THE LEGAL DILEMMA AND IMPROVEMENT PATH OF "THREE-TRIAL INTEGRATION" IN CHINA'S ENVIRONMENTAL JUDICATURE

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ABSTRACT

The construction of the environmental judicial trial model has its internal laws and external special evidence, which requires active responses from the legislative and judicial levels. Traditional litigation trials have been unable to adapt well to the trial of environmental judicial cases. The "Three-trial Integration" trial method that integrates civil, criminal, and administrative cases takes into account both environmental justice and judicial efficiency. However, from a practical point of view, the "Three-trial Integration" of environmental justice still has the legal dilemma of lack of legislation, judicial loopholes, and disorderly law enforcement. In view of this, it is necessary to clarify the legislative provisions of "Three-trial Integration", establish a special environmental judicial trial institution, cultivate a professional environmental judicial trial team of"Three-trial Integration", and unify the subject of "Three-trial Integration" in environmental judicial litigation qualifications and measures to clarify the legal boundaries and powers of environmental justice, in order to improve the professional trial model of environmental justice.

Keywords**:** "Three-trial Integration"; environmental justice; ecological civilization; trial mode

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INTRODUCTION

With the serious situation of environmental pollution incidents and ecological environment damage, China's judicial field urgently needs to incorporate environmental judicial issues into professional legal procedures to deal with them. The traditional environmental judicial litigation mode has been unable to adapt to the current special and complex environmental legal issues. From a global perspective, various countries have been constantly exploring the trial mode of environmental justice, and the professionalization of environmental justice is the future judicial trend. Affected by its unique judicial particularity, environmental judicial cases implement the"Three-trial Integration" trial reform of civil, criminal and administrative trials. This is an effective measure to improve the quality of environmental judicial trials and improve the efficiency of trials, and it is also an important direction for the current reform of China's environmental judicial specialization. The "Three-trial Integration" trial mode is the operating mode of environmental courts under the background of environmental judicial specialization. It is a reform of the environmental judicial trial mode promoted by the local judicial system and has an important impact on China's judicial reform. Therefore, the "Three-trial Integration" trial model of China's environmental justice has three judicial attributes: "local dominance, judicial promotion, and transcending litigation rules".In environmental judicial cases, the "Three-trial Integration" trial method is proposed on the basis of inheriting the traditional litigation model and fully combining the characteristics of environmental judicial cases. It is based on the success of local justice in theory and practice. Practical experience, endogenous soil with legitimacy. The reasons for this are the local judicial practice and pilot projects, the integration of environmental judicial professional communities, the requirements for unifying environmental judicial trial standards, and the objective needs of protecting environmental judicial rights and interests, which have led to the creative emergence of the "Three-trial Integration" trial method. In 2014, the Supreme Peoples Court of China promulgated the "Opinions of the Supreme Peoples Court on Comprehensively Strengthening the Adjudication of Environmental Resources to Provide Strong Judicial Guarantees for the Promotion of Ecological Civilization Construction", which defined the particularity and complexity of environmental resource adjudication and called for the integration of environmental resources. Judicial power to enhance the professionalism and professionalism of environmental judicial trials. In the last century, Shanghai took the lead in conducting a trial trial of the "Three-trial Integration" intellectual property court in environmental justice, which

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opened the early exploration of the "Three-trial Integration" trial model. In 2007, China officially launched the "Three-trial Integration" trial trial of environmental judicial cases, and carried out judicial reforms in Guiyang, Kunming, Wuxi and other places. At present, China's environmental justice "Three-trial Integration" trial method is still in the early stage of practice, and the basis is facing the lack of legitimacy of the legislative basis, the absence of environmental judicial trial courts, the disorderly setting of environmental trial procedures, and the jurisdiction of environmental resource cases. Many problems, such as confusion and lack of theoretical basis for trial model innovation, have resulted in the failure of the best function and litigation effectiveness of the "Three-trial Integration" environmental judicial trial model mirrored in China's practice. There is a deviation from the original intention. For this reason, this article is based on the judicial operation of the "Three-trial Integration" trial of China's environmental protection justice, supported by the optimization of judicial resources allocation should take into account both legality and rationality, combined with the process of China's special environmental protection cause, from the principle of environmental justice, Judicial power configuration and the principle of judicial efficiency, the standardized improvement path of the "Three-trial Integration" trial model is proposed.

THE THEORETICAL BASIS OF THE "THREE-TRIAL INTEGRATION" TRIAL OF ENVIRONMENTAL JUSTICE

In the field of environmental justice in China, the trial mode of "Three-trial Integration" has emerged, and its background has strong realistic motivation and local foundation. Only by in-depth investigation of the background of the emergence of the "Three-trial Integration" trial of environmental justice can we better understand and comprehend the legal obstacles and legal dilemmas that arise in the application of this new trial style in specific judicial practice, and the academic circles can explain it theoretically understand.[i] The "Three-trial Integration" trial mode produced by China's environmental justice has its deep roots in the actual national conditions and policy factors.Tracing back to the source, it is still derived from multiple factors such as the long-term successful practice of local judiciary in China, the integration of the judicial environment professional community, and the unification of the judicial needs of environmental judicial adjudication to better protect the protection of environmental judicial rights and interests.

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"Three-trial Integration" is the judicial practice of local environmental trials

There is a natural internal correlation between environmental judicial innovation and geographical conditions. The understanding of law as a kind of local knowledge can be inspired by Montesquieu's discussion on the spirit of law, The law is based on the characteristics of things, and the spirit of the law has an inseparable relationship with the local geographical resources, which shows that the innovation of environmental justice is also a vivid embodiment of the creation and innovation of local knowledge and culture.[ii]

Since ancient times, there has been a saying in China that "Yunnan, Guizhou and Sichuan are not separated". Due to differences in cultural traditions, population base, geographical resources and other factors, groups living in a certain area and enjoying environmental interests will also have areas with different customs and land-forms. At the same time, the particularity of interests violated by environmental crimes also determines the innovation of environmental justice. The rights and interests infringed by environmental crimes are not limited to the victim's personal and property rights, but also include environmental interests related to people's living environment and freedom of movement, which are not exactly the same as the rights and interests infringed by traditional natural crimes. The rights and interests violated by environmental crimes are more extensive and complex than those violated by traditional natural crimes, because the higher rights and interests enjoyed by people are based on basic living conditions such as water, soil and air.

Similarly, innovations in environmental justice models are often local. The innovation of the "Three-trial Integration" mode of environmental trial has certain characteristics of spontaneous generation. It was created and formed by the local court according to the characteristics of local geographical resources. Based on this, the environmental court was established temporarily and faced with Emergencies came into play and thus were gradually preserved to this day.[iii] Environmental justice should form different environmental protection system models due to different local geographical resource conditions. Taking the reform of environmental justice in Guizhou Province as an example, based on its superior natural geographical environment and resource conditions, the first environmental protection court in China was established in Guizhou Province, and a complete environmental court system was formed.[iv]

Therefore, the construction of the trial mechanism for environmental crime cases should be based on the characteristics of environmental judicial cases and consider their own legal basis.

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"Three-trial Integration" trial is the judicial integration of the environmental professional community

The allocation of human resources in environmental justice is the most critical link in the innovative model of "Three-trial Integration" of environmental trials and the promotion of environmental judicial specialization. As far as the current judicial practice is concerned, due to the scarcity of corresponding professional judges, the court system has not yet established a training system for environmental trial judges. Therefore, even though many courts have established environmental protection courts, their judges are usually drawn from judges from other courts. out. Therefore, based on factors such as basic conditions and the construction and operation of environmental courts, even experienced judges may not be able to reach a level of proficiency in adjudicating environmental litigation cases. At the same time, judges drawn from other courts are mainly concentrated in their original courts due to their trial experience, and it is inevitable that they have insufficient knowledge and skills in environmental crime judicial cases. This will make judges who are competent to hear environmental judicial cases appear to be increasingly scarce. Therefore, the current key focus is how to train professional environmental judicial judges to improve the human resource allocation of environmental justice.

Cultivating and deploying a compound and specialized environmental judicial professional community is the fundamental means to deal with the reform of environmental judicial specialization arising from the compound environmental justice and its rights and interests relief. However, there is still a certain gap between the current reality and the professional level requirements of judges in environmental judicial cases, especially the overall knowledge framework, trial level and skills of judges under the "Three-trial Integration" trial mode. Of course, in environmental trial litigation cases, in order to achieve the construction and sound operation of the "Three-trial Integration" trial model and promote the realization of environmental judicial specialization, it is far from enough to only improve the specialization of judges.

Just as the Environmental Protection Collegiate Panel of the Kunshan Municipal People's Court was established to meet the complex needs of environmental judicial cases, the chief judge of the administrative division is the chief judge, and a judge is selected from the civil division, criminal division, and administrative division. The backbone of the trial is the

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members of the collegial panel. In the judicial trial of environmental judicial cases, if the judicial specialization of the overall trial level is to be realized, the relevant environmental resource management agencies, pro-curatorial agencies, appraisal agencies, litigants and their attorneys, etc., must have corresponding qualifications. Professional knowledge reserve and litigation participation ability, otherwise it will affect the trial quality of environmental judicial litigation cases.[v]

Therefore, in the process of promoting the innovative model of "Three-trial Integration" and the promotion of environmental judicial specialization, no matter how good the system design and trial model construction is, if there is no equivalent level of environmental judicial specialization of the legal professional community, in this case it will only be a mere formality.[vi]

"Three-trial Integration" trial is the judicial standard for unifying environmental judicial cases

As far as the trial mode of traditional environmental judicial cases is concerned, the inconsistency of judicial standards is the biggest problem. Different from general tort cases, environmental torts generally infringe on a variety of legal relationships of different natures at the same time, and there are intersecting issues in the nature of civil, criminal, and administrative cases. Therefore, in the traditional environmental justice, because China adopts the traditional mode of separating civil, administrative and criminal proceedings, and the qualifications of the subject of litigation, the scope of case jurisdiction, and the standards of evidence stipulated in the three major procedural laws are not consistent, for the same Case issues are often handled differently.[vii] At the same time, from the purpose of system construction, the current administrative, civil, and criminal procedure rules are mainly established to regulate traditional personal disputes and property disputes, which are not suitable for the complex nature of environmental resources.[viii]

Since environmental judicial trials not only involve technical knowledge such as medicine and environmental protection, but also the application of environmental laws and regulations, judges are required to have a higher professional level and make decisions in environmental judicial cases where various legal relationships intersect extremely complicated. Make accurate judgments and try to avoid cases with different judgments for the same case, otherwise it will be difficult to achieve fairness and justice in judicial trials. Environmental disputes exist in a

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wide range, and can exist between polluters, victims and environmental protection administrative departments, and between polluters and victims. In traditional civil litigation, if the case is related to administrative actions, the lawsuit can only be suspended, and the civil court has no right to review the effectiveness of administrative actions.The trial can only be continued after the parties file another administrative lawsuit, which leads to the delay of civil judicial relief.

According to the "China's principle of legality review" stipulated in the Administrative Law, the administrative tribunal has no right to review the rationality and specificity of administrative actions. In the trial mechanism of traditional environmental judicial cases, if the case involves the infringement of multiple legal relationships, it is inevitable that the case will be tried for a long time and repeatedly. At the end of the trial, the administrative organs were at a loss, the parties repeatedly litigated, and the judicial credibility was damaged.[ix] However, if the "Three-trial Integration" model is adopted, the above problems will be effectively resolved.

That is to say, both the civil part and the administrative part of environmental judicial cases are handled by the same judicial institution, which solves the problem that the civil courts have no right to review the effectiveness of administrative acts and the administrative courts have no right to review the rationality of administrative acts. and scientific issues. At the same time, under this model, the parties can conduct sufficient debates, present evidence and cross-examine evidence on the legal issues involved in environmental judicial trials, thereby realizing the guarantee of the fairness of the judgment and the credibility of the judiciary. The "Three-trial Integration" trial model can unify the judicial scale of environmental judicial cases to the greatest extent and realize individual case fairness and justice.

"Three-trial Integration" trial is the judicial guarantee for environmental rights and interests

The rights and interests of the parties, especially the victims, are difficult to be effectively protected in the traditional trial mode of environmental judicial cases, and problems such as difficulty in suing and winning are frequent.[x] Due to the influence of various complex conditions in various places, courts in various places have formulated "characteristic" case filing standards, that is, the scope of acceptance of cases, making it difficult for many local environmental pollution cases to be resolved through litigation procedures, which has caused

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serious damage to the legal rights of the parties. Great damage. Based on such circumstances, the environmental trial mechanism under the "Three-trial Integration" model of environmental justice requires that the environmental court cannot refuse to accept cases at will, and that it has a relatively unified jurisdiction and filing standards, so as to protect the litigation rights of the parties.

In addition, due to the traditional judicial mechanism where the three major lawsuits are separated, the substantive rights of the parties in the environmental resource trial cannot be exercised smoothly. For example, the plaintiff lacks the expertise and technology to produce evidence of environmental resource damage. It is difficult to provide effective cross-examination opinions on the appraisal opinions and evidence materials issued by large companies, and it is even more difficult to ask relevant experts for professional advice based on economic reasons. In the "Three-trial Integration" model, judges have relatively rich trial capabilities and experience in environmental judicial cases. In addition, they can apply for specific funds, entrust other parties for appraisal, and assign relevant experts to provide professional technical consulting support, etc., to balance the original unequal ability of the defendant and the defendant to participate in the lawsuit ensures that the legitimate rights and interests of the parties can be effectively realized.

PRACTICAL INSPECTION OF THE TRIAL OPERATION OF "THREE-TRIAL INTEGRATION" IN ENVIRONMENTAL JUSTICE

The "Three-trial Integration" trial mode of environmental justice can be described as a successful judicial practice combining local judicial practice and judicial reform pilots in our country. Reasonably combining the jurisdiction and trial of civil, criminal, and administrative cases is not only a respect for the law of environmental judicial trials, but also an objective requirement for litigation efficiency and uniform application of laws. However, due to the lag at the legislative level, the gaps at the judicial level, and the confusion at the executive level, there are many problems in the operation of the "Three-trial Integration" trial of environmental justice in the judicial practice. The investigation of the judicial operation of "Three-trial Integration" reveals the dilemma of the rule of law in this trial mode and promotes the construction of environmental judicial specialization.

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The principles and standards of "Three-trial Integration" environmental justice are relatively vague

In the field of environmental protection, which is receiving increasing attention, my country has long adopted a method and mechanism that focuses on administrative punishment and supplements judicial protection. As a result, the intensity of administrative punishment is seriously insufficient, the cost of environmental violations is low, and it is difficult to form a sufficient deterrent force. It is necessary to fully operate and give full play to the functions of environmental justice. At present, the exploration of environmental judicial specialization is not only based on the response to the special needs of environmental cases, but also the improvement and innovation of the traditional judicial system in the evolution of ecological civilization. Judiciary in the narrow sense often only refers to the activities of the people's courts to try various cases according to law, and is limited to the courts. Here, environmental judicial specialization only refers to the specialization of court environmental trials. To a certain extent, it refers to the establishment of special judicial organs at the national or local level, or the establishment of special judicial organs or organizations within the courts to conduct special trials of environmental cases. The current "Three-trial Integration" trial mode of environmental justice is still in the exploratory process of pilot reform, but it is fundamentally different from the traditional "Three-trial Separation" mode, and related judicial construction lacks unified scientific standards.[xi]

Due to the lack of standards and principles for the construction of professional judicial institutions, the pilot reform of the "Three-trial Integration" of environmental justice has produced a variety of different models, mainly in the following two aspects of controversy in the field of theory and practice. The first is the dispute over the "Two-trial-in-one" and "Three-trial Integration" environmental justice. Because in terms of procedural settings, civil litigation and administrative litigation are relatively similar, while criminal litigation is significantly different. Many scholars and many professional trial practices outside the region believe that the "Two-trial-in-one" model is implemented in the environmental civil and administrative fields. The criminal procedure adopts a separate trial model, which has lower cost, better effect, and better connection with the current "Three-trial Separation" model.

However, the current pilot reform mainly adopts "Three-trial Integration", and most scholars believe that the trial mode of "Two-trial-in-one" is not conducive to the development of trial

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specialization in the professional field, and it is considered to be a transitional and incomplete model, so it is advocated to adopt The mode of "Three-trial Integration" in criminal administration and civil affairs shall be reformed. The second is the dispute over setting up a special environmental court or tribunal or setting up a temporary "Three-trial Integration" environmental collegiate panel.

Due to the lack of uniform standards and principles, the current pilot reform of the "Three-trial Integration" of environmental justice has adopted various plans such as the establishment of special courts and the establishment of temporary "Three-trial Integration" collegial panel. Facts have proved that the establishment of specialized courts and tribunals can better conduct specialized cases in a centralized manner, and can fundamentally solve many problems arising in the connection between the third-instance procedures. However, it faces the problem of high setup and operation costs, which is not conducive to the trial of small and medium-sized cases in the professional field. For the "Three-trial Integration" environmental collegial panel formed temporarily, although the degree of specialization in the trial is low, it has great advantages in cost and convenience. The lack of standards and principles for the "Three-trial Integration" in environmental justice will inevitably hinder the institutionalization and legalization of the "Three-trial Integration" in environmental justice, and further hinder the smooth progress of related judicial reforms.

Legal procedures for environmental judicial trials need to be completed

The production of environmental judicial trial methods naturally has its inherent laws and unique judicial value. The particularity of environmental judicial cases is the endogenous logical basis for the emergence of the environmental trial model, while the current judicial system in my country is the exogenous logical condition for the environmental trial model. The key content of environmental judicial specialization is the specialization of environmental judicial subjects, judicial procedures and judicial objects.[xii] The three are complementary and indispensable, the core of which is the specialization of environmental judicial procedures.

The environmental adjudication agency is only the external carrier of the environmental adjudication procedure, lacking the support of independent litigation procedures, whether it is "Three-trial Integration" or "Four-trial-in-one", it will become a "judicial facade for decoration".[xiii] The people's courts around the world have successively issued normative documents on "Three-trial Integration" emphasizing the concept, basic principles, and scope

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of jurisdiction of "Three-trial Integration" and other external systems. Therefore, it only has the appearance of a specialized trial organization, but it does not have the connotation and substance of "integration of litigation procedures".[xiv] Even if the combination of trial and execution or the "Three-trial Integration" model is established, the combined review has not really been realized.[

From a global perspective, whether in the field of environment or intellectual property, no unitary or federal country has realized the "Three-trial Integration" environmental judicial power setting at the federal level, thus giving criminal judicial power to specialized courts. In reality, the "Three-trial Integration" model has not really existed.[xv] The Shanghai Higher People's Court's interpretation of the normative document also confirmed the above facts from the side. The Municipal Higher People's Court, the Municipal No. 3 Intermediate People's Court, and the four basic people's courts of Shanghai Railway, Qingpu, Chongming, and Jinshan have all set up environmental resource courts, but the "Three-trial Integration" trial of environmental judicial cases has not yet been realized. At present, the administrative, criminal, and civil cases of environmental resources in the grassroots people's courts are subject to relatively centralized jurisdiction according to different standards.[xvi]

The main difficulty in the independence of environmental judicial procedures is the professional nature of environmental judicial cases. Disputes in environmental judicial cases are based on a variety of reasons, and the same environmental violation may involve civil, administrative and criminal fields, so it is difficult to clarify the boundaries.[xvii] The traditional legal structure of private law and public law is a very important reason. Environmental law is not pure public law or pure private law. Seeking to break through the theoretical boundary between private law and public law is the breakthrough of environmental judicial specialization. Due to different litigation claims, If the traditional litigation model is simply applied, multiple litigation procedures will inevitably be arranged.

From the point of view of the subject of litigation, the problem solved by environmental civil litigation is a dispute between equal subjects. Environmental administrative litigation is mainly responsible for reviewing whether administrative actions are legal. The subjects of its legal relationship are unequal administrative organs and administrative counterparts. Environmental criminal litigation The subjects of the legal relationship are litigants and state organs. At the

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same time, there are also differences in many aspects such as evidence rules, case jurisdiction, trial period, and case acceptance scope.

Lack of a unified "Three-trial Integration" environmental judicial institution

According to the distribution of environmental judicial cases across the country, the number of civil cases is much higher than that of administrative and criminal cases, and these few criminal and administrative environmental judicial cases are mostly scattered in different courts or people's courts. Due to the relatively specialized fields involved in environmental judicial cases, the judges handling the case under the pressure of heavy trial tasks obviously do not have extra energy and time to study and research environmental expertise.[xviii] Centralized and specialized trials of environmental judicial cases as professional cases is the general trend. Only specialized trials can make full use of the current very scarce resources for environmental specialized trials and better achieve the goal of promoting environmental protection. However, the centralized trial of environmental judicial cases does not mean that the quality of environmental judicial cases will be improved directly. Whether the "Three-trial Integration" mode can promote the professional development of environmental judicial through centralized trial depends on the correlation between scientific and effectiveness. Environmental justice "Three-trial Integration" agency setup. As for the institutional setting of "Three-trial Integration" of environmental justice, there are currently differences of opinion in the process of theoretical research and practice, which obviously does not conform to the principle of effective allocation of judicial resources. settings are directly related. Therefore, it is very necessary to take the unified understanding of the "Three-trial Integration" of environmental protection justice at the ideological and theoretical level as the basis for the unified understanding of the "Three-trial Integration" of environmental justice, so as to ensure that From the perspective of the scientific nature of the trial organization, the "Three-trial Integration" mechanism was smoothly operated.

The jurisdiction of "Three-trial Integration" environmental cases is relatively chaotic

The jurisdiction scope of environmental judicial specialization cases has a direct impact on the confusion in the jurisdiction of "Three-trial Integration" environmental judicial cases due to the basin and cross-regional characteristics of environmental judicial cases, resulting in frequent changes in jurisdiction. Taking environmental judicial cases in Shanghai courts as an example, its trial jurisdiction has gone through the following three stages: first, the stage of

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"decentralized jurisdiction", in which 16 basic-level people's courts hear administrative, civil, and criminal cases of environmental resources in their respective jurisdictions; secondly, It is the stage of "separate concentration", in which the three types of cases implement different centralized jurisdiction systems according to different classification standards; from 2020, it will enter the third stage of "unified concentration", and uniform centralized jurisdiction will be implemented for the three types of cases according to the same classification standards system.

The "Three-trial Integration" trial case of environmental resources has been transferred from decentralized jurisdiction to centralized jurisdiction. .On the other hand, centralized jurisdiction cases are divided into different river basins for jurisdiction according to the special attributes of environmental judicial cases, which are different from traditional administrative jurisdictions. The problem brought about by changing the jurisdiction of a case in a short period of time is that it is not only easy to cause the problem of unclear ownership of the trial court, but it is also easy to make it difficult for professionals who have tried environmental judicial cases for a long time to become specialized judges through handling cases.

Another problem brought about by the uncertain jurisdiction of environmental judicial cases is that it is prone to conflicts of jurisdiction in traditional cases. For example, in criminal and civil environmental judicial cases, in addition to committing the crime of environmental pollution, the perpetrator may also be guilty of illegal disposal of imported solid waste. crimes, crimes of illegal business operations, crimes of throwing dangerous substances and other crimes are prone to conflicts in jurisdiction. Criminal cases of environmental pollution often have the characteristics of crossing regions. River pollution often exceeds the administrative jurisdiction of a single province or municipality directly under the Central Government. Regulatory documents only exist in the system of transfers from administrative law enforcement agencies to public security agencies at the same level, while different provinces The cross-basin jurisdiction of China is still an unresolved problem. All of the above highlights the legal dilemma faced by environmental justice in practice due to the ever-changing jurisdiction of environmental judicial cases.

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THE PERFECT PATH FOR THE SPECIALIZATION OF ENVIRONMENTAL JUSTICE IN THE "THREE-TRIAL INTEGRATION" TRIAL

In view of the above-mentioned legal problems of the "Three-trial Integration" environmental judicial trial in China's judicial practice, the construction of environmental judicial specialization in China should be based on the successful experience of local judicial and pilot work, combined with judicial laws and specific national conditions, and promote the advancement of legislation. Set up a special trial institution, train a special trial team, unify the subject qualifications of environmental judicial cases, and clarify the jurisdiction of environmental justice to improve the rule of law.

At the legislative level, the judicial provision of "Three-trial Integration" is clarified

Taking the whole world as a general perspective, most countries regard "legislation goes first, passing clear legislation to ensure the sound operation of environmental judicial specialization" as the norm. Although most of the grassroots courts in China have been gradually exploring the trial model of "Three-trial Integration", considering the current judicial environment in China, the specialization of environmental justice, the establishment of environmental courts, and the innovation of the trial model of "Three-trial Integration". There is still a long way to go before the relevant legislation in terms of operation and operation is fully mature. Regarding the setting up of environmental courts, China's Constitution has made detailed and clear regulations.

Article 23, Paragraph 2 of the Organization Law of the People's Courts mentions that the intermediate people's courts shall set up criminal divisions, civil divisions, and economic divisions, and may set up other divisions as needed. In paragraph 2 of Article 26, the Higher People's Court shall set up criminal divisions, civil divisions, and economic divisions, and may set up other divisions as needed. In paragraph 2 of Article 30, the Supreme People's Court shall set up criminal divisions, civil divisions, economic divisions and other divisions as necessary. In addition, Article 50 of China's newly revised Environmental Protection Law clearly stipulates the environmental litigation of "acts that pollute the environment, damage the ecology, and damage the public interest". Accordingly, the revision of the procedural law and the judicial interpretation, the judicial interpretation of the new Environmental Protection Law,

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the interpretation of the two high courts on the innovation and operation of the "Three-trial Integration" trial model, and the special Environmental Court Procedures should be properly followed. Rules and Unified Environmental Enforcement Law and other related channels, and if it does not violate the Constitution and related organizational laws, further clarify environmental judicial specialization, establishment of environmental courts, and innovation and operation of the "Three-trial Integration" trial model. And other issues. When the conditions are already in place, it is possible to consider enacting the Environmental (or Green) Court Law on relevant content.

It can be seen that in the legislative process of environmental judicial specialization in China, when there are already a certain number of environmental courts, relevant legislation should be supplemented in a timely manner, and the trial model created should be clarified in a timely manner, so as to avoid the absence of the rule of law. In this way, more accurate judicial guidance can be provided, and the specificity, unity, benignity, and efficiency of its model can be consolidated, which is of great significance to the practice and advancement of future environmental courts and their trial models across the country.

Establishment of special environmental judicial institutions

In June 2014, the Supreme Court issued the Opinions of the Supreme Court on Comprehensively Strengthening the Adjudication of Environmental Resources to Provide Strong Judicial Guarantees for the Promotion of Ecological Civilization Construction and stated that it is necessary to adapt measures to local conditions and gradually promote the establishment of specialized environmental and resource adjudication agencies nationwide, and completed the unified comprehensive trial of civil, administrative and criminal cases of environmental resources. Personally, I think that provincial-level units can be the key experimental objects first, and environmental resource courts can be gradually established in provincial-level people's courts to uniformly standardize, guide, supervise and manage environmental judicial cases within their jurisdiction. In areas related to ecological system protection and watershed management, according to the provisions of Articles 23 and 26 of China's Organization Law of the People's Courts, a special environmental resource trial agency spanning several city and county levels should be established and reported to the Supreme Court for record

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For prefecture-level cities, especially prefecture-level people's courts where environmental and resource disputes frequently occur, environmental and resource tribunals can be established. However, in prefecture-level people's courts where relevant cases occur less frequently, a collegial panel on environmental resources can be set up. After accepting relevant cases, the collegial panel can invite environmental protection experts to serve as people's jurors, and cooperate with experienced environmental judges to try the cases. At the same time, it is affirmed that the county-level people's courts with a high incidence of related cases have established special environmental and resource trial institutions, and can set up environmental and resource collegiate panels or environmental and resource circuit courts.

For some local people's courts that lack judicial resources, it is also necessary to pay attention to the work coordination of civil, administrative, and criminal judicial institutions. When it comes to jurisdiction-related aspects, in view of the high professional requirements of environmental litigation, it is handed over to the prefecture-level people's courts in practice, which highlights that environmental-related cases have a higher status in terms of hierarchical jurisdiction than ordinary cases. If there is a clear realistic basis for the environmental damage behavior and there is sound evidence to prove it, the prefecture-level city people's court may designate the relevant county-level people's court to accept the case. At the same time, for the environmental resources special trial institutions that cross administrative divisions, the objects of their jurisdiction are environmental civil, administrative, and criminal cases in the area, which has a good impact on ensuring judicial justice and eliminating the interference of local protectionism.

Cultivate a professional environmental judicial trial team with "Three-trial Integration"

In view of the fact that there are many complicated factors in judging the causal relationship of environmental judicial cases, it is easy to fall into the quagmire of scientific disputes and difficult judgments, which is tantamount to depriving the victim of the right to request and cannot obtain relief. However, the reality is that the judicial team involved in environmental trials in China has relatively poor knowledge of relevant environmental laws, and is still stuck in the traditional closed-loop trial process, which has a great negative impact on environmental trials. In view of this, it is urgent to cultivate a professional environmental judicial case trial team.

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First of all, provide professional training for the existing personnel engaged in environmental judicial trials, especially focus on mastering the special judicial characteristics in environmental cases, so as to increase the professional knowledge of the judicial personnel on the environment and ensure the professionalism and professionalism of the trial. change. Secondly, build a new training mechanism for environmental judicial legal talents. Set up corresponding environmental judicial trial talents from major law schools, carry out systematic training and training, and create a group of professional environmental judicial "Three-trial Integration" trial judges. Finally, absorb diversified subjects to participate in environmental judicial trials. We can fully learn from the successful judicial experience in Guiyang, Kunming, Wuxi and other places, fully link public security organs, procuratorial organs, environmental protection administrative departments, and supervisory committees and other judicial departments to form a professional community of environmental justice and a unified force of environmental justice to promote diversity. The main body participates in order to better maintain environmental judicial justice and realize judicial supervision.

Unify the subject qualification of "Three-trial Integration" environmental judicial litigation

In 2014, the Environmental Protection Law of the People's Republic of China and the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases which promulgated in 2015, in order to protect our ecosystem, clarified the rights and interests of the direct interested parties scope, and expanded the scope of protection for relevant social organizations. In environmental criminal proceedings, under normal circumstances, the procuratorate is the subject of environmental criminal prosecution. In the form of transfer from public prosecution to private prosecution, the victim also enjoys the status of the subject of prosecution. However, in view of the particularity of environmental criminal cases, in the process of judicial practice, the victim The qualifications of prosecuting subjects often exist in name only.

In environmental administrative litigation, the subject of litigation is the administrative counterpart, including citizens, legal persons or other organizations. The above three major procedural laws define the qualifications of the subject of environmental litigation based on the operation of the traditional trial mode. Courts in various regions have established the qualifications of the subject of litigation according to regional characteristics in practice, resulting in inconsistent standards, leading to the same case in different jurisdictions. Regions

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have different trial outcomes. In view of this, in the process of promoting the specialization of environmental justice, China should further improve the trial mode of "Three-trial Integration" for environmental judicial cases, and the key point is to establish a unified standard for the qualification of this type of litigation subject. Considering the current state of the judicial system in various parts of China, and it is difficult to set up special qualification standards for litigation subjects in environmental judicial cases, local courts at all levels should unify the qualification standards for environmental litigation subjects.The unified standard should take the subjects who have an interest in environmental cases and the actual direct property losses caused by the indirect impact of the environment as the statutory standard for establishing the subject's appropriate format. This standard not only scientifically demarcates the boundaries of the "Three-trial Integration" trial, but also expands the subject scope of environmental judicial cases, allowing more litigation subjects to be included. This not only helps safeguard the legal rights and interests of the subject of environmental litigation, but also ensures the fairness and judicial participation of environmental justice, and is a powerful shield to avoid different judgments for the same case in environmental judicial cases.[xix]

Clarify the legal boundary and authority of environmental justice

In terms of determining the scope of cases accepted by environmental courts, we should try our best to avoid the problem of decomposing the litigation of the same environmental issue into different courts. It can be suggested that environmental related cases should be heard by environmental courts. However, it is also necessary to separate environmental public interest litigation and environmental Private interest litigation is clearly distinguished from the two to further clarify and clarify the legal boundaries and litigation jurisdictions between environmental justice and other ordinary justice. On the one hand, environmental public interest litigation and environmental private interest litigation are combined for processing.

First, there are changes in the form of court acceptance. When it comes to the determination of jurisdiction, it is actually a kind of pollution that causes damage to the environment and ecology. Not only citizens, legal persons and other organizations whose rights have been violated file environmental private interest lawsuits, but also statutory agencies and organizations What measures should be taken to resolve environmental civil public interest litigation? How does the "Three-trial Integration" mode work? The implementation of the "Three-trial Integration" model realizes the organic combination of double litigation. On the

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one hand, it is out of the consideration of maximizing the litigation resources of the people's courts and avoiding improper judgments. The ability to mediate and concentrate litigation resources to efficiently resolve cases.

This is an obvious effective promotion of enhancing the ultimate effectiveness of environmental judicial specialization related to environmental public interest litigation and environmental private interest litigation. Secondly, the issue of compensation and the order of compensation. The compensation money of environmental public interest litigation is not blindly enjoyed by the plaintiffs of public interest litigation. This is precisely the obvious difference between environmental public interest litigation and environmental private interest litigation, which is reflected in the "public interest" nature of environmental public interest litigation. There is no doubt that the compensation for environmental public interest litigation should be used in accordance with the principle of "earmarked funds for exclusive use". The environmental interests of plaintiffs in private interest litigation should also be fully protected.In view of this, when the property capacity of the defendant is unable to support the compensation of the plaintiff in the private interest litigation and the public interest litigation, it should be clearly pointed out that the relevant provisions of the plaintiff in the private interest litigation shall enjoy the priority of compensation shall be followed.[xx] On the other hand, the impact of environmental public interest litigation on the effectiveness of environmental private interest litigation. If the environmental public interest litigation case has been concluded and the judgment has come into effect, but the relevant subject claims that personal property and environmental rights and interests have been damaged, and based on this, a private interest lawsuit is filed against the same environmental pollution or ecological damage behavior, how should the court handle it at this time? In a word, although there is only one harmful act, there are multiple damaged subjects. At this time, this question does not fall within the relevant scope of "non-indemnity non-punishment", and the people's court should accept the prosecution of the relevant subjects.

CONCLUSION

The construction of ecological civilization is inseparable from the escort of environmental justice. With the continuous improvement of the living standards of the Chinese people, there is a higher pursuit of the ecological environment and livable conditions, and the requirements

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for environmental judicial rights and interests are also increasing day by day. The innovation of the judicial mode of environmental justice is the effective response of the above-mentioned citizens to the beautiful environment. Environmental judicial cases objectively impose higher requirements on the quality and requirements of trials due to their specialization, complexity and variability. The original litigation and trial mode has been unable to cope with the intricate and complicated contemporary environmental judicial trial cases. As China puts forward the vision of "dual carbon" goals,[xxi] and puts forward higher requirements for the ecological environment, the trial quality and efficiency of environmental judicial cases also need to rise to a higher level of trial.

The "Three-trial Integration" in environmental justice is an inevitable choice for the specialization of environmental justice. It pays more attention to the details of explicit and innovative trials, adheres to the primary principle of environmental judicial justice, and at the same time takes into account the improvement of trial efficiency, realizing a dynamic judicial system balance, and better play the legal functions of environmental adjudication agencies. However, looking at the progress of environmental justice in China, from the theoretical level, the legislative level, the judicial level to the law enforcement level, there is still a lack of institutional recommendations for the "Three-trial Integration" trial, which makes this "Three-trial Integration" judicial The ills left by innovation will be difficult to effectively eliminate. It is true that China's environmental justice is still in the rising stage of construction, and there is still a long way to go in the construction of environmental judicial specialization. Extensive and comprehensive empirical investigations and in-depth and systematic theoretical research work are still needed to finally build an environmental judicial "Three-trial Integration" that suits China's national conditions.

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[xxi] "dual carbon", the abbreviation of "carbon peak" and "carbon neutrality". China strives to achieve carbon peaking by 2030 and carbon neutrality by 2060.The "dual carbon" strategy advocates a green, environmentally friendly and low-carbon lifestyle. Accelerating the pace of reducing carbon emissions is conducive to guiding green technology innovation and improving the global competitiveness of industries and economies. China continues to promote the adjustment of industrial structure and energy structure, vigorously develops renewable energy, accelerates the planning and construction of large-scale wind power photovoltaic base projects in deserts and Gobi areas, and strives to balance economic development and green transformation simultaneously.

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