Law* 37(3):495–519. <https://doi.org/10.2307/840090>
- Biao Z, XiaoMeng Z, MingYong C (2012) Fire protection of historic buildings: a case study of group-living yard in Tianjin. *J Cult Herit* 13(4):389–396. <https://doi.org/10.1016/j.culher.2011.12.007>
- Blake J (2000) On defining the cultural heritage. *Int Comp Law Q* 49(1):61–85. <https://doi.org/10.1017/S002058930006396X>
- Bortolotto C, Ubertazzi B (2023) Intellectual property as a blind spot in the UNESCO Convention for the safeguarding of the intangible cultural heritage. *Int J Herit Stud* 29(10):1128–1140. <https://doi.org/10.1080/13527258.2023.2236590>
- Carol C, Andrew M, YiWen W, Michael S, Rebecca B (2023) Cross-cultural collaboration and cultural production within China’s public museums: examining the challenges and practices guiding administration. *Int J Cult Policy* 29(3):328–344. <https://doi.org/10.1080/10286632.2022.2045978>
- Cheng L, Zhang YT, Wu T (2024) Difficulties and countermeasures in handling public interest litigation for the protection of the Great Wall. *Chin Prosec* 1(18):51–53
- Chu J (2018) Vindicating public environmental interest: defining the role of environmental public interest litigation in China. *Ecol Law Q* 45(3):485–532. <https://doi.org/10.15779/Z38599Z22F>
- Cohen MJ (2006) Ecological modernization and its discontents: the American environmental movement’s resistance to an innovation-driven future. *Futures* 38(5):528–547. <https://doi.org/10.1016/j.futures.2005.09.002>
- Cui C (2018) The Dilemma and outlet of the legal protection of rural historical and cultural heritage. *J Hebei Univ Technol* 1(4):55–60. <https://doi.org/10.14081/j.cnki.cn13-1396/g4.000048>
- Dian AM, Ikhsan MI, Makmar TIMT (2024) Public interest litigation and locus standi in cultural heritage sites conservation. *Asian J Law Gov* 6(2):10–21. <https://doi.org/10.55057/ajlg.2024.6.2.2>
- Du Cros H, Bauer TC, Rui S (2005) Cultural heritage assets in China as sustainable tourism products: case studies of the Hutongs and the Huanghua section of the Great Wall. *J Sustain Tour* 13(2):171–194. <https://doi.org/10.1080/09669580508668484>
- Dugard J, Langford M (2011) Art or science? Synthesizing lessons from public interest litigation and the dangers of legal determinism. *South Afr J Hum Rights* 27(1):39–64. <https://doi.org/10.1080/19962126.2011.11865004>
- Forrest C (2009) *International law and the protection of cultural heritage* (1st ed.). Routledge <https://doi.org/10.4324/9780203865194>
- Gandhi S, Tandel V, Tabarrok A, Ravi S (2021) Too slow for the urban march: litigations and the real estate market in Mumbai, India. *J Urban Econ* 123(2):103–120. <https://doi.org/10.1016/j.jue.2021.103330>
- Gard’Ner JM (2004) Heritage protection and social inclusion: a case study from the Bangladeshi community of east London. *Int J Herit Stud* 10(1):75–92. <https://doi.org/10.1080/1352725032000194259>
- Hao R (2024) Observation of procuratorial public interest litigation from the perspective of Great Wall protection. *Huazhang* 1(3):101–103
- Helson J, Leslie S, Clement G, Wells R, Wood R (2010) Private rights, public benefits: industry-driven seabed protection. *Mar Policy* 34(3):557–566. <https://doi.org/10.1016/j.marpol.2009.11.002>
- Hu JB, Li XX (2022) The Great Wall culture builds a strong “judicial protection”. *Green Life* 1(8):21
- Hu XY, Zhao XY (2017) The current situation and judicial protection of immovable cultural relics - reflection on the first case of cultural relics public interest litigation in China. *Appl Law* 1(20):32–38
- Huang SG, Shao JY, He C (2024) Practice and standardization of administrative public interest litigation for the protection of cultural relics and heritage. *Chin Prosecutor* 1(21):61–64

- Huang W, Fang H (2023) Public interest litigation for cultural relic protection: motivation, current situation, and path - empirical analysis based on 96 cases. *Chin Cult Herit* 1(4):65–74
- Jin F (2021) On the environmental civil public interest litigation system for the protection of the climate in China: comments on two cases from a pragmatism perspective. *J World Energy Law Bus* 14(1):34–55. <https://doi.org/10.1093/jwelb/jwab006>
- Koci K, Spasi T, Uroevi MA, TomaEvi M (2014) Trees as natural barriers against heavy metal pollution and their role in the protection of cultural heritage. *J Cult Herit* 15(3):227–233. <https://doi.org/10.1016/j.culher.2013.05.001>
- Lavanya R (2007) Public interest environmental litigation in India: exploring issues of access, participation, equity, effectiveness and sustainability. *J Environ Law* 19(3):293–321. <https://doi.org/10.1093/jel/eqm020>
- Li L, Feng R, Xi J (2021) Ecological risk assessment and protection zone identification for linear cultural heritage: A case study of the Ming Great Wall. *Int J Environ Res Public Health* 18(21):11605. <https://doi.org/10.3390/ijerph182111605>
- Li X (2019) Research on the path of public interest litigation for public participation in cultural heritage protection. *Soc Sci Chin Univ* 1(6):80–90
- Li Y, Li XB (2009) Multi stakeholder win-win methodology: the solution to interest coordination in a harmonious society. *China Adm Manag* 1(8):115–120. <https://doi.org/10.13766/j.bhsk.1008-2204.2015.0230>
- Liang RX, Sun RH (2020) The dilemma and mechanism optimization of the protection of the Great Wall in Hebei Province: also discussing the possibility of prosecutorial public interest litigation. *Journal of Hebei University of Geosciences* 43(6):136–139
- Licchelli M, Marzolla SJ, Poggi A, Zanchi C (2011) Crosslinked fluorinated polyurethanes for the protection of stone surfaces from graffiti. *J Cult Herit* 12(1):34–43. <https://doi.org/10.1016/j.culher.2010.07.002>
- Lika (2024) On the public interest litigation of Chinese artifacts and cultural heritage in the special action for the protection of the Grand Canal. *Law* 12(12):6746–6753. <https://doi.org/10.12677/ojs.2024.1212957>
- Lin F, Zhang X, Ma Z, Zhang Y (2022) Spatial structure and corridor construction of intangible cultural heritage: a case study of the Ming Great Wall. *Land* 11(9):1478. <https://doi.org/10.3390/land11091478>
- Logan WS (2007) Closing Pandora's Box: Human Rights Conundrums in Cultural Heritage Protection. In: Silverman, H., Ruggles, D.F. (eds.) *Cultural Heritage and Human Rights*. Springer, New York. https://doi.org/10.1007/978-0-387-71313-7_2
- Mohammad S, Karim T (2019) Role of NGOs in developing public interest litigation: an analytical study. *Environ Policy Law* 49(2-3):145–152. <https://doi.org/10.3233/EPL-190150>
- Parsova V, Averina L, Sergeeva I, Tereshina V (2019) Cultural heritage objects' protection areas: legal aspects in the digital age. *Eur Proc Soc Behav Sci* 57:1542–1548. <https://doi.org/10.15405/epsbs.2019.03.157>
- Parvin K, Ashabi F (2023) The potentials of public interests' litigations in restoring public rights; a comparative case study. *Comp Stud Islam West Law* 9(4):1–32. <https://doi.org/10.22091/csiw.2022.8223.2280>
- Shan JX (2008) Dialectical speculations on the scientific and technological aspects of cultural heritage protection. *Mus Int* 60(1-2):49–58. <https://doi.org/10.1111/j.1468-0033.2008.00636.x>
- Shenade M, Fouseki K, Tubb KW (2016) Editorial: alternative dispute resolution in cultural property disputes: merging theory and practice. *Int J Cult Prop* 23(4):343–355. <https://doi.org/10.1017/S094073911600031X>
- Shi Y, Van Rooij B (2016) Prosecutorial regulation in the global south: environmental civil litigation by prosecutors in China compared to Brazil. *Regul Gov* 10(1):44–57. <https://doi.org/10.1111/rego.12112>
- Su MM, Wall G (2012) Global-local relationships and governance issues at the Great Wall World Heritage Site, China. *J Sustain Tour* 20(8):1067–1086. <https://doi.org/10.1080/09669582.2012.671330>
- Tiantian Z, YenChiang C (2018) Standing of environmental public-interest litigants in China: evolution, obstacles and solutions. *J Environ Law* 3:369–397. <https://doi.org/10.1093/jel/eqy011>
- Tsivolas (2019) The legal foundations of religious cultural heritage protection. *Religions* 10(4):283. <https://doi.org/10.3390/rel10040283>
- Wang Q, Gao Y, Sun H (2022) A preliminary discussion on the protection of cultural relics and the exploration of cultural value of the Ming Great Wall in Gansu province. *Cult Relics Apprais* 2(12):166–169. <https://doi.org/10.20005/j.cnki.issn.1674-8697.2022.12.040>
- Wang Y, Wang Y, Zhang D, Zhang T, Duan J, Wang K, Wang A (2023) A toponymic cultural heritage protection evaluation method considering environmental effects in a context of cultural tourism integration. *Curr Issues Tour* 26(7):1162–1182. <https://doi.org/10.1080/13683500.2022.2049713>
- Xie L, Xu L (2022) Environmental public interest litigation in China: findings from 570 court cases brought by NGOs, public prosecutors and local government. *J Environ Law* 34(1):53–81. <https://doi.org/10.1093/jel/eqab029>
- Yan YH, Tuo XJ (2021) On the construction of public interest litigation system for intangible cultural heritage in China. *Cult Herit* 1(4):37–48
- You W, Liang S, Feng L, Cai Z (2023) Types of environmental public interest litigation in China and exploration of new Frontiers. *Int J Environ Res Public Health* 20(4):3273. <https://doi.org/10.3390/ijerph20043273>
- Zhu X, Liang XM (2020) Typology of administrative public interest litigation for cultural relics protection taking the hakka surrounded house protection public interest litigation case handled by the Longnan county procuratorate in Jiangxi province as an example. *People's Procuratorate* 1(18):50–52

Acknowledgements

This research project is supported by the National Social Science Foundation of China (No. 22CFX088).

Author contributions

Yang BW and Huang X conceptualized the manuscript and provided editorial input, Yang XM analyzed and organized the data and social survey materials.

Competing interests

The authors declare no competing interests.

Ethical approval

This article does not contain any studies with human participants performed by any of the authors.

Informed consent

This article does not contain any studies with human participants performed by any of the authors.

Additional information

Correspondence and requests for materials should be addressed to Bowen Yang or Xinmiao Yang.

Reprints and permission information is available at <http://www.nature.com/reprints>

Publisher's note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Open Access This article is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License, which permits any non-commercial use, sharing, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if you modified the licensed material. You do not have permission under this licence to share adapted material derived from this article or parts of it. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc-nd/4.0/>.

© The Author(s) 2025