

## *Original Paper*

# Research on the Realization Path of Legal Governance of Ecological Environment in China in the New Era

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Received: October 16, 2022      Accepted: November 2, 2022      Online Published: November 7, 2022

doi:10.22158/sss.v3n4p101

URL: <http://dx.doi.org/10.22158/sss.v3n4p101>

### ***Abstract***

*The new era puts forward stricter requirements for ecological environment governance. At present, there are some problems in ecological environment governance in China, such as incomplete legislative system, unclear law enforcement authority, insufficient ability, limited functions, poor judicial protection, and inadequate law-abiding. Therefore, in the new era, strengthening the process of environmental legislation, perfecting the environmental legal system, strengthening the construction of the law enforcement system of ecological environment, constructing the judicial guarantee of ecological environment, and promoting the whole people to abide by the law are the only paths and choices to strengthen ecological environment governance.*

### ***Keywords***

*New era, Ecological environment, Rule of law governance*

## **1. Introduction**

Since the 19th National Congress of the Communist Party of China, the state has paid more attention to the work of ecological environment governance and issued a series of important decisions on ecological environment governance. The Fourth Plenary Session of the 19th CPC Central Committee made a systematic plan to “adhere to and improve the system of ecological civilization system and promote the harmonious coexistence between man and nature”, which provided basic compliance for further realizing the legalization of ecological environment. Rule of law is the most important thing in the modernization of national governance system and governance capacity, and it is also the basic rule of national governance, which has a far-reaching impact in the process of promoting the modernization of national governance.

Although, China has made a series of achievements in ecological environment management. But generally speaking, there are still the following legal dilemmas in bringing environmental governance

into the legal track. Therefore, in order to meet the people's growing needs for a better life, under the background of the new era, how to effectively solve the increasingly serious environmental problems, promote the legal governance of the ecological environment and get out of the predicament of the legal governance of the ecological environment is an urgent issue of the times.

## **2. The Dilemma of Legal Governance of Ecological Environment in the New Era**

### *2.1 The Legislation System of Ecological Environment is not Complete and Its Coordination is Poor*

First, there are gaps in China's ecological environment legislation in some fields. For example, there are legal loopholes in the field of climate change, which involves ecological security, human health and restricts economic development. There are only requirements in the State Council's administrative regulations or relevant national policies, and the normative effect is not satisfactory, even deteriorating. Some specific environmental protection legislation is still in the drafting stage, such as the Marine Environmental Protection Law.

Second, some laws and regulations on ecological environment are too systematic, and it is impossible to prescribe the right medicine in practice, resulting in weak pertinence and enforceability. The enforceability of laws and regulations is an important factor to judge whether the quality of legislation is standard. However, these general and general provisions of laws and regulations can't play a role in practice, thus affecting the ecological environment in law enforcement.

Third, there are contradictions and conflicts in the contents of various legal provisions in the ecological environment legislation, and there are often disputes in the process of exercising them, so the authority of the law is greatly reduced; Because there are many problems in legislation of ecological environment, environmental violations are still repeatedly prohibited, which seriously restricts the practical operation of the modernization of national ecological environment management.

### *2.2 The Ecological Environmental Administrative Law Enforcement Authority is Unclear, the Ability is Insufficient, and the Functions are Limited*

In recent years, China's environmental governance has made great achievements, and the enforcement of ecological environmental governance has also been fruitful. However, there are still some problems that need to be solved urgently in the process of law enforcement:

First, the objective conditions for the development of eco-environmental law enforcement are poor. Specifically, objective conditions, such as insufficient capital endowment, aging environmental protection equipment, and lack of executives, are all unfavorable factors affecting ecological pollution control. First of all, the shortage of management funds in ecological and environmental protection departments at all levels not only increases the difficulty of environmental management, but also reduces the enthusiasm of department staff, which is not conducive to the effective implementation of ecological and environmental protection work. Secondly, the aging of environmental protection equipment on the one hand reduces the efficiency of environmental protection management, on the other hand, it increases the risk factor of environmental protection work on the spot. Finally, the

number of staff in the environmental protection department is not only small, which leads to the shortage of environmental protection workers, but also the cultural level and comprehensive quality of the existing law enforcement officers need to be improved.

Second, the administrative procedure of ecological environment law enforcement is insufficient. Administrative procedure includes the ways, steps and time limits that the administrative subject must follow when producing administrative actions, and it is carried out simultaneously as a complete process. Administrative procedure not only enhances the standardization of citizens' legal use of legal weapons to safeguard their rights and interests, but also maintains the majesty of the legal system, which is an important prerequisite for realizing ecological legalization. At the same time of establishing new rules and regulations for ecological environment legislation, if there are procedural flaws, the field ecological law enforcement officers will face problems such as insufficient enforcement and unfamiliar legal information. In addition, due to the control of local governments and other departments, local eco-environmental management departments can't realize scientific and reasonable coordination when there is inevitable conflict of interests, which to some extent increases the difficulty of eco-environmental law enforcement, thus affecting the rational operation of the whole eco-environmental management system.

### *2.3 The Road of Ecological Judicial Protection is not Smooth*

Since the implementation of environmental justice, it has played a good role in smoothly carrying out ecological projects, persisting in sustainable development and punishing environmental damage. However, on the whole, there are still obvious gaps in the protection of environmental protection in China's ecological environment justice.

First, the relief measures for ecological environment governance need to be improved and innovated. In practice, environmental justice is not enough to protect citizens' environmental rights and interests and the ecological environment. In the process of dealing with environmental violations, there are some problems, such as unclear litigation subjects, weak position of the infringed, and difficult burden of proof. The illegal cost of the environment is low, and the environmental pollution incidents and even accidents caused by individual enterprises continue one after another. The damaged ecological environment can't be properly repaired through the judicial path. Especially in the face of the choice of conflict of interests between economic development and environmental protection, local governments pay more attention to economic development to obtain "visible" benefits, neglect the protection of ecological environment, put ecological environment protection in the position after economic development, and even interfere with the judicial phenomenon. Judicial organs can not only effectively protect the ecological environment, but also can't effectively protect citizens' basic personal rights and interests such as the right to health.

Second, the independence of judicial trial of ecological environment is weak. In our country, the judiciary depends on the local government in many ways, especially in the ecological justice. Most of the subjects who seriously pollute the ecological environment in the trial are large enterprises with

strong capital strength and large groups with wide connections, but the victims of the ecological environment are often ordinary people with no power and no power, and the road to safeguarding their rights is difficult. For the sake of immediate interests and self-development, the local government will turn the big things into small ones, and even worse, it will ignore the public's environmental rights and interests, interfere with the independent trial of judicial organs, and fail to investigate the crimes against the environment, which makes the ecological environment infringement cases fall into the dilemma of filing a case, making a judgment and executing it.

#### *2.4 Ecological Environment Law-abiding is not in Place*

First, citizens' law-abiding awareness of the ecological environment is not high. In the cognition of most citizens, they think that environmental protection is a matter of the state and the government, and has little to do with themselves. Under the misleading of this concept, citizens stay out of the way of environmental protection, lack of understanding of the importance of environmental protection law-abiding, so that they can't correctly follow the requirements of environmental protection law.

Second, citizens failed to restrain their own behavior according to the requirements of environmental protection law. For a long time, citizens attributed the deterioration of ecological environment to inadequate government management and unreasonable emissions from enterprises and factories, ignoring their own reasons. In fact, the proportion of environmental pollution caused by citizens' unreasonable living behaviors in all the total pollution is increasing day by day. Therefore, citizens can't restrain their bad living behaviors according to the environmental law, which leads to the serious deterioration of the ecological environment to a certain extent.

Third, citizens' awareness of safeguarding their legitimate environmental rights and interests is weak. China's environmental law gives citizens the right to know, participate and supervise the environment. However, in real life, when some environmental rights and interests are violated, citizens can't choose to take legal weapons to protect themselves in time, but often choose to suffer silently.

### **3. The Realization Path of Legal Governance of Ecological Environment in the New Era**

#### *3.1 Promote the Legislation of Ecological Environment and Lay a Good Foundation for the Legalization of Ecological Environment*

First, improve the rationality of the legal system of ecological environmental protection. First of all, at present, most of the laws and regulations of China's ecological environment protection are local laws and regulations. Although their legal contents provide protection for China's ecological environment protection to a certain extent, there are still drawbacks in terms of professionalism, procedure and effectiveness, which cannot meet the requirements of natural laws and sustainable objective development, and even endanger the legitimate rights and interests of citizens and affect the harmonious development between man and nature. Secondly, in specific legislative regulations, the definition of specific penalties for illegal acts is not clear, such as the amount of fines and the length of detention, and there is no reasonable ecological compensation mechanism and policy incentive

conditions, which affects the fairness of ecological compensation and discourages citizens' enthusiasm for law-abiding. Finally, the legal provisions on the quota and compensation amount of citizens' litigation expenses are insufficient, and lack of technical standards, which leads to the phenomenon that the standards are not uniform and the legal rules are vague in specific ecological environmental legal disputes. Therefore, it is necessary to improve the rationality of China's ecological environment protection legal system, learn from foreign advanced experience, and combine with China's development characteristics to further promote China's ecological environment legislation process.

Second, implement the effectiveness of local legislation to ensure the legality of the field ecological environment governance. First of all, due to the different ecological environment characteristics and human factors in different places, it is not possible to "cut across the board" the ecological environment laws and regulations. It is necessary to formulate reasonable laws and regulations under the condition of knowing the development situation of various places. Secondly, the environmental assessment systems in various places are not mature enough, and the unclear definition of the responsibilities of local environmental departments leads to the low efficiency of ecological environmental assessment. Finally, the division of authority of local environmental protection departments is vague, which leads to the phenomenon of mutual prevarication in the field ecological environment work, which in turn threatens the fairness of ecological environment protection. Therefore, it is necessary to formulate local laws and regulations according to local conditions, and improve the rationality of the work of local environmental protection departments to further improve the efficiency of ecological environment management.

### *3.2 Strengthen Law Enforcement and Improve the Efficiency of Law Enforcement in Ecological Environment*

First, improve the quality of law enforcement personnel and promote civilized law enforcement. First of all, the education level of law enforcement personnel is an important part of China's eco-environmental law enforcement work and a key measure to promote the modernization of China's eco-environmental law enforcement ability. To improve the comprehensive quality of law enforcement personnel, it is necessary to improve the cultural knowledge level of law enforcement personnel and the entry threshold of law enforcement departments of ecological environment. Secondly, the negotiation ability of law enforcement officers is also the key to civilized law enforcement. In the process of law enforcement, when faced with contradictions that are difficult to adjust, law enforcement officers need to actively reconcile them and resolve the contradictions between people and the environment within the scope permitted by law. Finally, environmental law enforcement personnel need to improve their emergency response ability, make reasonable judgments quickly, use relevant legal provisions, and enforce legal authority in all kinds of complicated environmental legal disputes, so as to achieve civilized law enforcement. Therefore, ecological environment management needs to improve the comprehensive quality of law enforcement personnel and realize civilized law enforcement.

Second, implement the responsibility of law enforcement and strengthen the enthusiasm of law

enforcement in ecological environment. First of all, the implementation of law enforcement responsibility needs to be based on ecological environment legislation, and a reasonable legal system is the basis for law enforcement officers to fulfill their responsibilities. Only in the legal framework with complete procedures and clear order can the ecological environment law enforcement work be carried out reasonably and the law enforcement responsibility be implemented. Secondly, the enthusiasm of law enforcement officers is the premise of their law enforcement responsibilities. While urging law enforcement officers to complete the law enforcement work according to the standards, it is necessary to take into account the wage rights of law enforcement officers and ensure that law enforcement officers get corresponding benefits. Finally, supervision by the masses is the test standard for implementing the responsibility of law enforcement. Relevant departments should conduct in-depth investigations among the masses, evaluate the work of law enforcement officers according to real feedback, and do a good job in supervision. Therefore, the implementation of law enforcement responsibility is the key to ecological environment governance and a necessary condition to achieve high-quality development of ecological environment governance.

### *3.3 Realize Judicial Fairness and Build a Judicial System for Ecological Environment Governance*

First, build an ecological environment litigation platform. First of all, building a public interest litigation platform for ecological environment is the only way to promote the harmonious development between man and nature and realize green development. Therefore, to promote the modernization of national ecological environment governance, we must improve the ecological environment litigation system. Secondly, a reasonable litigation platform needs strong judicial credibility, and the litigation platform formed in a good judicial environment has a positive effect on judicial fairness. Finally, the construction of the public interest litigation platform is conducive to citizens' better use of legal weapons to defend their rights when faced with ecological environmental legal problems. Therefore, ecological environment governance needs to build an ecological environment litigation platform.

Second, improve the litigation system of ecological environment. First of all, establishing and perfecting the environmental public interest litigation system is an inevitable requirement for building a beautiful China and achieving sustainable development, and it is unanimously recognized by the international community. Secondly, only by endowing relevant government functional departments, procuratorial organs, environmental protection non-governmental organizations, individual citizens and other social organizations with the right and qualification to file environmental public interest litigation on behalf of the state and public interests can we create a better environment for rights protection, improve the enthusiasm of the whole people for law-abiding and consolidate the position of the law in people's hearts. Finally, the grass-roots litigation system is the last mile of judicial fairness. Only by paying attention to the fairness and reasonableness of grass-roots litigation can we better safeguard the authority of ecological environment justice. Therefore, the ecological environment governance needs to improve the ecological environment litigation system.

### 3.4 Encourage the Whole People to Abide by the Law and Improve Citizens

First, strengthen citizens' awareness of the rule of law in ecological environment. First of all, citizens' awareness of the rule of law is the foundation for realizing the construction of the rule of law in China's ecological environment. The consciousness of rule of law not only exists in every stage of legislation, judicature and law enforcement, but also is the internal motivation of citizens' law-abiding usage. Secondly, only when citizens have a strong awareness of the rule of law, will they be more inclined to use legal weapons when facing ecological and environmental problems, form a way of thinking in accordance with the law, and consciously abide by various laws and regulations. Finally, citizens' weak awareness of the rule of law not only makes it difficult to promote the grassroots work of ecological environment governance, but also affects other law-abiding behaviors of citizens, thus affecting social harmony and stability. Therefore, ecological environment governance needs to strengthen citizens' awareness of the rule of law in ecological environment.

Second, strengthen the publicity of ecological environment laws. First of all, in some economically backward areas, citizens are limited by objective conditions, unable to update legal information and understand legal provisions in time, which leads to their inability to actively abide by the law. Therefore, it is necessary for the government to publicize the real-time information of laws through television, radio and other channels. Secondly, the publicity of ecological environment law reflects the government's respect and attention to the law. Only when the government actively and frequently publicizes the supremacy of the law, can it form a law-abiding principle in citizens' minds. Finally, at the same time of publicizing legal information, it is necessary to give consideration to publicizing legal cases related to ecological environment, so that citizens can bring them into actual cases on the premise of knowing the legal provisions, experience the field use of laws and strengthen their awareness of law-abiding. Therefore, ecological environment governance needs to strengthen the publicity of ecological environment laws.

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