

Original article

The perfection of public interest litigation system of offshore oil pollution

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Introduction

The Fifth Plenary Session of the Eighth Central Committee of the Communist Party of China (CPC) for the first time put the development of "ecological civilization construction" into China's development plan for the next five years. This also indicates that China will pay more and more attention to the supervision and management of environmental pollution in its future work. According to the statistics of the United Nations Environment Program, about 10 million tons of oil products flowing into the oceans each year due to human activities, accounting for about 0.5% of the world's oil production [1].

At present, Chinese environmental pollution is still relatively terrible, including marine environmental pollution accounted for a considerable proportion, which has a large proportion of offshore oil pollution [2]. The data of 2016 Chinese marine environmental status bulletin show that the average capacity of oil under Chinese jurisdiction beyond the first and second class of sea water quality standard sea area are about 13520 and 10840 square kilometers in spring and summer of 2016. The polluted waters are mainly concentrated in the waters near Lei Zhou Peninsula [3].

Problems

Firstly, the authorization of handling authority are uncertainty. The State Oceanic Administration is on behalf of the national interests of the parties to mention offshore oil pollution public interest litigation, but administration trapped in its own level of investigation and the relevant provisions of Chinese restrictions.

Secondly, identify the scope of compensation are difficult. Nowadays, Chinese laws are only for the determination of the marine environment itself, however, the law for oil pollution are not clear basis [4].

Finally, the compensation funds are not in place. In China, due to the lack of legal protection of public interest litigation system, and then the funds claim there

is still a big loophole [1].

Results

The first one is the schema architecture. Through the exploration of the successful experiences about the national public interest litigation system, and considering Chinese actual situation, the paper suggested that the model structure of public environmental litigation can take the state and citizens private litigation mode of dual litigation.

The second one is the court accepted. The court accepts the innovation of the rules of the litigation to ensure that the parties of the disadvantaged can exercise the right of action adequately. In addition, the scope of the hearing should be determined by the court and the parties.

The third one is the burden of proof. In the distribution of burden about proof, the principle of inversion of burden about proof and the preliminary proof of the plaintiff should be used.

The fourth is litigation fees. The research proposes to draw lessons from the successful practices of advanced countries, and to develop a way of sharing costs of litigation in favor of the plaintiff, thus encouraging public litigation.

The last one is penalty for damages. Damage compensation system should not only include the scope of the scope of compensation for compensation and compensation, but also the payment and payment of damages and other issues. In addition, it should establish a marine pollution liability compulsory insurance system to protect Chinese marine environmental pollution damage compensation to implement.

Discussion

China is vigorously promoting the construction of marine ecological civilization, and reliable public interest litigation system for China's marine environmental protection and management, especially

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at sea oil pollution supervision and resolution to provide a strong legal protection. The existing research concerned the governance and protection of marine environmental pollution at government level [5,6], however, this article are researching about the government and individuals how to work together to build a dual mode of litigation system, and improving Chinese public interest litigation system. Of course, there are some shortcomings in this research, such as how non-governmental organizations involved in public interest litigation. In future studies, data collection on these areas should be strengthened.

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