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Research on Plaintiff Qualifications of China's Environmental Public Interest Litigation

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Abstract: *To protect the ecological environment, it is necessary to establish a more scientific system of environmental public interest litigation. At present, China's relevant systems are still in the initial stage, and improving the plaintiff's qualifications in environmental public interest litigation is a key step in promoting the development of environmental public interest litigation. In the judicial practice of our country, there are still problems where individual citizens have not been granted the plaintiff's main identity, environmental protection organizations have defects in their plaintiff's main identity, administrative agencies need to clarify their plaintiff's main identity, and procuratorial agencies have incomplete plaintiff's main identity. China should base itself on its national conditions, carefully draw on the scope of subjects that countries have the right to initiate environmental public interest litigation, grant individual citizens and clarify the plaintiff qualification of administrative agencies in environmental public interest litigation, relax the restrictions on social organizations initiating environmental public interest litigation, clarify the role of public prosecution agencies in environmental public interest litigation, and clarify the order of multiple subjects to sue, to establish a more scientific system for the qualification of plaintiffs in environmental public interest litigation.*

Keywords: *Environmental public interest litigation, Plaintiff qualifications, Environmental protection*

1. Introduction

The environment is a non competitive and non exclusive public resource, which often leads to overutilization by people. With the rapid development of modern mechanized large-scale industry and the increasingly prominent issue of environmental pollution, how to better maintain the public interest of the environment has become an undeniable and urgent issue. This background has given rise to environmental public interest litigation. However, from the perspective of litigation law, the traditional theory of litigation rights is constructed around private interests, while public interests have long been overlooked. Based on this, in order to develop and improve the environmental public interest litigation system, it is necessary to break free from the constraints of traditional litigation rights theory and explore the connotation and theoretical basis of environmental public interest litigation rights at a deeper level.

1.1. Environmental rights theory

The environment is the foundation of human life, and no one can survive independently without it. The environment is closely related to people's production and life. The development of the economy relies on the support of environmental resources, but the growth of the economy increasingly puts an unbearable burden on environmental resources. Humanity has only one home on Earth, and we cannot ignore the public interest in the environment. We must pay more attention to its protection. At this time, the theory of environmental rights has emerged. The theory of environmental rights advocates that everyone has the right to enjoy a good environment. The right to the environment is the most fundamental human right of humanity, which has also been affirmed in the Human Environment Declaration. The 1972 Declaration on the Human Environment declared: “Human beings have the fundamental right to enjoy freedom, equality, and appropriate living conditions in an environment of dignity and happiness, and have a solemn responsibility to protect and improve the environment for this and future generations.”

1.2. Public trust theory

“Public trust” originates from Roman law. The Black Legal Dictionary interprets it as the

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responsibility of the government in safeguarding the rights and interests of navigation waters and the public. Due to the increasing negative impact of the Industrial Revolution on the environment, the application fields of this theory have also expanded, gradually incorporating environmental protection into it.[1] In terms of environmental protection, the public trust theory advocates that based on the shared nature of natural resources, no entity shall illegally occupy them in any form.[2] To ensure sustainable use of natural resources for humanity, the public can entrust the government with the responsibility of managing environmental resources. According to the public trust theory in the field of environmental protection, both citizens and government agencies can become eligible subjects in environmental public interest litigation. The understanding is as follows: Firstly, citizens naturally acquire the right to environmental public interest litigation by virtue of their ownership of environmental public resources. Secondly, the state assumes the responsibility of protecting environmental public resources based on the commission of citizens, thereby obtaining the right to sue. Based on the division of labor and cooperation within the country, the right to sue is usually exercised by the procuratorial organs and ecological environment administrative departments. At this point, the eligible subjects under the theory of public trust are further expanded, including not only citizens, but also the procuratorial organs and ecological environment administrative departments, further expanding the traditional theory of party eligibility.[3]

1.3. The theory of private prosecutor general

The theory of "private prosecutor general" advocates that, for the purpose of protecting the environment, Congress can grant an unrestricted plaintiff qualification, which means that "anyone" can become an authorized subject. The theory of "private attorney general" holds a crucial position in environmental public interest litigation in the United States.[4] It believes that in order to maintain the ecological environment and public interest, there are various social entities that Congress can grant litigation rights to, including but not limited to citizens, social groups, and government officials. The author believes that the establishment of the theory of "private prosecutor general" is not only an extension of the qualified subject of environmental public interest litigation, but also a breakthrough in the traditional theory of party qualification, and in a sense, it compensates for the shortcomings of public power in relief. A more concise expression of the above content is shown in Figure 1.

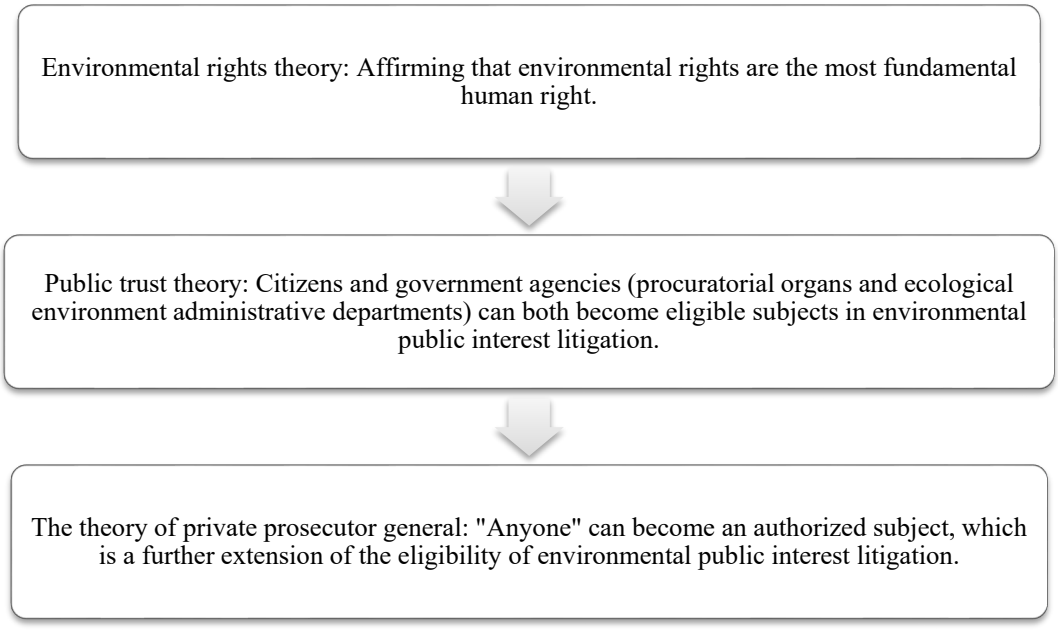

Figure 1: Theoretical evolution of eligible subjects in environmental public interest litigation.

2. Shortcomings in the legal qualification of the plaintiff in environmental public interest litigation in China

The "Songhua River Pollution Case" in 2005 pioneered environmental public interest litigation in China. Peking University faculty and students listed natural objects as joint plaintiffs, expressing their

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yearning for a better environment and deep hatred for polluting environmental behavior through emotion and reason, which triggered a fierce social response. The author believes that this case has increased public awareness and acceptance of environmental public interest litigation, and provided some ideas for future legislative reform. The Civil Procedure Law was revised in 2012, and at that time, issues related to the plaintiff subject system in environmental public interest litigation sparked discussions among the public. The revised Civil Procedure Law in 2012 did indeed respond to the voices of the public, but the provisions and practical guidance related to the qualifications of the plaintiff in environmental public interest litigation are still relatively vague and urgently need to be further supplemented. Although subsequent legislation has further clarified this part, there are still issues. In order to conduct better research, Figure 2 summarizes the current main normative documents for environmental public interest litigation.

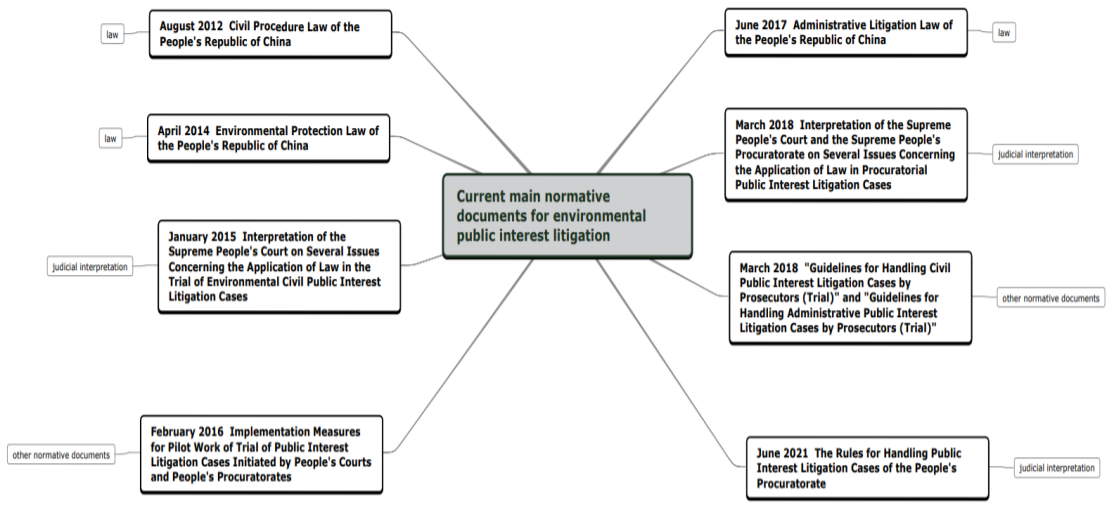

Figure 2: Current main normative documents for environmental public interest litigation.

2.1. Individual citizens have not been granted the plaintiff's subject qualification

In China, the current legal provisions do not include citizens as initiators of environmental public interest lawsuits. However, as a result, experts, lawyers with relevant legal knowledge, and environmental practitioners with rich practical experience have also been cut off, cutting off their channels for initiating environmental public interest lawsuits. If the current litigation subject can play a good role, it is blameless. However, most judicial practices have shown that the qualified plaintiff stipulated by the law cannot fully play the role of protecting environmental public interests, and instead makes the process of protecting environmental public interests more difficult. On the contrary, granting citizens the qualification to safeguard the public interest of the environment not only fully conforms to the theory of environmental rights, but also fully utilizes the power of the masses, thereby better protecting the ecological environment.

2.2. There are deficiencies in the plaintiff's qualifications of environmental organizations

Although legal norms in our country grant social organizations the qualification to become initiators of environmental public interest litigation, there are still numerous obstacles in practice. Firstly, although environmental organizations have emerged continuously in China in recent years, due to various limitations, it is not common for environmental organizations to truly serve as initiators of environmental public interest litigation. Secondly, there are very few environmental organizations that can truly play their due role in environmental public interest litigation. According to data, with over 1000 environmental organizations nationwide authorized to file environmental public interest lawsuits, only 25 environmental organizations actually filed lawsuits between 2015 and 2016. It can be seen that although many environmental protection organizations in China meet the qualification requirements stipulated by law, in fact, there are only a few environmental protection organizations that can truly participate in environmental public interest litigation. In 2017, there were a total of 11000 cases

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involving compensation for ecological and environmental damage nationwide, with only 252 cases filed by environmental organizations as plaintiffs, accounting for a relatively small proportion; In 2018, the number of cases filed by environmental organizations as plaintiffs decreased to only 65(see figure 3). Through the data, it is reflected that the current laws in China have set too high a threshold for environmental organizations.[5] In addition, due to constraints such as a shortage of operating funds, a shortage of professional talents, and difficulties in investigation and evidence collection, environmental protection organizations are like being shackled, trapped in difficulties, and struggling to move forward.

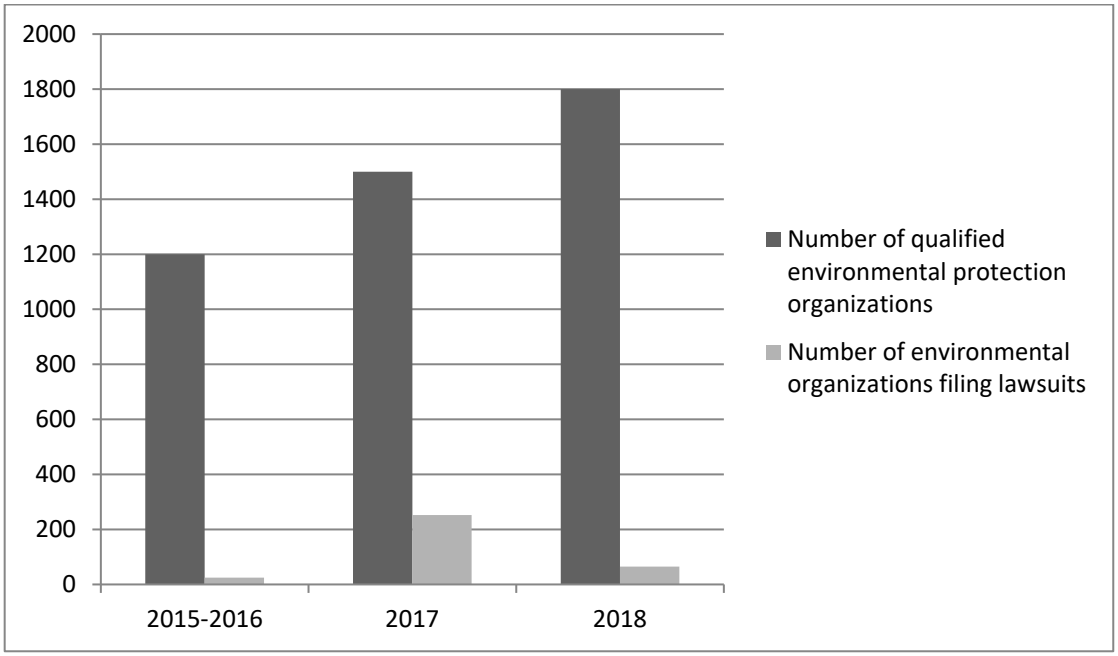

Figure 3 Comparison of the number of qualified environmental protection organizations and environmental protection organizations filing lawsuits in China from 2015 to 2018.

2.3. The plaintiff's subject qualification of administrative organs needs to be clarified

Can other administrative agencies besides the marine environmental supervision department become eligible subjects for environmental public interest litigation? The problem is still a problem, as the current legislation in our country still does not have clear provisions on this. Fortunately, with the successive launch of the "Pilot Plan for the Reform of the Ecological Environment Damage Compensation System" and the "Reform Plan for the Ecological Environment Damage Compensation System", the scope of eligible plaintiffs in China's environmental public interest litigation has taken an important step forward. Provincial and municipal governments have also been authorized to be included in the list of entities that can initiate litigation. The two levels of government that have been authorized can also grant the relevant units the right to sue through authorization. However, the above provisions are only a partial attempt and exploration, and they are fundamentally different from the law.[5] It is worth noting that administrative agencies belong to state institutions and have obvious advantages in many aspects, such as collecting case evidence, responding to litigation, and obtaining relevant funds. Therefore, we should not overlook the enormous potential of ecological and environmental administrative agencies in promoting the development of environmental public welfare lawsuits. However, we should note that this move may also provide convenience for administrative agencies to be lazy. Therefore, in order to avoid the negative consequences of the dual waste of administrative and judicial resources, we need more scientific institutional arrangements.

2.4. The plaintiff's subject qualification of the procuratorial organs is not perfect enough

In the current environmental public interest litigation in our country, the procuratorial organs have already qualified as plaintiffs, but there are also some shortcomings. When the legal supervision agency becomes the plaintiff, it is not difficult to understand that this conflicts with its own functions, so the situation of the procuratorial organs in environmental public interest litigation is awkward. At the same time, as a public prosecution department, the procuratorial organs often have stronger litigation

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capabilities than the defendant, which can easily lead to the loss of litigation fairness and pose a test of the credibility of the judiciary. We cannot be careless. In recent years, China has issued many laws, regulations, and judicial interpretations that provide support for procuratorial organs to participate in environmental public interest litigation. The guiding significance of these documents is self-evident. However, in the lawsuit initiated by the public prosecution as the initiator of environmental public interest litigation, obstacles such as unclear role positioning, unclear functional effectiveness, and unclear parties responsible for litigation costs still need to be further cleared.

3. The development trend and experience reference of the plaintiff's qualification in foreign environmental public interest litigation

Throughout foreign countries, there are different institutional designs, but one can glimpse the overall trend of gradually expanding the scope of plaintiff subjects in environmental public interest litigation.

3.1. Anglo American legal system countries

The United States established environmental public interest litigation in the 1970s, becoming the first country in the world to establish environmental public interest litigation. The Clean Water Act enacted in 1970 has a broad provision that “anyone can sue on their behalf”. The scope of using the term “anyone” in the article can be imagined. The encouraging effect of such broad terms on environmental public interest lawsuits is self-evident. In order to avoid excessive litigation, the Clean Water Act of 1972 added some restrictive elements to individual citizens who are the plaintiffs in environmental public interest litigation. However, these restrictive elements were later abolished or relaxed. In addition, to make the system design more reasonable, the country has designed a pre litigation procedure called “pre litigation notice”. That is to say, citizens must notify the defendant and environmental protection administrative department of the relevant situation before filing a lawsuit, and limit them to handle it on their own within sixty days. After the grace period ends, if the illegal behavior is not effectively controlled, or if citizens are still dissatisfied with the handling result, they can proceed with legal proceedings. Pre litigation notification is a mandatory obligation that citizens must comply with to enable relevant departments to respond in a timely manner, prioritize understanding of the relevant situation, and take corresponding measures. It also provides the defendant with the opportunity to self correct errors during this period, thereby reducing unnecessary litigation costs and saving judicial resources.[6]

The “whistleblower lawsuit” in the UK is a litigation procedure specifically focused on acts that harm the public interest of the environment. It establishes the Prosecutor General as a representative of the public interest, in order to safeguard the public interest of the environment. The “whistleblower lawsuit” provides three channels for the Prosecutor General to exercise their powers, namely initiating lawsuits, assisting individuals in submitting judicial reviews to the court, and citizens obtaining the Prosecutor General's consent to submit their own judicial reviews. However, among these three channels, without exception, the opinion of the Prosecutor General completely determines whether the lawsuit can be initiated. Therefore, the drawbacks of the “whistleblower lawsuit” system are also obvious - although citizens have the right to sue, they can only become the subject of litigation with the consent of the Prosecutor General. In this way, the discretionary power of the Prosecutor General clearly exceeds the reasonable limit, which will inevitably hinder the long-term development of environmental public interest litigation under this system. The British legislative community is also aware of this issue. Later, the Environmental Pollution Act enacted and implemented in 1974 in the UK granted anyone the qualification to file an environmental damage lawsuit.

3.2. Civil law countries

In Germany, group litigation holds a crucial position. The Federal Nature Conservation Act and the Environmental Judicial Relief Act were successively promulgated after four years, which continuously developed and improved the environmental group litigation system and ultimately established it, making it of profound significance.[7] However, public welfare organizations with the right to sue are not unlimited. According to the relevant provisions of the Environmental Judicial Remedies Law, the existence time of public welfare organizations shall not be less than three years, the active participation of public welfare organizations in environmental public welfare activities with the aim of promoting public welfare, and the confirmation of their litigation qualifications by the government are all

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conditions for obtaining qualification confirmation.

In Japan, the legislative community has adopted relatively conservative regulations. The necessary condition for citizens to initiate environmental public interest litigation is that there is actual damage and such damage violates the legitimate rights and interests protected by law. The selection of parties for litigation in Japan is a manifestation of Japan's deep influence on the mainland legal system. “The selection of parties to the lawsuit” refers to the selection of “parties” as representatives of all members before the lawsuit, and their participation in environmental public interest litigation. Subsequently, Japan further relaxed the institutional restrictions on “selecting parties for litigation”, enabling it to better play its role in safeguarding environmental public interests. In addition, in order to prevent excessive litigation, Japan has also designed a pre supervision procedure, which means that submitting a supervision request is a necessary step before initiating group litigation. This is similar to the pre litigation notification process in the United States.

3.3. Experience reference

3.3.1. Expand the scope of plaintiffs in environmental public interest litigation

In the United States and the United Kingdom, although the process is not the same, what is similar is that ultimately anyone can initiate environmental public interest litigation; In Germany, the environmental group litigation system provides strong support for protecting the public interest of the environment; In Japan, the eligibility for prosecution of social groups has gradually been relaxed, making the “selected party litigation” system more public welfare oriented. Taking this as a reference, in order to solve environmental crises and expand the scope of the plaintiff in environmental public interest litigation, it can be regarded as a “safe exit” that has been verified through practice.

3.3.2. Establish and improve a supporting mechanism for environmental public interest litigation to prevent the occurrence of “excessive litigation”

To avoid the risk of excessive prosecution, the United States has established a pre litigation notification procedure for citizens, while Japan has established a pre litigation supervision procedure. In the process of expanding the scope of environmental public interest litigation subjects in our country, we should also pay attention to establishing and improving supporting mechanisms, especially by setting up pre litigation procedures to avoid the situation of excessive litigation.

In general, we should draw on advanced experiences from outside the region, but on the basis of drawing from outside the region, China's qualification system for environmental public interest litigation plaintiffs should be more tailored to local conditions, reflecting Chinese characteristics, and cannot be too strict or too lenient. Only through a system of balancing leniency and strictness can a dynamic balance be achieved, balancing economic development and environmental protection, and truly achieving sustainable development.

4. Measures to improve the qualifications of plaintiffs in environmental public interest litigation in China

4.1. Granting individual plaintiff status to citizens

The theory of environmental rights holds that everyone has the right to enjoy a good environment. The right to the environment is the most fundamental human right. Based on this, citizens can certainly become eligible subjects in environmental public interest litigation. However, the current plaintiffs in environmental public interest litigation in our country do not include citizens. As a result, it is difficult to fully leverage the power of the general public and achieve effective protection of the ecological environment.

Over the years, there has been controversy over whether individual citizens should be granted the subject qualification of plaintiffs. The main reasons for the opponents are as follows: firstly, there are a large number of citizens, and if all citizens can file environmental public interest lawsuits as a whole, it is likely to lead to an explosive growth of environmental public interest lawsuits. Secondly, the ability of citizens to provide evidence is limited, and in practice, it is easy to encounter difficulties in providing evidence, which can lead to litigation being unable to start or the risk of losing directly borne by citizens. Thirdly, due to the special nature of environmental pollution cases, such as concealment and long-term nature, if environmental public interest litigation is to be filed, not only does it require

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the plaintiff to have a high professional level, but the plaintiff may also face the problem of bearing higher litigation costs. Therefore, the general public does not have the ability to cope with environmental public interest litigation.[8]

The author believes that the "one size fits all" approach to granting the plaintiff subject qualification to citizens is a waste of effort. Granting individual plaintiff subject qualification to citizens is not blindly liberalized, but a gradual approach can be taken - first granting the right to environmental public interest litigation to "specific" citizens, that is, individuals who have direct and indirect interests in the damage results, and achieving the goal of preventing litigation from "blowout" through "flow restriction"; Individuals with professional legal knowledge, such as experts, lawyers, or environmental practitioners with rich practical experience, who have no direct interests, can also become eligible subjects. This not only enhances the position advantage of the plaintiff, but also serves as a warning to polluters, thereby reducing the incidence of environmental pollution cases from the source; If citizens, as initiators of environmental public interest litigation, are likely to face difficulties such as limited evidentiary ability, insufficient professional knowledge, and insufficient litigation costs, China can establish relevant agencies to support the prosecution system. The relevant authorities can be procuratorial organs, ecological and environmental administrative organs, and of course, they can also create new subjects to provide strong support for individual citizens in environmental public interest litigation. In addition, by collaborating with foundations and law firms, or directly establishing relevant specialized foundations and legal systems, citizens can be more adept at filing environmental public interest lawsuits.

To avoid the risk of excessive litigation, the practices of the United States and Japan are worth learning from. Taking the United States as an example. The United States has established a grace period of 60 days, and correspondingly, China can set a grace period of 45 days. The determination of whether to initiate environmental public interest litigation is based on whether the ecological environment administrative agency and the violator have actively, timely, and effectively taken remedial measures within the 45 day grace period. The function of setting up a pre litigation procedure is to put some environmental damage issues before litigation to be resolved. This can not only achieve the goal of avoiding "excessive litigation", but also to some extent save judicial resources. Furthermore, this is fully in line with the original intention and purpose of environmental public interest litigation.

4.2. Improve the plaintiff qualification of environmental protection organizations

Environmental organizations in countries such as the United States, Germany, and Japan all play an indispensable role in their environmental public interest litigation, which deserves deeper reflection. Compared to the general public, the professional advantages of environmental organizations are obvious, and their evidentiary, litigation, and liability abilities are also in an advantageous position; Compared with procuratorial organs and government departments, independent and non-profit environmental organizations undoubtedly have more prominent significance in promoting environmental public interest litigation. However, existing environmental protection legislation has set a high threshold for environmental organizations, resulting in a total number of environmental organizations with qualifications to initiate environmental public interest lawsuits inevitably falling short of expectations. Based on this practical dilemma, it is necessary to broaden the qualifications of environmental public interest litigation subjects and appropriately reduce the restrictions on environmental organizations as initiators of environmental public interest litigation. For example, by adopting legal procedures and at appropriate times, the provisions of Article 58 of China's Environmental Protection Law can be amended, changing the registration location requirement of environmental protection organizations in the first item from "people's governments at or above the city level with districts" to "people's governments at or above the county level" to relax restrictions. In addition, appropriately reducing or directly abolishing the work experience requirements of environmental organizations can also be helpful.

It should be pointed out that in China, the development of environmental protection organizations is relatively lagging behind. Currently, environmental protection organizations still face problems such as talent shortage, shortage of high-precision equipment, and shortage of funds. Therefore, the government should continue to strengthen support for environmental organizations, such as setting up special funds, establishing a specialized expert pool, and establishing a specialized team of legal advisors. Moreover, for environmental organizations that have no obligation to safeguard the public interest of the environment, in order for them to actively participate in environmental public interest litigation, it is necessary to establish an effective incentive mechanism.

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4.3. Clarify the plaintiff's subject qualification of administrative organs

The voices in the theoretical community opposing administrative agencies becoming the plaintiff in environmental public interest litigation mainly focus on two points: firstly, the issue of power competition arising from administrative agencies participating in environmental public interest litigation. Secondly, the administrative means of administrative agencies are more efficient than judicial means, and adding administrative agencies to the list of plaintiffs is adding insult to injury.

The author's view on this is that it is indeed necessary to grant the plaintiff's subject qualification to administrative organs. There are four main reasons for the author. Firstly, as mentioned earlier, environmental public interest litigation requires high levels of manpower, financial resources, and technology, and ecological environment administrative agencies have obvious advantages in these areas. In addition, their ability to collect and provide evidence is also advantageous. Secondly, granting the plaintiff qualification to ecological and environmental administrative agencies is beneficial for them to better fulfill their responsibilities and protect the environmental rights and interests of citizens. Thirdly, the marine environmental supervision department belongs to the administrative agency, and China's laws have clearly stipulated that it can serve as a qualified subject for environmental public interest litigation. Granting this right to other ecological environment administrative agencies at this time is not an act of recklessness and can be given a try. Fourthly, there have been typical cases in China where ecological and environmental administrative agencies have been the initiators of environmental public interest litigation and have won the lawsuit. In 2010, Kunming Environmental Protection Bureau, as a government environmental protection administrative department, sued Sannong Company and Yangfu Company and ultimately won the lawsuit. This also fully proves that the ecological environment administrative agency can serve as a qualified subject and become the initiator of environmental public interest litigation.

In response to the concerns of opponents, the author believes that ecological environment administrative agencies can better fulfill their environmental protection responsibilities by clearly defining the order and scope of exercise of judicial and administrative powers, and adhering to the principle of administrative power taking priority over judicial power, mainly playing the auxiliary and supplementary role of judicial means. In addition, establishing a separate environmental public interest litigation supervision agency to fully leverage its supervisory effectiveness would also be an effective measure. Only when the ecological environment administrative agency fails to exhaust its administrative means and applies to the environmental public interest litigation procuratorial agency for approval, can judicial proceedings be initiated.

4.4. Clarify the plaintiff's subject qualification of the procuratorial organs

Since the procuratorial organs participated in environmental public interest litigation, various controversial voices have never ceased. The specific reasons have also been elaborated in the previous text. However, various doubts about the public interest litigation rights of the procuratorial organs cannot diminish the enormous role played by the procuratorial organs in environmental public interest litigation, let alone deprive them of their public interest litigation rights. It must be acknowledged that with the continuous reform of the procuratorial system, the functional positioning and structure of the procuratorial organs have shown obvious judicial attributes, and this diversified procuratorial system has an irreversible trend. Therefore, we should follow the trend here, comprehensively evaluate the functions and powers of the procuratorial organs, formulate a series of specific processes and rules, so that their different powers can be reasonably allocated, their roles do not coincide, and ensure the equality and reciprocity of the litigation rights and litigation status of the plaintiff and defendant. In many countries, procuratorial organs are regarded as the legal subjects of environmental public interest litigation.[9] Our country is no exception. It should be pointed out that before the procuratorial organs intervene in environmental public interest litigation, it is necessary to fulfill the pre procedure. It is not difficult to understand that the procuratorial organs should play a “bottom line” role in such litigation. The legal provisions make it inevitable that the procuratorial organs cannot become active initiators of environmental public interest litigation. Therefore, relevant regulations supporting prosecution should be further improved. Procuratorial organs should be allowed to give full play to their own advantages within the scope of their authority, so as to strive to help other qualified entities to file lawsuits to the greatest extent, and ultimately establish a trustworthy artificial barrier for the public ecological environment. In addition, if the procuratorial organs lose in environmental public interest litigation, allowing them to bear the litigation costs at this time will inevitably have a negative impact on the enthusiasm of the procuratorial organs to intervene in the litigation. So we need more reasonable

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institutional arrangements. The author believes that setting up special funds by the state to bear the relevant litigation costs or adopting preferential policies such as reducing litigation costs are good choices, so that the procuratorial organs can intervene in environmental public interest litigation without any worries. Finally, all specific details regarding the exercise of public interest litigation rights by procuratorial organs must be rigorously treated and controlled. For example, the allocation of burden of proof needs to be subdivided and reasonably delineated based on the special attributes of the procuratorial organs and strictly adhering to fairness and justice. For example, regarding the rules on the right to dispose of litigation, it is necessary to timely clarify the conditions for the procuratorial organs to withdraw the lawsuit in such litigation, as well as whether reconciliation and mediation can be carried out, so as to better carry out practical work.[10]

4.5. Clarify the order of prosecution by multiple subjects

While allowing more eligible subjects to be included in the scope of environmental public interest litigation plaintiffs, it is also necessary to timely clarify the order of prosecution among eligible subjects, in order to save judicial resources, regulate judicial order, and prevent the phenomenon of some cases competing in litigation rights while others are ignored. Based on the current situation of environmental justice in China and taking into account the characteristics of each subject, the following sequential mechanism is proposed:

4.5.1. Environmental organization: the first plaintiff in environmental public interest litigation

Environmental organizations are non-governmental organizations established specifically to protect the environment, and their primary function is to prevent the occurrence of environmentally harmful behaviors. Environmental organizations have always upheld neutral values in their participation in environmental governance. Having unique advantages in professional abilities, advanced equipment, financial reserves, and personnel allocation, as a “rational third party”, it is imperative to become the first ranked plaintiff in environmental public interest litigation.

4.5.2. Ecological and environmental administrative organs: limited plaintiffs in environmental public interest litigation

The ecological environment administrative agency is backed by strong national power, and its litigation capacity far exceeds that of other private rights subjects. However, while granting ecological environment administrative agencies the right to public interest litigation, special attention should be paid to the boundaries of the exercise of public power to prevent its blind expansion, and to ensure that they can only seek judicial assistance when administrative relief is not possible. Based on this, the plaintiff qualification order of environmental public interest litigation by ecological environment administrative agencies must give way to environmental protection organizations, and ultimately become the second ranked plaintiff in environmental public interest litigation.

4.5.3. Procuratorial organs: active plaintiffs in environmental public interest litigation

Compared with the above two types of subjects, the procuratorial organs do not have advantages in professional abilities, role positioning, etc. The legislative organs have also adopted a relatively conservative approach to granting plaintiff qualifications based on their identity characteristics. The procuratorial organs generally support the prosecution of other eligible subjects as supporters. Only when other subjects are unable or unwilling to sue can the procuratorial organs file a lawsuit after the announcement period expires. Based on the above content, it is most appropriate for the procuratorial organs to act as the third ranked plaintiff in environmental public interest litigation.

4.5.4. Individual citizens: potential plaintiffs in environmental public interest litigation

As the most direct victim of environmental violations, individual citizens naturally have the qualification of being plaintiffs in environmental public interest litigation. However, given that the current situation of environmental justice in China is not mature enough, and the personal environmental quality of citizens needs to be improved, it is not suitable for citizens to have their right to public interest litigation at the forefront temporarily. Perhaps through continuous practice and development in the future, all parts of environmental public interest litigation have been improved, and the drawbacks of individual citizens as plaintiffs have been improved. The order of litigation will also change accordingly. However, at present, individual citizens should still play a relatively supportive role and serve as the fourth ranked plaintiff in environmental public interest litigation.

Of course, it must be noted that the above ranking mechanism is not static. With the passage of time,

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changes in the legislative and judicial environment, as well as differences in case situations, may affect the final ranking. However, fundamentally, the possible adjustments are also aimed at ultimately selecting the optimal plaintiff.

Finally, while clarifying the order of subject litigation, it is also necessary to explore the joint litigation mode of different subjects as soon as possible, so that different subjects can demonstrate their advantages, complement each other, and form a joint force. Each entity can be allowed to file a lawsuit as a joint plaintiff, so that the plaintiffs can form a relationship of mutual support, mutual supervision, and mutual checks and balances, and eventually converge into a strong litigation force to protect the public interest of the environment to the greatest extent.[11]

5. Conclusion

In recent years, while the sustained and rapid development of the national economy has brought about a significant improvement in the quality of social life, the negative effects of blindly pursuing GDP growth have gradually expanded. The contradiction between human and land is becoming increasingly prominent, the ecological environment is deteriorating, and various problems are constantly occurring, which in turn hinders economic prosperity. Based on this, it is urgent to strengthen comprehensive environmental governance and increase the protection of environmental resources. Compared with numerous existing protection measures, environmental public interest litigation is the strongest judicial protection path. However, after studying the environmental public interest litigation system, it can be found that there are many loopholes in China's existing environmental public interest litigation system. In particular, as the essence of the plaintiff's subject qualification, there is still much room for improvement. Environmental issues not only involve the vital interests of the people, but also relate to the happy development of future generations. Therefore, it is crucial to timely address the weak links in environmental public interest litigation and establish a scientific and reasonable environmental public interest litigation system. This article takes the plaintiff qualification system in environmental public interest litigation as the research direction and conducts a comprehensive analysis of it. After combining with foreign experiences, a series of targeted and feasible improvement suggestions were proposed from multiple perspectives, in order to provide solutions to relevant problems in practice.

After years of vigorous development, the need for a better life can no longer be defined solely as the need for material conditions, the need for a democratic and rule of law society, the need for fairness and justice, and the need for a green ecosystem. Environmental issues are closely related to human survival from beginning to end, we should not destroy the ecological environment for petty gains. Otherwise, nature's revenge will sooner or later make humanity taste the bitter fruit. Therefore, China should improve the qualification system of environmental public interest litigation plaintiffs as soon as possible by improving relevant laws and regulations, expanding the scope of subjects, and making the judicial system for environmental protection more sound. At the same time, everyone should consciously protect the ecological environment. We should start from the little things in life, actively participate in various environmental protection activities, and work together to build a beautiful new home.

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