

The Realization Path of Environmental Law of the Compensation Liability for Ecological and Environmental Damage

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Abstract

The civil law realization path of the compensation liability for ecological and environmental damage is based on the existing legal provisions, to remedy the damaged rights through the civil process but in view of the difference between ecological environment damage and civil tort, it is difficult to identify the traditional tort liability and relieve the ecological environment damage, and the traditional civil public interest litigation also has certain limitations in the protection of environmental public interest. In contrast, the attribute of environmental law is more consistent with the nature of ecological environment damage. In judicial practice, there are also a large number of cases of environmental compensation liability for ecological environmental damage. Therefore, the realization path of environmental compensation liability for ecological environmental damage has certain legal legitimacy and practical feasibility. Specifically, the government should strengthen the rule of law construction, explore the internal control mechanism and external supervision mechanism within the perspective of environmental law, so as to make the public and private law norms in environmental protection return to its institutional standard, and ensure the realization of the compensation liability for ecological and environmental damage.

Keywords

Environmental Law; Ecological and Environmental Damage; Compensation Liability for Damages; Environmental Protection; Environmental Public Interest.

1. Introduction

The Civil Code of the People's Republic of China (hereinafter referred to as the "Civil Code") formally stipulates the new compensation liability for ecological environmental damage, gradually forming an ecological damage compensation liability system dominated by private law with the environmental ecological damage compensation lawsuit as the core. One of the functions of ecological environment damage compensation system is clear as a "public share" the relief of ecological environment damage path, but the civil code of tort liability in the field is difficult to provide effective solutions, its 1234,1235 declared meaning or far greater than its operational function, the responsibility form is not further refinement with the corresponding compensation nature and specific implementation path, etc., although this liability is incorporated into the tort liability section, it is not suitable to directly apply the damage compensation standard in the sense of private law. At present, the domestic research on the compensation liability for ecological and environmental damage either focuses on the issues such as the connection of litigation, consultation system and ecological restoration liability, or is limited to the relevant provisions of the civil Code to study the constitutive elements of the compensation liability for ecological and environmental damage and the realization path of private law. [1] Even if some scholars realize the deficiency of the civil relief theory of compensation liability for ecological environmental damage, few people propose the specific public law realization path to realize the compensation liability for ecological environmental damage to solve the problems in practice. [2] This paper mainly focuses on the realization of

ecological environment damage compensation liability path, deeply analyzes the disadvantages of the existing civil law implementation path to demonstrate the necessity of the environmental law realization path, and then expounds the theoretical legitimacy and practical feasibility, and put forward the corresponding implementation path design, also ensure that the ecological environment damage compensation liability in the field of environmental law, for the ecological and environmental protection to further provide the corresponding environmental legal guarantee.

2. The Current Realization Path Analysis of the Compensation Liability for Ecological Environment Damage

Legal liability for ecological damage is the fastest growing theme in the field of environmental responsibility law in all countries. Many classic problems in environmental liability law have been restated and developed on the issue of legal liability for ecological damage, such as the principle of imputation, causality, prosecution qualification and quantification of damage and the calculation of compensation scope. Looking at the legislative examples of various countries, the rules of legal liability for ecological damage are not exclusive to private law or public law. It may be placed in public law (i. e. environmental law), such as the public law method of legal liability for environmental damage in the EU Environmental Responsibility Directive may also be attributed to the legal system of private law norms. For example, French Law 2016-1087 introduced "biodiversity legal liability" in the French Civil Code [3].

2.1. The Realization Path of Civil Law

Since the beginning of the 21st century, with the advent of modern risk society, various public risks and modern litigation appear frequently. In order to deal with these problems, Chinese theoretical and practical circles have put forward the concept of active justice, requiring the judiciary to give full play to its initiative. Since then, the judicial organs began to abandon the tradition of "political neutrality" or "no policy involved" maintained by the traditional civil justice, and began to assume more public regulation functions, and become a veritable "auxiliary control tool".[4] In the field of legal liability rules for ecological damage, legislators also began to grant the implementation right of liability rules to specially authorized public interest representatives, and take private law (i. e., the Tort Liability Section of the Civil Code) as the substantive law basis of the legal liability rules for ecological damage. Finally, under the "enthusiastic efforts" of the legislators and the highest judicial organs, China has established three specific civil litigation procedures for the path of legal liability rules for ecological damage in the framework of private law. First, environmental civil public interest litigation. Second, the ecological and environmental damage compensation litigation. Thirdly, the environmental infringement and private benefit lawsuit with the function of indirect relief of ecological damage. Due to the public interest maintenance function (the spillover effect of environmental infringement) carried by the environmental tort liability rules, the victims of traditional environmental infringement can request the infringer to restore the original state in the private interest lawsuit, and the people's court can judge the polluter to repair the responsibility according to law, and at the same time determine the environmental repair costs in the case of failure. [5] Among them, the first two types of litigation have become the leading force in China's implementation of the legal liability rules for ecological damage. Through the formulation and implementation of a series of procedural rules, the legislators provide guarantees for the operation of these tort lawsuits and provide the substantive law basis for them.

2.2. The Realization Path of Environmental Law

In fact, the realization path of environmental law refers to giving the starting right of ecological damage legal liability rules to specific government organs, and ensures the implementation of

legal liability rules through the exercise of public power.[6] It is theoretically legitimate to use environmental law and other public laws to relieve ecological damage. First of all, considering the public interest attribute of ecological damage and the public interest protection attribute of environmental law, it is legitimate to realize ecological damage relief through public law. Secondly, the technical and professional characteristics of ecological damage problems make the environmental administrative organs with functional advantages in human resources, resources and other professional technologies to better achieve the goal of ecological damage relief. In fact, the administrative organs as the leading implementation of the legal responsibility rules for ecological damage is helpful to find and deal with ecological damage in time. However, China's ecological damage legal responsibility rules environmental law path is not perfect, can not undertake the heavy task of relieving ecological damage.[7] Different from countries authorized government authorities can be based on the police power and public welfare power to require a specific person ecological damage legal responsibility (i. e., repair the damage to the ecological environment order), the current Chinese ecological environment legislation lack of ecological damage legal liability rules of environmental law path, lead to the government lack of clear law enforcement basis.

3. The Disadvantages of the Realization Path of Civil Law for Ecological and Environmental Damage Compensation Liability

3.1. Tort Liability Constitutive Elements are Hard to Identify Ecological Damage

The premise of the launch of the tort liability mechanism is that the constitutive elements of tort liability can effectively identify the ecological environmental damage. Because the ecological environmental interests that are different from personal and property rights are not typical openness, and it is difficult to quantify the ecological environmental damage, it is difficult to identify which subjects' interests are affected by which behaviors [8].

Specifically in the field of environmental tort, strict liability should be applied and the subjective fault of the actor should not be considered. Therefore, the constituent elements of environmental tort liability are illegal behavior, causal relationship and damage consequences. First of all, the illegal act in the sense of tort law is the act violating the civil law, but in reality, the environmental damage behavior with the illegal private law is only a part of the environmental damage behavior. At this point, civil laws and regulations can do nothing about legal pollution behavior.

Secondly, the damage consequences of environmental infringement in civil tort law refer to the objective fact that the reduction of the person, property and other rights and interests of the right subject can be clearly measured. It is the result of the damage of civil rights, not the damage of the environment itself. On the one hand, the damage consequences caused by environmental infringement take the damage of the environment itself as the medium. When there is environmental infringement, there must be environmental damage, but when the environment itself is damaged, it cannot certainly cause the damage facts of environmental infringement. On the other hand, in the field of tort law, the parties can only seek relief for the part of the damage that can be determined according to relevant regulations, while it is very difficult to quantify the damage based on the complexity of the ecosystem, the non-openness of ecological interests and the spatial-temporal nature of the damage. [9] Therefore, it is not feasible to cover the ecological environment damage with the tort law as claimed by the civil remedy theory.

Finally, according to Article 1230 of the Civil Code, the application of environmental tort liability is the burden of proof. Ecological causality of liability for environmental damage cannot simple and equivalent, on the one hand, in the causality relationship in the traditional

environmental infringement is quite certain causality, and ecological environment damage and related behavior causality between time and space span, involving technical issues, unable to follow the traditional logic, to environmental infringement causality to identify environmental damage will directly lead to the failure of civil law relief mechanism. On the other hand, China has not established a system of evidence loss that is compatible with the inversion of the burden of proof. The inversion of the burden of proof in the identification of environmental tort causality essentially belongs to the principle of "presumption of negligence", which cannot be implemented, and cannot be applied to the identification of environmental damage [10].

3.2. Tort Liability is Difficult to Remedy Ecological Environmental Damage

According to the relevant provisions of Article 179 of the Civil Code, the liability bearing methods related to environmental infringement in civil liability are mainly divided into two categories: prevention in advance and post-relief. Prevention in advance mainly refers to the elimination of danger, that is, the initiation of the responsibility before the occurrence of damage, to effectively prevent the occurrence of environmental damage. However, in practice, the infringed can only claim that the infringer should bear the responsibility of prevention only when the specific rights and interests are infringed, and the delay of time directly leads to the lag and invalidity of its relief. Post-event relief is mainly to stop the damage and compensate for the damage consequences. [11] First of all, the claim of stopping damage still depends on the demands of private subjects based on their own interests. For the overall environmental damage caused by legal acts, it is impossible to initiate civil proceedings to stop the infringement and eliminate the obstruction. Secondly, compensation for the infringement damage consequences, the intangible environmental interests into tangible economic value, involves the estimation of environmental interests in the ecological environment, and quantitative itself technical operation difficulties, the so-called compensation loss is only for the relevant subject rather than the natural environment of economic compensation, is the difference to fill the responsibility. [12] The compensation in the sense of environmental damage should be calculated based on the economic input needed by ecological restoration, which has certain public law implication. Finally, the restoration of the original state in our civil law is only for restoring the possible damaged property. The application scope of this undertaking method is relatively narrow, and it cannot be equivalent to the responsibility of ecological restoration and effectively apply to the ecological environment damage, and carries the responsibility of relieving environmental damage. Once the environmental damage is produced, it is difficult to repair. The integrity of the ecosystem and the public interest of the ecological environment lead to the complexity of the ecological problems, and there should be specific standards and methods for the restoration of the ecological environment.

3.3. Traditional Civil Public Interest Litigation is Difficult to Protect Ecological and Environmental Public Interest

As a public good, the environment itself, when the environment is damaged and infringes upon individual rights, it often covers a wide range and even develops into a mass public event. Therefore, this collection of individual rights is often mistaken for environmental public welfare. In fact, this kind of right that the victim determines and can be divided into personal interests is undoubtedly civil interests, and the environment is only one of the media or factors, and does not involve pure environmental public interests. [13] The traditional joint litigation or representative litigation system in civil litigation is to provide civil relief for the personal and property damage suffered by the victims of environmental pollution. In addition, an environmental infringement in causing environmental damage may also bring civil rights and interests damaged, the traditional civil litigation specific subject to stop the breach of liability way is fulfilled, not only to protect the personal property rights, and to protect the interests of the ecological environment indirectly, protect the environment of public welfare is external sex.

However, such effective connection is not always generated between the two. It takes effect only when the damage of the environmental public interest involves individual rights, the right subject is willing to file a lawsuit and the damage can be effectively identified. Therefore, the protection of traditional civil litigation on the environmental public interest is very limited, and it is only a possibility.

"The Civil Procedure Law", "the Environmental Protection Law" and relevant judicial interpretations stipulate environmental civil public interest litigation and specific procedural norms, which to a certain extent make up for the deficiency of traditional civil private interest litigation to deal with environmental problems and protect the interests of the ecological environment. [14] However, the development of environmental civil public interest litigation still exposed its own limitations in the process. First of all, in the context of existing substantive law, civil public interest litigation based on civil entity rules is not perfect, the relief of "environmental public interest" is not clear, the lack of the basis of civil public interest litigation, environmental public interest damage standard fuzzy, trying to build "environmental social public interest" to transcend the individual, cater to the trend of view is difficult to convince most people, trying to a single environmental civil public interest litigation relief ecological environment damage is also difficult. In general, the transformation of policy issues into the application of law in the way of judicial procedure can easily lead to the excessive expansion of judicial power, and even overstepping the power involved in the field of administrative power.

4. Proof into the Realization Path of the Environmental Law of Compensation Liability for Ecological and Environmental Damage

4.1. The Legitimacy of the Realization Path of the Environmental Law for Ecological Damage Compensation Liability

The legitimacy of the realization path of compensation liability for environmental law is mainly reflected in the fit between the positioning of environmental law and the attribute of ecological environmental damage, and the new liability for compensation for ecological and environmental damage is a new type of environmental liability.

4.1.1. The Positioning of Environmental Law Fits with the Attributes of Ecological and Environmental Damage

The attribute of public law is clearly reflected in the origin and development process of environmental law, and a consensus has been reached in the theory and practice at home and abroad. Foreign environmental law is closely related to administrative law and has obvious characteristics of public law. As a typical case law country, the United States, as the main legal source, plays an important role in judicial practice. The environmental law related cases and administrative law cases are intertwined, and the environmental trial work cannot be separated from the joint help of environmental law and administrative law, but also inseparable from the play of the powers and responsibilities of administrative organs. As far as the EU laws related to environmental protection are concerned, although they are closely related to private laws such as civil law at the beginning, they eventually tend to be the mechanism orientation of public law, and ensure the smooth progress of environmental protection work through the public law standard system. [15] Since the beginning of the first environmental protection Law, China has adopted the mode of "management law", which permeates the public law factors, the value pursuit of protecting environmental public interests throughout, the subject also has an obvious status of public law, and the administrative power of the administrative subject plays a key role in environmental protection. With the deepening of theory and practice, the theoretical circle has also reached a consensus on the positioning of environmental law, believing that environmental law is public law. [16] So both from the practice of adopting "management" mode, or from the public environmental interests for the purpose, for the

continuous coordinated development as the value of theoretical perspective to analysis, environmental law has distinct public law attribute, protect the public environmental interests is the essential characteristics of environmental law, therefore must undertake by the environmental law relief involving public environmental interests of the ecological environment damage compensation liability, so the characteristics of environmental law provide support for environmental law to relieve ecological and environmental damage from the perspectives of subject, means, content and degree.

4.1.2. The New Liability for Compensation for Ecological and Environmental Damage is a New Type of Environmental Liability

From the ecological environment damage compensation system protection object -- environmental public interest, the foothold should be ecological interests as the content of the public environment, ecological environment damage compensation liability is based on environmental rights and its derived power and relief of a new type of environmental responsibility, ecological environment damage compensation litigation should also be to protect the public environmental right as the origin and destination. On the one hand, the benefits of the ecological environment damage compensation system are the ecological interests, and the environmental right is such a new type of environmental right that protects the ecological interest as its content. When we return to the origin of the rights, from the environmental right itself to examine the specific connotation of environmental rights, it can be concluded that the narrow sense of environmental rights rather than generalization of environmental rights, namely the environmental right is the state must guarantee the minimum environmental quality, and the resulting from the right to provide relief for related environmental damage. [17] Therefore, it should be the right of environmental law, with a certain nature of public law. On the other hand, based on the principle of public trust and the national environmental protection responsibility, it is concluded that the government has the national environmental protection obligation to protect the citizens' environmental rights with its environmental management authority and responsibility. That is, when the environmental right shared by the public is infringed, the environmental right itself contains the implication of the public to request the government to exercise the right to relieve the ecological environment damage, which can derive the national environmental protection obligation and the government environmental management power that can operate independently.

4.2. The Feasibility of the Realization Path of the Environmental Law for Ecological Damage Compensation Liability

4.2.1. China Now has the Corresponding Institutional Preparations

At first, China's environmental responsibility mainly relied on the traditional three legal responsibility systems. With the in-depth development of environmental law, the traditional legal responsibility system cannot cover the increasingly rich types of environmental responsibility, lacking clear provisions on the content of ecological environmental damage. In 2005, the State Environmental Protection Administration formulated the overall plan for environmental protection laws and regulations, making it clear that China should formulate a special compensation law for environmental damage and supporting measures for damage assessment and compensation. In 2013, the Decision of the CPC Central Committee on Some Major Issues concerning Comprehensively Deepening the Reform began to promote the reform of the compensation system for ecological and environmental damage at the policy level. In 2015, the Pilot Plan for the Compensation System for Ecological and Environmental Damage, the pilot provinces and cities explored and established the system, and conducted innovative research and experience summary. By summarizing the experience of the pilot, the 2017 "Reform Plan for the Compensation System for Ecological and Environmental Damage" focuses on solving the problem of "damage compensation" on the basis of the pilot program, further

improved the relevant measures, and formed the corresponding operation mechanism. In 2019, the Central Regulations on Ecological and Environmental Protection Supervision has also included relevant compensation work in the scope of supervision. Although the connotation of the compensation liability for ecological and environmental damage is still uncertain, the compensation system for ecological and environmental damage has been continuously developed and improved in practice, and is widely carried out in all provinces and cities.[18]At the same time, the Ministry of Ecology and Environment has organized research on the assessment technology of ecological and environmental damage, issued a series of general technical documents, and special documents involving specialized water, soil and other elements to guide the damage assessment work. However, China's ecological and environmental risk management and damage compensation standard system is not perfect, and the assessment work is still in its initial stage. The technical methods of environmental risk assessment and the prevention and control and management system of risk damage need to be improved.

Driven by a series of policies, the legislation of compensation for ecological and environmental damage has been formally put on the agenda. The Law on the Prevention and Control of Soil Pollution, the Yangtze River Protection Law, the Forest Law and the Law on the Prevention and Control of Environmental Pollution by Solid Waste have added relevant provisions on compensation for ecological and environmental damage, involving various elements of environmental resources and important areas of environmental protection. In 2019, the Provisions of the Supreme People's Court on The Trial of Compensation Cases for Ecological and Environmental Damage (For Trial Implementation) have improved the relevant litigation rules. Article 1234 of the Civil Code of the People's Republic of China in 2020 stipulates the liability for ecological environmental damage to be borne. This provision is clearly different from the liability for the infringement of ecological environmental interests in articles 1229 to 1233, which can be transferred to the field of environmental law for specific detailed and feasible operation. The 2021 Rules for the People's Procuratorate (Trial) clearly stipulate the applicable rules for procuratorial organs to participate in compensation cases for ecological and environmental damage. This series of provisions provides the theoretical basis and institutional premise for improving the environmental law and realizing the compensation liability for ecological environmental damage within the scope of environmental law.

4.2.2. China has Specific Judicial Practice

The Ministry of Ecology and Environment held a press release on November 25,2021, saying that the reform of the compensation system for ecological and environmental damage in China is being carried out in an overall and orderly way and has achieved initial results. Since 2015, the national trial ecological environment damage compensation system, provinces and cities for ecological environment compensation cases more than 7600, involving more than 9 billion yuan, including the qilian mountain Qinghai coal mine ecological damage case is orderly compensation work, through the analysis of the typical cases and the practical experience of the provinces and cities, can form a series of experience can copy, can be used for reference.[19]

In general, provinces and cities have taken a variety of measures around the reform plan, introduced a series of supporting systems, to refine and create the contents of consultation, participants, fund management, investigation and evaluation, responsibility, information disclosure and other aspects. It includes refining the provisions of each link of the consultation, clarifying the scope, functions and responsibilities of all parties, creating the fund management mode according to the actual situation, improving the process of investigation and evaluation, refining the way of taking responsibility, clarifying the situation and content of information disclosure, etc. This series of measures provides practical experience for us to improve the relevant rules within the scope of environmental law, and provides a practical basis for

realizing the compensation liability of ecological and environmental damage through the path of environmental law.

5. Specific Design of the Realization Path of the Environmental Law for Ecological Damage Compensation Liability

5.1. Improve the Environmental Law on Compensation Liability for Ecological and Environmental Damage

The perfection of the special rules for ecological and environmental damage compensation is the premise and basis for the implementation of this responsibility. China should summarize the practical experience of judicial reform in time, and revise and improve relevant laws as soon as possible according to the current framework of policy and legal documents. Combined with the current situation of the system reform and the structure of China's current legal system, the author believes that we should first issue a judicial interpretation compatible with the current legislation, solve the problems of the deficiency of the specific provisions of the reform plan, to ensure the smooth progress of the reform practice. On this basis, the Environmental Protection Law and relevant separate laws should be timely amended to improve the compensation system for ecological and environmental damage, and a comprehensive environmental code should be compiled to eliminate the fragmentation of environmental legal norms and ensure the coordination and unity within the environmental legal system and among various legal departments.

In this regard, Through the introduction of the judicial interpretation supporting the relevant provisions of ecological and environmental damage compensation litigation should be controversial under the entity and procedural issues, Establish a complete claim mechanism, Clarify the positioning of the compensation system for ecological and environmental damage, To clarify the application space of environmental protection norms with other legal provisions; clarify the specific content of the compensation system for ecological and environmental damage, Refine the scope of accepting cases and the identification of liability for damages; to clarify the relationship between administrative agencies and other organizations, further integration of ecological and environmental damage compensation litigation and related litigation; improve the relevant supporting measures, Detailed identification and evaluation, fund management and other issues, create pre-litigation procedure, multiple implementation mechanism and other measures. [20] In order to refine relevant regulations, respond to disputes in practice, ensure the flexibility and applicability of the legal system, and ensure the implementation and implementation of relevant systems. It should be noted that although the legal norms are becoming perfect day by day, in the process of judicial practice, judicial interpretation, as the bridge and link between judicial practice and legal norms, should run through the whole process of legal improvement.

5.2. Introduce the Procuratorial and Supervision Mechanism of Compensation Liability for Ecological and Environmental Damage

According to the relevant provisions of the Organic Law of the People's Procuratorates, the supervision scope of the People's procuratorates runs through the whole process of litigation from prosecution to execution, and the supervision methods include protest and procuratorial suggestions. Therefore, in the scope of compensation for ecological environment damage, supervision can be conducted according to the Organic Law of the People's Procuratorate and by referring to the Civil Litigation Supervision Rules of the People's Procuratorate. First, the procuratorial supervision throughout the case each link, the integrated use of procuratorial advice, protest way to supervise the responsibility implementation, in the administrative organs in regulatory duties lead to or aggravate ecological environment damage, procuratorial

organs can according to the procedures to urge administrative organs to perform their duties, the administrative organ is still not takes office in accordance with the law, can be the defendant filed administrative public interest litigation, shall be investigated for its responsibility, reversed transmission the ecological environment damage compensation lawsuit. Second, the administrative law enforcement should also respond, to establish normalized supervision mechanism, involving public interests to carry out typed supervision, expand supervision, according to the authority of the ecological environment and resources protection, when administrative organs as or as damage to social public interests, procuratorial organs can according to the authority to carry out the supervision, supervise and urge the responsibility to implement. Finally, supervise the environmental protection administrative organs to implement the situation of ecological environment restoration responsibility and compensation responsibility, review the restoration plan, acceptance and evaluation, the amount and procedures of compensation [21].

In general, the procuratorial organs in the absence of proper subject or supervise the relevant subject to perform their duties, the relevant subject is still not filed a lawsuit to bring ecological environment damage compensation lawsuit, the system design is to make up for the lack of administrative organs and environmental public welfare organizations caused by the lack of relief, is the ecological environment damage of the defendant, realize the relief of damaged ecological environment. The environmental administrative public interest litigation initiated by the procuratorial organ takes the administrative organ as the defendant, and corrects the illegal acts of the administrative organ in the way of judicial review. Therefore, in practice, the procuratorial organ can bring the lawsuit of compensation for ecological and environmental damages: first, the administrative organ cannot bring the lawsuit for ecological and environmental damages and has no other proper subjects; second, the administrative organ should fulfill the claim right without reason and there are no other qualified subjects. The circumstances of the procuratorial organ filing environmental administrative public interest litigation are as follows: in the process of administrative law enforcement, the administrative organs cause the ecological environment damage or aggravate the ecological environment damage due to their own inaction or illegal dereliction of duty. [22]At this point, it should be discussed according to the situation. If the administrative organ is only negligent in performing the right of claim, the procuratorial organ shall, after performing the pre-litigation procedure, directly take the ecological environment damage actor as the defendant and file the right of claim on behalf of the defendant. If the administrative organ fails to perform its supervisory duties to cause or aggravate the ecological environment damage, the procuratorial organ may, on the basis of the aforementioned supervision of the implementation of the actor of ecological environment damage as the defendant to file the ecological environment damage compensation lawsuit and claim the corresponding right to claim on behalf.

5.3. Improve the Litigation Mechanism for Realizing the Compensation Liability for Ecological and Environmental Damage

First of all, in terms of the internal subject of the ecological environment damage compensation litigation. The author believes that the right basis of ecological and environmental damage compensation litigation in China is the public environmental right centered on the relief of damage. This right can derive the national environmental protection obligations and national environmental management responsibilities. On this basis, the subjects that can file ecological and environmental damage compensation lawsuits in judicial practice include: government departments, environmental public welfare organizations and procuratorial organs. The three should make the following arrangements in the specific division of labor and order in the claim and ecological environment damage compensation lawsuit, so as to prevent the phenomenon of mutual prevarication or contention for power. On the one hand, the Environmental

Protection Law stipulates that environmental organizations can remedy all acts that pollute and damage the ecological environment. And "reform" that the government can only for serious environmental pollution, ecological damage, here, we to the division of labor, in the government exhausted administrative law enforcement is still unable to solve the problem, by the government for serious ecological environment damage behavior, the rest of the environmental organizations, the environmental organization supplement and out role. Of course, environmental protection organizations can, if the government departments do not perform their duties, file lawsuits for ecological environmental damage for serious environmental pollution and ecological damage. Procuratorial organs, on the other hand, as the supervision authority, after urged first prosecution, in the administrative organ for ecological damage compensation lawsuit or environmental damage organization for environmental damage behavior of general prosecution, supervise or support environmental organizations prosecution or perform after the pre-litigation procedure directly.

Second, the environmental public welfare organization of ecological environmental damage compensation lawsuit and environmental civil public interest litigation, the author thinks that should be combined with judicial practice, to save the judicial cost, promote the judicial efficiency as the guide, the two types of litigation from entity on the basis of the specific procedures, internal unity and external coordination arrangement. Considering that the subject of the former is more extensive and more targeted, it cannot be absorbed by the latter, and the ecological and environmental damage compensation litigation can absorb environmental civil public interest litigation and carry out internal integration. The division of labor shall be conducted between administrative organs and environmental protection organizations, and the government shall file a lawsuit against serious ecological and environmental damage, and the rest shall be submitted to environmental protection organizations. [23]Of course, environmental protection organizations may file a lawsuit for ecological and environmental damage if the government departments do not perform their duties.

6. Conclusion

The relief of rights needs the coordination between private law and public law, as well as the joint help of substantive law and procedural law. At present, China's relevant norms clearly stipulate the liability for compensation for ecological and environmental damage, which only provides a unified substantive law basis and a single procedural choice for the realization of the responsibility, and the system design lacks rationality and operability. Ecological environmental damage is the damage to the environmental public interests, and the compensation liability for ecological environmental damage is a new liability that is different from the traditional environmental infringement. Public law certainly plays an important role in protecting the environmental public interests. Therefore, in the field of environmental law, relevant entities and procedures should be improved in the way of issuing judicial interpretations or separate laws, and a unified standard damage assessment standard should be established to provide a standard basis for the practice of judicial reform and the implementation of responsibilities. On this basis, continue to explore, improve the litigation claim mechanism, clarify the prosecution order of each subject within the ecological environment damage compensation litigation, coordinate the relationship between different lawsuits; introduce the procuratorial supervision mechanism to supervise the implementation of responsibility, and act on the right to claim compensation under specific circumstances, and play the deterrent power of external supervision. In general, by strengthening the communication between various departments, improve the social supporting mechanism of funds and insurance, play to the advantages of the subject, explore the pluralistic work path, build environmental law own discourse system, form relatively independent and coordinated

ecological environment damage relief system is to realize the meaning of liability for ecological environment.

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References

- [1] Liu Jing: On the choice of model of ecological damage relief, *China Law*, (2019) No.5, p.267-284.
- [2] Luo Li: An empirical study on the relationship between ecological environmental damage compensation litigation and environmental civil public interest litigation, *Legal Application*, (2020) No.4, p.134-144.
- [3] Liu Chao: Green system innovation in the tort liability section of the Civil Code, *Journal of Law*, Vol. 41 (2020) No.10, p.30-41.
- [4] Zhang Chunli: Review and improvement of ecological environmental damage compensation litigation, *Nanjing Social Science*, (2019) No.2, p.101-107.
- [5] Xu Zhonglin, Song Jinhua: The inherent conflict and improvement of ecological and environmental damage compensation system under the perspective of civil code, *Legal Application*, (2020) No.23, p.71-80.
- [6] Guo Yanjun: The development of environmental rights in China's positive law, *Tsinghua Law*, Vol. 15 (2021) No.1, p.163-180.
- [7] Gong Gu: Exploring the relationship between ecological environmental damage lawsuits and environmental civil public interest lawsuits--Analysis of the ecological compensation provisions of the Civil Code, *Law Forum*, Vol. 37 (2022) No.1, p.129-139.
- [8] Li Shuxun, Leng Luosheng: Reflections and clarifications: the "true" ecological environmental damage compensation system: the scope of its application, *Journal of Northeastern University (Social Science Edition)*, Vol.22 (2020) No.6, p.94-101.
- [9] Gong Xiongyan, Wang Shuyi: The theory of public-private law joint relief model for ecological and environmental damage under the civil code regulation--and the improvement of ecological and environmental damage compensation system, *Environmental Protection*, Vol.49 (2021) No.10, p.37-41.
- [10] Fu Xianguo: Research on the positioning of ecological and environmental damage compensation litigation in the context of the Civil Code - and the relationship with environmental civil public interest litigation, *Guangxi Social Science*, (2021) No.10, p.10-17.
- [11] Tian Chao: Exploring the legal nature of liability for ecological and environmental damages, *Environmental protection*, Vol.48 (2020) No.24, p.22-25.
- [12] Gong Gu: Comparison of models of ecological damage compensation system and China's choice: An investigation of the interpretation basis and direction of the ecological damage compensation provisions of the Civil Code, *Comparative Law Research*, (2022) No.22, p.161-176.
- [13] Li Yisong, Guo Jia: An empirical analysis of the judicial application of ecological environmental damage liability approach, *Journal of Jiangsu Normal University (Philosophy and Social Science Edition)*, Vol.47 (2021) No.4, p.89-99.
- [14] Dai Maohua: The application and improvement of ecological damage liability system under the regulation of civil code, *Environmental Protection*, Vol.49 (2021) No.13, p.46-51.
- [15] Zhu Xiao: Comparative law and codification ideas of ecological and environmental liability codification, *China Law Review*, (2022) No.2, p.29-39.

- [16] Shi Yucheng, Zhi Huijie: The construction and reflection of ecological environmental damage compensation system, *Journal of Jiangsu University of Science and Technology (Social Science Edition)*, Vol.21 (2021) No.3, p.82-88.
- [17] Gong Gu: Analysis of ecological damage compensation provisions in the Civil Code from the perspective of public law, *Administrative Law Research*, (2022) No.6, p.41-58.
- [18] Zhou Gaojun, Li Yuan: The practice path of procuratorial organs in the context of ecological environmental damage compensation system, *China Prosecutor*, (2021) No.17, p.51-54.
- [19] Song Caifa: Judicial application of the green principle of the Civil Code in the compensation for ecological and environmental damages, *Journal of Chongqing University of Commerce and Industry (Social Science Edition)*, Vol.39 (2022) No.2, p.17-26.
- [20] Wang Canfa, Wang Yutong: Reflection and improvement of the way of bearing responsibility for ecological environmental damage litigation, *Environmental Protection*, Vol.50 (2022) No.9, p.14-17.
- [21] Song Caifa: Research on ecological damage compensation and litigation in the context of the Civil Code, *Hebei Jurisprudence*, Vol.41 (2023) No.7, p.2-17.
- [22] Zhang Hui, Jiang An: Exploration of the legislative model of ecological and environmental damage compensation system under the vision of environmental code, *Journal of Zhejiang Ocean University (Humanities)*, Vol.40 (2023) No.2, p.32-38.
- [23] Wang Gan, Cai Xianghui: The construction of ecological damage compensation system in the context of environmental code codification, *Jiangxi Social Science*, Vol.42 (2022) No.12, p.171-179.