

Legal regulation of the prevention and control of pollution in China's rural ecological environment

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Abstract: With the rapid development of social economy, along with the increasingly serious problem of rural ecological environment pollution, it is very necessary to take legal ways to regulate the prevention and control of rural environmental pollution in China. At present, there are a variety of problems in China's rural ecological environmental pollution prevention and control, including that the legislative system is not perfect, the enforcement system is inadequate and the judicial system is not appropriate, etc. To do so, it needs to be improved in these areas so that we can improve the rural ecological environmental quality, and achieve the rural revitalization.

Keywords: Rural Revitalization; Ecological Pollution; Legal Regulation

1. Introduction

From the development of economic priority to the management of ecological environment in an important position, the social concept of the increasing changes and progress has brought about a shift in the focus of the important work of society, "ecological environment construction" was first incorporated into the overall layout of the national social development in 2012, 2021 China pointed out that the key to achieve rural revitalisation is ecological livability, after its comprehensive promotion of rural revitalization to make arrangements for the deployment of the construction of rural ecological environment as an indispensable element to promote rural revitalization. In 2021, China pointed out that the key to realising rural revitalisation is ecological livability, and then made deployment arrangements for comprehensively promoting rural revitalisation, and the construction of rural ecological environment as an indispensable content of rural revitalisation can undoubtedly vigorously promote the process of rural revitalisation. 2022, the state clearly put forward the need to further

promote the prevention and control of environmental pollution, and to promote the rectification of urban and rural human settlements, and once again emphasised that "green water and green mountains are the golden silver mountain" This topic has been mentioned many times in important meetings and speeches. Accordingly, it is of great practical significance to promote the legal regulation of the prevention and control of ecological pollution in rural areas, which is not only related to the implementation of the national development strategy, but also closely related to the personal interests of individual farmers.[1]

From the point of view of national strategies and the integrated development of urban and rural societies, the construction of China's ecological environment relies on the promotion of ecological environmental protection in rural areas, which is likewise one of the indispensable elements in the construction of a beautiful China and the synergistic development of urban and rural areas. Rural industrial revitalization has received increasing attention at the national level, and agricultural industrialization has been steadily advancing, but more serious rural environmental pollution has also followed. In order to achieve rapid economic growth, many rural areas continue to follow the traditional model of "polluting first and then treating later" in the urban economy, and rural pollution has seriously exceeded the carrying capacity of the rural ecosystem, and the environmental self-purification capacity of traditional agricultural production has made it difficult to deal with the accumulation of pollution caused by the barbaric development of the country, and has made it difficult to support the sustainable development of agriculture.

From the point of view of the personal interests of farmers, rural pollution prevention and control not only protects farmers' rights and interests in economic development, but also guarantees their right to physical health. With economic and social development, the increase

in the rate of urbanization in rural areas and the promotion of new rural construction, farmers are increasingly using mechanized agricultural production methods and increasing the use of pesticides and chemical fertilizers in order to improve yields, which has brought about many hidden dangers to the rural environment. From the strategic perspective of sustainable development, economic gains at the expense of the environment are ultimately unsustainable, and the harm they cause not only constrains the long-term development of the rural economy, but also poses a great danger to the right to health of peasants.

Therefore, in order to further guarantee the development of rural environmental management, it is necessary to improve and perfect the legal system of ecological environment pollution prevention and control in rural areas of China.[2] Starting from the purpose of protecting the rural ecological environment, to conduct a comprehensive analysis of the legal problems faced by China's current ecological environment, and to regulate them by legal means, so as to establish a sound system of the rule of law for China's rural ecological environment, with a view to fundamentally improving the rural ecological environment, with a view to realizing sustainable development, and thus realizing ecologically sound and livable rural revitalization.[3]

2. Existing Legal Problems of Rural Ecological Environment Pollution in China

2.1 Incomplete Legislative System for the Prevention and Control of Pollution in Rural Ecosystems

Existing laws and regulations on pollution prevention and control are mostly specific to a particular content, such as water pollution, soil pollution, livestock and poultry farming pollution, etc. However, the general trend of rural ecological pollution is that the sources of pollution are numerous and many of them have a latent period, so it is difficult to apply the law in accordance with the categories of separate legislation, which makes it difficult to achieve the preventive effect that the public expects from the prevention and control of pollution.[4] Therefore, the prevention and control of rural ecological and environmental pollution lacks a targeted law to comprehensively regulate rural ecological and

environmental pollution in China.

Existing legal provisions are mostly regulations formulated for the prevention and control of different types of pollution, and there is duplication of regulations between different pieces of separate legislation for some behaviors, but for some behaviors no corresponding regulation can be found in the various pieces of separate legislation, and the confusion of legal provisions has led to the inability of law enforcement agencies to enforce the law accurately and strictly in accordance with the provisions of the law. It takes a long time for a law to be drafted and formulated to be enacted and implemented, and there is no system that can work well together to supplement the functioning of the law, so it is difficult to promote the governance of rural ecological pollution prevention in China. Therefore, the subsequent legislation should pay attention to the need for early co-ordinated planning and timely and effective prevention.

2.2 Inadequate Law Enforcement System for Prevention and Control of Pollution in Rural Ecosystems

Different departments have different obligations with regard to the prevention and control of ecological and environmental pollution, but they are not rigorous, so that in the actual enforcement process there is inevitably duplication of efforts by different authorities to deal with the same problem, or no administrative authority is willing to deal with a difficult problem. Moreover, according to the provisions of administrative regulations, local people's congresses can enact local legislation according to the local situation for matters that have not yet been confirmed by national legislation, provided that they do not contravene the supreme law, etc., which makes the enforcement of the law inefficient.

With the exception of the Measures for Environmental Administrative Penalties, there are no existing laws that deal with administrative enforcement procedures for ecological environmental protection, and domestic legislation in this area is still in its infancy. The lack of targeted laws and regulations will make the relevant administrative organs have more or less procedural flaws or even errors in administrative enforcement. Moreover, the Measures for Environmental Administrative Penalties are mainly aimed at imposing

administrative penalties for environmental pollution, but there are very few other administrative aspects, in particular, there are no important provisions on accountability and the boundaries of rights and obligations, and no supporting documents have been issued to promote the implementation of the relevant regulations in the law.[5]

There is no collaborative enforcement mechanism for the prevention and control of pollution in rural ecosystems, let alone whether it meets the integrity or systematic nature of the system required at this stage. Currently, there is no good coordination mechanism between governmental and non-governmental organizations and rural self-employed people. The government in practice is often due to performance evaluation and other quantitative indicators that lead to damage to the rural environment, it is both the rule maker and the supervisor, the leading role of governance can not be played effectively.[6] Rural self-employed retailers and large-scale rural industrial enterprises have not been actively integrated into this collaborative mechanism. Relying solely on the Government to solve the problem of rural ecological pollution prevention and control will cost a lot of human and material resources, rural environmental pollution should start from the root cause, to strengthen the norms of such groups, and to guide them to participate actively in the prevention and control of environmental pollution in the action.

2.3 Inappropriate Judicial System for the Prevention and Control of Pollution in Rural Ecosystems

The promulgation and implementation of the Environmental Protection Law in 2015 has solved some of the problems that existed before, but it still has a lot of problems, the revised law on environmental public interest litigation and other issues to carry out more perfect provisions, but for the main body of the prosecution of the requirements of the rights and interests of farmers from another point of view is to limit the rights and interests of farmers. Farmers themselves have certain limitations due to factors such as their level of education, including a weak awareness of their rights and a lack of knowledge of how to defend their rights even when they are aware of them. There are some influential social organizations in the civil society that lack support from various parties in

society, which love public welfare and are fully capable of participating in litigation as plaintiffs in public interest litigation in order to protect the ecological environment, but due to the qualification requirements for the main body of the litigation stipulated in the law, these social organizations lack the ability to litigate.[7]

When the phenomenon of "judgement without enforcement" exists in larger-scale cases, the credibility of both government departments and the judiciary will be greatly undermined. Rural environmental pollution is cumulative, environmental problems in the current government may not appear, but also subsequent sessions of the Government will highlight serious environmental problems, environmental pollution problems of the latent will lead to the current government's focus is not in the prevention and control of ecological and environmental pollution, even if some of the problems, and often not in accordance with the legal procedures, such as investigation of the source of environmental pollution, take measures to follow up the remedies and so on, but more private mediation to solve the problem.[8]

3. Improvement of the Legal System for Prevention and Control of Ecological Environmental Pollution in China's Rural Areas

3.1 Improve the Legislative System for the Prevention and Control of Pollution in Rural Ecosystems and Enhance the Operability of Its Provisions

At present, China's legal system for the protection of the ecological environment in rural areas has not yet been fully formed, let alone a legal system for the prevention and control of ecological pollution in rural areas. The existing Environmental Protection Law has its own system, but it is not a special legislation for the prevention and control of rural ecological pollution, in the application of a certain degree of incompatibility, the introduction of special laws for the prevention and control of rural ecological pollution is particularly critical. In order to complement the efficient implementation of this law and achieve good results, it is important to reduce the pollution of rural ecosystems at the root of the problem. To popularise some green and clean production or farming techniques among farmers to reduce

pollution, and to subconsciously change the lifestyle of farmers at this stage to minimise the creation of multiple sources of pollution. Maximum limits on the amount of pesticides and other chemicals used to reduce the presence of such pollution. At the same time, it should be made clear that the above-mentioned laws on the prevention and control of pollution of the rural ecological environment are at a higher legislative level than the administrative rules and local regulations, and that the relevant articles of the law should be supplemented and refined in terms of content, so as to make it easier for law enforcement agencies to enforce the law and for farmers to comply with it. In order to enhance the operability of the provisions, the provisions scattered in the individual legislation can be unified and integrated, which can enhance the operability of the prevention and control of rural ecological environment pollution.

3.2 Improvement of the Law Enforcement System for the Prevention and Control of Pollution in Rural Ecosystems and the Establishment of a Collaborative Mechanism for Law Enforcement

The lifeblood of the law lies in its implementation. The legal system of the rural ecological environment has also progressed along with the development of society, and the "legislative centre" is no longer a viewpoint shared by scholars, and more and more people are discovering its faulty performance. In the subsequent process, the central element of the improvement of the legal system should be changed from legislation to the implementation of the law. The implementation of the rule of law in the prevention and control of ecological pollution in rural areas in China is reflected in the Government's shift from imposing laws on farmers to using good methods to make the concept of "good laws and good governance" take root in people's minds.[9] According to the relevant theories of environmental law, ecological environment enforcement is subdivided into ecological protection enforcement and pollution prevention and control enforcement, and only by combining these two parts can we get a better effect of environmental governance. The same applies to the prevention and control of pollution in rural ecosystems, where attention should be paid not only to pollution prevention and enforcement,

but also to ecological protection enforcement. At the same time, it is necessary to strengthen the law-enforcement capacity and law-abiding awareness of the personnel of administrative law-enforcement agencies, who must be clear about their rights and obligations and endeavour to improve their professionalism. When laws and regulations are established, the scope and boundaries of the exercise of rights in rural ecological environmental protection should be clearly defined, and unrelated law enforcement activities should not be categorised as activities related to ecological environmental pollution prevention and control. Furthermore, it is necessary to establish a collaborative mechanism for law enforcement, the first step of which is to change the functions of the Government and unify the law enforcement functions for the prevention and control of ecological and environmental pollution in rural areas of China. Avoiding the disadvantages of duplicated enforcement by various law enforcement agencies or leaving gaps in law enforcement, this practice can further improve the efficiency of law enforcement, and the legal effect of environmental pollution prevention and control will also be better.

3.3 Optimising the Judicial System for the Prevention and Control of Pollution in Rural Ecosystems and Establishing a System of Remedies for Violations of the Law

Farmers who are most harmed by rural pollution often face problems of knowing how to sue, where to sue, and what evidence to prepare when they want to take legal action to defend their rights and interests. At present, due to the restriction of the subject of public interest litigation and the lack of farmers' right to supervise, which results in this group of farmers being unable to protect their legitimate rights and interests, the need to empower farmers with the right to supervise the environment is also urgently on the agenda. The most important way to give farmers the right to monitor the environment and to safeguard their legal rights and interests is to improve the rural environmental relief system. Another problem that needs to be solved is that China's existing legal system for farmers' environmental rights and interests are not clearly stipulated, on how farmers apply for legal aid and how to protect their rights and interests through legal aid is still unknown, so in the process of improving the

relevant legal system, it is also necessary to synchronise to promote the improvement of the legal aid system.[10]

The current rural ecological environment litigation and urban ecological environment litigation has a big difference, in this regard, in view of its special characteristics and the construction of the corresponding litigation system is imminent. Under the legal system proposed for implementation, any unit or individual has the right to file a lawsuit with the People's Court in the event of pollution of the rural environment, and to safeguard his or her own legitimate rights and interests while protecting the interests of the public environment. The ecological environment in rural areas does not only concern one person, but the whole village and even the whole of mankind, and the protection of the ecological environment in rural areas is to safeguard the common interests of the whole of mankind, therefore, in order to better protect this precious common property, it is necessary to formulate a set of complete litigation procedures for the trial of the case and other litigation processes. In the protection of farmers' right of action at the same time should also pay attention to avoid the waste of judicial resources, for this purpose can be set up "accusation before the procedure", that is, if the farmers found that the rural ecological environment has been damaged should be the first to the village committee or environmental protection department to complain, if not accepted, then have the right to file a lawsuit to the court; if the farmers are due to the pollution of the rural ecological environment and the If the farmers are harmed by the pollution of the rural ecological environment, they do not have to follow the procedure of filing a complaint and sue directly. In this way, it can guarantee the right to sue while improving the efficiency of the court's trial work, and effectively avoid the above problems.

4. Conclusion

In summary, the prevention and control of environmental pollution in rural areas, due to its own hidden, comprehensive and other characteristics, compared with urban areas, the risk and difficulty of prevention and control have risen. Therefore, it is necessary to improve the legislative system of rural ecological environmental pollution prevention and control, improve the law enforcement system of rural

ecological environmental pollution prevention and control, and optimise the judicial system of rural ecological environmental pollution prevention and control so as to achieve sustainable development, respectively, from the three aspects of "legislation", "law enforcement" and "justice". The system of rural ecological environment pollution prevention and control legislation, law enforcement system, optimisation of rural ecological environment pollution prevention and control of judicial system in order to achieve sustainable development. By analysing the specific situation and characteristics of rural areas and formulating locally adapted and practical regulations and policies, it is possible to fundamentally improve the environment, establish a sound system of the rule of law in China's rural ecosystem and achieve the revitalisation of the countryside.

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