History Research on the Independent Status of Environmental Law as a Distinct Legal Department - A Prerequisite for Its Codification

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Abstract

The independent status of environmental law as a distinct legal department is not merely a question of classification within the legal system. But more importantly, it concerns the jurisprudential basis and institutional legitimacy of national ecological civilization construction. Within the context of the Constitution establishing the basic principles of ecological civilization, environmental law has transcended its previous accessory nature to administration, demonstrating an independent normative structure centered on ecological interests and based on obligations. Its object of regulation is manifested in the specialized protection of public commons. And its regulatory methods are characterized by public law dominance and comprehensive coordination. Its value order takes "humans and nature sharing a common future" as its core concept. The advancement of environmental law codification requires internal logical consistency and external institutional differentiation within the system, and the confirmation of environmental law's independence is the theoretical prerequisite for this process. Comparative legal experience indicates that codification and systematized independence complement each other. For instance, Japan's environmental legal system, achieved departmental independence through large-scale legislation and disciplinary systematization. China's particularity lies in the constitutional inclusion of ecological civilization. Which endows environmental law with constitutional legitimacy, making it an irreplaceable component within the national governance system. Establishing the independent status of environmental law is both a theoretical self-consciousness in response to the issues of our time and an institutional innovation aimed at reshaping the legal structure.

Keywords

Independence of environmental law, Legal department, Ecological Civilization, Constitution, Codification of environmental law

Introduction

The incorporation of ecological civilization into the Constitution marks a profound transformation in the value structure of China's legal system. It elevates the systemic positioning of environmental law, shifting it from a technical legislative issue to a constitutional one. "Building a socialist ecological civilization" is explicitly included as a national goal in the Preamble of the Constitution. Because of this, environmental protection is no longer merely an expression of sectoral interests or policy orientation. It has become an integral part of the constitutional order [1]. As Tremml points out, the Preamble of the

Constitution possesses supreme legal force and serves as the fundamental basis for the overall effectiveness of the Constitution. The Preamble governs and constrains the provisions. Thus, the concept of ecological civilization it establishes should be regarded as the ultimate jurisprudential source for the independent establishment of environmental law [2]. This constitutional and jurisprudential foundation creates pressure to reconstruct the traditional criteria for classifying branches of law, which are centered on the "subject matter - regulatory methods" framework. Environmental law does not regulate a singular legal relationship but rather the holistic order of the human-nature community. Its normative logic traverses the boundaries between public and private law, as well as substantive and procedural law. This comprehensive and foundational character places it beyond the scope of traditional legal branches, granting it both the necessity and legitimacy of being an independent branch of law [3].

From a practical perspective, confirming the independent status of environmental law is a prerequisite for advancing the rule of law and systematization of ecological civilization in China. Currently, the codification of an environmental code is at a critical stage. Without a clear hierarchical position within the legal system and a defined systemic affiliation, it would be challenging to establish internal coherence for its legislative objectives and structural framework [4]. Clarifying environmental law's status as an independent legal branch is not only the logical starting point for codification but also a crucial step for coordinating existing fragmented legislation. Strengthening the systematization of environmental governance, and institutionalizing the constitutional spirit of ecological civilization.

The independence of environmental law responds to the constitutional demands of our era and reflects the inevitable trend of the self-evolution of the legal system within the broader context of building China into a country governed by the rule of law.

Academic analysis of environmental law as an independent legal branch

The traditional logic and limitations of branch-of-law division theory

Within the modern legal system, the theory of branch-of-law division is central to understanding its structure. Originating from Soviet legal academia in the mid-20th century, this theory is grounded in the materialist jurisprudential stance that the object of legal regulation is social relations. From this, the model for dividing the legal system based on the criteria of "regulatory object" and "regulatory method" emerged, becoming the prevalent framework for legal classification [5]. China inherited this theoretical framework during its own legal system construction, making branch-of-law classification a consensual premise for theoretical research and institutional design. Consequently, traditional division theory has instilled a deep-seated inertia within legal education, legislative systems, and even rule-of-law thinking, serving as the analytical starting point for the independence and systemic belonging of various legal branches.

However, as societal development enters the stage of ecological civilization, the limitations of this traditional theory have become increasingly apparent. The theory presupposes that legal regulatory objects can be clearly defined and formed into closed systems through singular regulatory means [6]. Yet, what environmental law addresses are the complex relationships spanning human society and the natural ecosystem. Its regulatory object possesses characteristics of intersectionality, dynamism, and holism, far exceeding the boundaries that traditional theory can accommodate. Insisting on "regulatory object - regulatory method" as the sole criterion often leads to environmental law being fragmented and

subsumed under administrative law or economic law, thereby diluting its systemic value and institutional logic. The result is that environmental law struggles to establish its independent status academically and faces issues like regulatory fragmentation and insufficient institutional coordination in practice. It can be argued that the closed structure of traditional branch-of-law division theory lacks the necessary theoretical inclusivity for an emerging field like environmental law [7].

Major doctrines regarding the positioning of environmental law

(1) The independent branch-of-law doctrine

This doctrine advocates that environmental law, under the guidance of the Constitution, should stand alongside administrative law, economic law, social law and so on, as an independent legal branch. Proponents argue that environmental law possesses a unique regulatory object - namely, the complex relationship between humans and nature, and society and ecology. Its regulatory methods synthetically employ administrative, economic, civil, criminal, and other diverse means, forming a relatively self-sufficient normative system. Some scholars, drawing on the theoretical path of economic law's independent establishment, propose a new "unity of subjective and objective" criterion. Objectively, environmental law regulates specific social relations. Subjectively, its purpose is to achieve holistic ecological protection and intergenerational equity, thus possessing a dual basis for being an independent branch. The contribution of this doctrine lies in revealing the fundamental differences between environmental law and traditional branches, highlighting its practical independence and value-based legitimacy. However, its argumentation logic still uses the traditional branch-of-law framework as a reference point and remains attached to the intellectual path of seeking "division criteria". failing to break through the structural constraints of the branch-of-law theory itself.

(2) The administrative law or economic law doctrines

These doctrines advocate subsuming environmental law within existing branch-of-law systems. The administrative law doctrine views environmental regulation as predominantly administrative, considering systems like administrative licensing, penalties, and litigation as falling within administrative law's scope. The economic law doctrine emphasizes the close connection between environmental protection and economic regulation, viewing pollution control, emissions trading, environmental taxes, and so on, as reflecting macroeconomic control functions. From the dimensions of purpose, means, and scope, both theories exhibit significant shortcomings [8].

Firstly, in purpose, administrative law aims at "controlling power" - regulating administrative acts to protect citizens' rights - whereas the goal of environmental law is to realize ecosystem integrity and public welfare. Their value orientations are not aligned. Secondly, in means, administrative law centers on administrative acts, while environmental law employs a diverse array of administrative, market-based, and social means. For instance, the Environmental Protection Tax Law achieves emission reduction targets through economic incentives, exceeding the traditional scope of administrative law. Thirdly, in scope, environmental law addresses global ecological issues and intergenerational equity, while administrative law is confined to power relations within the state. Consequently, subsuming environmental law under administrative or economic law inevitably severs its ecological holism and institutional innovativeness.

(3) The social law doctrine

Centered on social interests, this doctrine views environmental law as possessing both public and private law attributes and thus belonging to the "third legal realm" of social law. Influenced by European social law theory, it emphasizes the

modern trend of "fusion of public and private law". Directed towards the common social good and aiming for ecological equity and public welfare, environmental law appears formally classifiable under social law [9].

However, positioning environmental law as social law carries the risk of theoretical over-generalization. On one hand, the traditional scope of social law primarily covers labor, social security, and welfare relations. The ecosystem order that environmental law concerns clearly exceeds its domain. On the other hand, while social and ecological interests intersect, they are not equivalent. Using a social law framework to encompass environmental law would both unduly broaden the extension of social law and fail to explain environmental law's unique ecological value and institutional logic. Therefore, although the social law doctrine broadens the research perspective on environmental law, it is insufficient to provide a solid basis for its independence.

(4) The "field law" doctrine

This doctrine represents a significant methodological shift in recent jurisprudence. It posits that while traditional branches of law center on legal logic, field law starts from a "problem domain", emphasizing that normative legal systems should be constructed around the operational laws of specific social fields [10]. In essence, the independence of a field law does not depend on the consistency of its regulatory object and method, but on whether the field possesses its own unique "field-specific laws" and "research paradigms".

In the context of environmental law, the interconnectedness of ecosystems forms the basis of its field-specific laws. Environmental law must coordinate diverse mechanisms like administrative supervision, civil remedies, and criminal sanctions to respond to cross-domain, intergenerational environmental problems. This diversification is not a theoretical flaw but an intrinsic characteristic of field law. The doctrine argues that environmental law should not be forcibly integrated into traditional branch-of-law systems but should be understood as an independent legal field centered on ecosystem laws and supported by diverse institutional means.

Its doctrinal plurality precisely reflects the jurisprudential demands of ecological complexity. This theory breaks through the closed nature of branch-of-law thinking, revealing the functional basis for environmental law's independence. Its shortcoming lies in the fact that "field law" and "branch of law" still exist in a parallel relationship at the systemic level, lacking further definition of environmental law's hierarchy and normative force within the entire legal system.

(5) The "ecological law" doctrine

This doctrine further transcends the boundaries of branch-of-law and field law theories, advocating for a re-understanding of environmental law's positioning from the level of a "legal sphere". Grounded in the value of ecological harmony, ecological law emphasizes that humans are members of the ecological community and advocate for equal coexistence and synergistic development of humans and nature. Proponents argue that the scope of environmental law is extremely broad, encompassing not only human-nature relationships but also inter-human relations arising from environmental resource use. Its normative system spans administrative, civil, criminal, economic, international, and other levels, exhibiting marked comprehensiveness and scientific-technical character. More importantly, with social public interest and international commonality at its core, its protection objects transcend national borders and the interests of the present generation, involving global issues like biodiversity and climate security. Thus, environmental law should be seen as a core department within the "ecological legal sphere", rather than a single branch in the traditional sense. This theory provides a higher-level jurisprudential foundation for environmental law from a philosophical perspective, yet its implementation at

the institutional level still requires reconstruction of the legal system.

(6) The "secondary branch-of-law" doctrine

This doctrine explains the independent status of environmental law from the perspective of historical evolution. It posits that the evolution of the legal system accompanies the transformation of human civilization. The free capitalist stage, responding to economic crises, gave birth to economic law; the welfare state, solving social crises, formed social law; the ecological civilization stage, confronting ecological crises. It will inevitably give rise to environmental law as a new secondary branch [11,12].

A secondary branch has three basic characteristics: First, problem-orientation, meaning it forms a systematic legislative response to fundamental societal crises. Second, constitutive norms, which break through traditional regulatory rules to create new social relations and duty structures. Third, public-private hybridity, synthetically employing administrative supervision and market mechanisms to build a blended institutional system. Environmental law fits this type precisely: Its purpose is to address the ecological crisis, its norms are constitutive and systematically complete, and its structure blends public and private law means. Therefore, environmental law is defined as a secondary branch, the result of the legal system's self-renewal against the backdrop of civilizational transformation. Compared to the field law doctrine, the secondary branch doctrine emphasizes more the stability and historical inevitability of environmental law within the legal system. It explains not only the origin of environmental law but also reveals its hierarchical significance within the legal structure. Precisely for this reason, China's Ministry of Justice, in promoting the construction of an ecological civilization rule-of-law system and the codification of an environmental code, tends to adopt the secondary branch doctrine to highlight environmental law's foundational and overarching status.

Theoretical choice for the independent status of China's environmental law and the construction of its knowledge system

A comparative analysis of the relevant theories reveals that the Independent Branch of Law doctrine remains, in its logic, tethered to the traditional classification paradigm. The administrative law and economic law doctrines suffer from functional imbalances. Social law and ecological law doctrines are prone to over-generalization in scope. While the field law doctrine, despite breaking through conventional conceptual frameworks, lacks a clear foundation within the traditional jurisprudential hierarchy.

In contrast, the secondary branch of law doctrine, taking historical stages as its core rationale, preserves the systemic logic of branch-of-law theory while simultaneously addressing the institutional demands of the ecological civilization era. It situates the independence of environmental law within the grand narrative of civilizational evolution, thereby endowing it with a sense of historical necessity and systematic coherence. Building upon this foundation, the construction of an autonomous knowledge system for China's environmental law is giving rise to a new theoretical landscape. On the one hand, a relationship characterized by "harmony without uniformity" is taking shape between environmental legal studies and traditional departmental legal disciplines. While its theoretical roots are partially embedded in primary branches of law such as Constitutional Law, Civil Law, and Administrative Law, environmental law has gradually evolved its own independent principles, institutions, and methodological systems throughout its development. As a secondary branch of legal scholarship, environmental legal studies is no longer merely an assemblage of norms but is constructing new jurisprudential architecture and institutional logic centered on the concept of ecological civilization. On the other hand, the

transformation of China's role in global environmental governance is compelling environmental legal studies to assume a new mission: interpreting and shaping the international legal order. The independent status of environmental legal studies signifies not only the intrinsic refinement of the nation's rule-of-law system but also showcases China's institutional innovations and growing discourse power in global ecological governance [13,14].

In summary, the independent status of environmental law as a legal branch is both an institutional manifestation of the constitutional principle of ecological civilization and a historical outcome of the self-evolution of the legal system. Positioning environmental law on the basis of the Secondary Branch of Law theory provides a systematic foundation for the codification of an environmental code and establishes a solid jurisprudential groundwork for the autonomous knowledge system of China's environmental law.

Justification for environmental law as an independent legal branch

Major arguments supporting the independent status of environmental law

The core issue of whether environmental law can become an independent legal branch lies in whether it possesses an independent regulatory object, regulatory method, value concept, and normative system. From both theoretical and practical perspectives, the independence of environmental law already has a sufficient foundation for justification.

(1) Particularity of the regulatory object

Professor Zhang points out: "Environmental law has a relatively independent regulatory object and unique regulatory methods, following a historical development pattern of growing from small to large and from weak to strong." Traditional legal branches mostly regulate social relationships between "human-human", while environmental law addresses the composite relationship of "human-nature-society". Its core lies in standardizing human behavior in utilizing, developing, and protecting natural resources, along with the social relationships arising therefrom [15]. This type of relationship differs from the distribution of individual interests in private law and the power operation relationships adjusted by administrative law. It is a holistic relationship centered on public environmental interests.

From the perspective of the regulatory object, what environmental law protects is not general property or individual rights but public commons. Professor Cai proposes that the ecological environment is a public common - a shared resource that the public can freely, directly, and non-exclusively use [16]. Elements such as air, water, sunlight, and climate constitute the natural foundation for human survival, characterized by non-excludability and irreplaceability. The normative system protecting such objects is neither part of administrative management nor a product of market exchange. Rather, it is an independent institutional structure centered on public interest. Thus, the regulatory object of environmental law itself possesses independence, derived from the characteristics of ecological public goods.

(2) Comprehensiveness and uniqueness of regulatory methods

Environmental law is a comprehensive legal branch dominated by public law but incorporating diverse means. Its regulatory methods are not singular administrative, civil, or criminal approaches but a composite mechanism combining compatibility and innovation: It employs compulsory means such as administrative permits and total pollutant discharge control, introduces economic regulation mechanisms like emissions trading and environmental taxes, and supplements them with diverse pathways such as civil public interest litigation, environmental tort liability, and criminal sanctions. More importantly, environmental law is

duty-oriented, emphasizing the jurisprudential logic of "prevention first" and "protection first". Traditional legal branches are mostly structured around rights, whereas the focus of environmental law's norms lies in setting obligations, restricting behavior, and preventing harm. This shift from a rights-based standard to a duty-oriented standard is a significant jurisprudential marker distinguishing it from traditional legal branches.

The structure of obligations in environmental law also reflects the particularity of its regulatory object. First, for enterprises and individuals, environmental law constrains their resource utilization and emission behaviors by setting obligations. Second, for the government, environmental law requires it to fulfill service and supervisory responsibilities, undertaking the obligation to maintain ecological public interests. Third, for the public, environmental law recognizes environmental rights and grants procedural safeguards for participation and supervision. This two-way structure of obligations and rights forms a unique social relationship model in environmental law, constituting an important marker of its independence.

(3) Uniqueness of value concepts and basic principles

The independence of environmental law is rooted not only at the institutional level but also in its value order. Environmental law is based on ecological interests, with its core value being a holistic ecological view - "humans and nature form a community of life". This concept transcends traditional anthropocentric jurisprudence, forming a multi-layered value structure with "sound law and governance-environmental justice-ecological integrity" at its core [17]. At the level of human-to-human relationships, the value of environmental law is manifested as sound law and governance, coordinating social interests through the rule of law to achieve fairness and order. At the level of human-environment relationships, environmental law pursues environmental justice, requiring intergenerational equity and regional equity to be emphasized equally. At the level of the ecosystem itself, environmental law advocates "relative anthropocentrism", acknowledging the importance of human interests while respecting the independent value of the ecosystem.

The basic principles of environmental law, such as the principle of sustainable development, the precautionary principle, the polluter-pays principle, and the principle of public participation - all reflect this unique ecological value orientation. Together, they form a system of principles that distinguishes environmental law from other legal branches and also constitutes the value support for its independence.

(4) Systematization and scale of the legal normative system

After more than forty years of institutional accumulation, environmental law has formed a relatively complete normative system. From pollution prevention to ecological protection, from resource conservation to green development, the coverage and hierarchy of environmental legislation have demonstrated the characteristics of a "domain-type" systematization [18]. Since the Fourth Plenary Sessions of the 18th and 19th CPC Central Committees, ecological civilization has been established as an important legislative area. Both the Rule of Law China Construction Plan (2020-2025) and the Implementation Outline for the Construction of a Rule of Law Government (2021-2025) list "ecological civilization" as a key direction for legislation. The systematic expansion at the legislative level reflects both the fundamental status of environmental law in the national governance structure and marks a new stage where environmental law moves from "decentralized regulation" to "systematic rule of law".

This trend of systematization indicates that environmental law has acquired the external form and internal logic of an independent legal branch. On the one hand, the internal norms of

environmental law exhibit typification and systematization. On the other hand, externally, it maintains open connections with areas such as administrative law, civil law, and criminal law, achieving overall coordination of the legal system. This evolution of "two-way systematization, both internal and external" is an important sign of the maturity of a legal branch.

(5) Dual support from the constitution and reality

The 2018 constitutional amendment incorporated "ecological civilization construction" into the Constitution, establishing the constitutional status of ecological civilization. Professor Li points out that the Preamble of the Constitution has the highest legal effect and is an integral organic component of China's Constitution. The inclusion of ecological civilization in the Constitution means that environmental protection has been elevated to a fundamental national task, and its legal guarantees must be implemented at the level of departmental law [19]. As the direct institutional vehicle for realizing the constitutional principle of ecology, the independence of environmental law is both an inevitable requirement of constitutional logic and a practical choice for perfecting the rule of law system.

Furthermore, the process of environmental code compilation also urgently demands its independent status. If environmental law lacks justification for independence, the environmental code will be unable to establish its own positioning and cannot form a unified internal legal logic. Only by theoretically acknowledging its status as an independent legal branch can a solid jurisprudential foundation be provided for the codification of the environmental code and the integration of its normative system.

Opposing views and their analysis

(1) Lack of a single unique regulatory method

Opponents argue that environmental law has not formed its own unique regulatory method but rather borrows existing means from civil law, administrative law, criminal law and so on, thus being insufficient to constitute an independent legal branch.

In response, the innovation of environmental law lies precisely in its "comprehensiveness" rather than "singularity". Its integrated use of multiple methods is not dependent, but systematic integration and institutional reconstruction. Environmental law reorganizes different legal instruments under the unique objective of ecological protection, achieving a purposive unity of means. That is, although the regulatory methods of environmental law are diverse, their logic and value objectives are highly consistent, which is precisely an affirmation, not a denial, of its independence. The characteristic of environmental law is its integration of administrative, market-based, civil, and other diverse paths, forming a composite mechanism.

(2) The "field law" positioning

Another view holds that environmental law belongs to "field law", whose core is to integrate various legal tools to solve problems in specific social fields, without needing to become an independent discipline.

This view reveals the cross-disciplinary nature of environmental law but overlooks its systematization and completeness of value. The concept of field law emphasizes problem orientation but does not address the issue of its status at the level of the legal system. Environmental law not only possesses problem orientation but has also formed a complete normative system and independent legal doctrines. Field law emphasizes "horizontal connections", while a departmental law focuses on a "vertical system". The fact that environmental law possesses characteristics of both indicates that it is in a mature stage of the departmental law structure. Its systematic trend shows that environmental law has acquired the external form and internal logic of an independent legal branch.

(3) The theory of proliferation of legal branches

There is also a concern that recognizing the

independence of environmental law would lead to unlimited expansion of departmental law classification. This concern ignores the historical and open nature of departmental law classification. The differentiation of the legal system itself reflects the increasing complexity of social structures. The global, fundamental, and intergenerational nature of environmental issues gives them a foundational status in social structure equivalent to economy, society, and security. Just as social law differentiated from civil law, the independence of environmental law from administrative law is also a logical result of the self-evolution of the legal system. The formation of a Secondary Branch of Law is the inevitable outcome of the legal system's renewal in response to fundamental social crises at a specific stage of civilizational transformation.

(4) Analysis of the relationship between environmental law and administrative law

Some scholars believe that environmental law originates from administrative law, and its subordination is difficult to eliminate. A distinction should be made between "historical origin" and "theoretical attribution". In its early development, environmental law was indeed established relying on administrative means, but with the expansion of its regulatory scope and enrichment of its institutional functions, environmental law has formed an independent knowledge system, research methods, and discourse system. For example, regarding the object of protection, environmental law protects the ecological environment itself, not specific administrative relationships. In its liability system, it provides for ecological restoration responsibilities, which are different from the administrative liabilities in administrative law. In its institutional structure, pollution prevention, ecological protection, green development, and other systems together form a complete internal system. This evolution shows that the independence of environmental law has transcended its administrative origins. Its regulatory objectives and methods are significantly different from those of administrative law.

In summary, environmental law possesses an independent regulatory object, comprehensive and unique regulatory methods, a value system centered on ecological interests, and a systematic normative structure. Its independent status receives dual support from the constitutional principle of ecological civilization and the practical needs of governance. The analysis of opposing views further demonstrates that the independence of environmental law is not an arbitrary product of conceptual innovation but an inevitable outcome of the developmental logic of the legal system. Just as social law differentiated from civil law, the independence of environmental law from administrative law is also a requirement of the times. Therefore, environmental law should be recognized as an independent legal branch within the public law system. Its independence is both an institutional response to the incorporation of ecological civilization into the Constitution and a theoretical prerequisite for the modernization of China's rule of law.

Research from a comparative law perspective

The stability of U.S. environmental law under the common law system and its supplementary "judge-made law"

The development of U.S. environmental law exhibits typical characteristics of "institutional layering" and "judicial extension". Its system encompasses foundational federal legislation such as the National Environmental Policy Act, the Clean Air Act, and the Clean Water Act, as well as a decentralized normative network including state and local laws, forming a three-dimensional environmental governance framework from the top down. Beginning with the Rivers and Harbors Act of 1899, U.S. environmental law transitioned from pollution control to systematic ecological protection. The National Environmental Policy Act of 1969

established the environmental impact assessment system and created the Council on Environmental Quality, marking the shift of environmental law from ancillary regulation to an independent field of institutional construction. In the following decades, laws like the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) and the Nuclear Waste Policy Act were successively enacted, forming an extensive environmental law system centered on federal legislation and supplemented by state laws. However, since the 1980s, environmental legislation at the federal level has stagnated. This institutional "freeze" has not weakened the systemic status of environmental law. Instead, it has demonstrated dynamic evolutionary vitality through judicial practice and institutional embeddedness.

The independence of environmental law in the United States does not rely on the continuous expansion of legislative quantity but on the "institutional updating" effect produced by judicial interpretation [20]. The U.S. Supreme Court and various federal courts bridge the tension between legislative lag and practical problems through purposive interpretation and supplementary adjudication in specific cases, maintaining the openness and effectiveness of the environmental law system. A substantial body of case law from common law and administrative regulations constitutes an important part of the "hidden sources" of environmental law. Judicial activism, in fact, undertakes the function of legislative repair, allowing environmental law to evolve continuously in a substantive sense.

Concurrently, environmental law has gradually exhibited features of external integration, with areas such as energy law, land use law, and corporate law incorporating environmental law tools, forming a pattern of "embedded regulation". Thus, although U.S. environmental law lacks a typical codified form, it has developed an independent institutional logic and knowledge domain within the rule of law system. Its independence is manifested more functionally and systemically than through formal departmental division.

Japan's independent establishment from public nuisance control to a codified system

Unlike the case law evolution in the United States, the development of Japanese environmental law emerged as a systematic legislative outcome catalyzed by social crises. During the period of rapid post-war economic growth, frequent public nuisance incidents in Japan seriously threatened public health and social stability, prompting the state to enact the Basic Law for Environmental Pollution Control in 1967, which was significantly amended in 1970, initiating the phase of systematizing environmental legislation.

The enactment of the Basic Environment Law in 1993 marked the transition of Japanese environmental law from "public pollution control law" to "comprehensive ecological law", shifting the state from passive remediation to proactive preventive governance. Subsequently, recycling-oriented legislation, centered on the Basic Law for Establishing a Recycling-Based Society and the Law for Promotion of Effective Utilization of Resources, was introduced, forming a normative system with clear hierarchies, unified concepts, and well-defined responsibilities structured as "basic laws - subsidiary laws". This structure is oriented towards codification, making Japanese environmental law an independent department characterized by systematization, specialization, and self-sufficiency.

The independence of Japanese environmental law is reflected not only in its legislative structure but also in the conscious construction of its disciplinary system and governance philosophy. Since the 1990s, Japanese academia has generally positioned environmental law as an independent branch within the public law system, with its regulatory object, institutional goals, and values distinct from traditional administrative law. In particular, the

introduction of the “recycling-based society” and “sustainable development” concepts has endowed environmental law with a holistic ecological jurisprudence that transcends pollution control. Meanwhile, the knowledge system of environmental law gradually separated from the framework of administrative law, forming specialized research institutions, academic societies, and educational systems, thereby establishing an independent disciplinary status.

The systematization path of Japanese environmental law combines the codification tradition of the civil law system with the functional orientation of modern social law, conforming to the transitional characteristics of a secondary branch of law. It addressed the social problem of public nuisance control, which economic and social laws could not resolve, thus leading to the emergence of environmental law. Through legislative completeness and value self-sufficiency, it achieved the substantive standards of an independent legal branch. Thus, Japan’s experience demonstrates that, under the background where the concept of ecological civilization has risen to a fundamental state policy, environmental law in Japan is an independent legal department.

Conclusion

The question of whether environmental law in China constitutes an independent legal branch should not be judged solely by the formal logic of departmental law classification. Instead, it must be examined within the broader context of the modernization of national governance and the construction of an institutional framework for ecological civilization. The institutional response to environmental issues is no longer merely an ancillary function of administrative regulation or economic adjustment. It has become a core issue concerning the structure of the national governance system and the transformation of development philosophies. It is in this sense that the incorporation of “ecological civilization” into the Constitution carries profound significance, both political and legal. On one hand, it establishes environmental protection as a fundamental national strategy through constitutional expression. Providing the highest legal basis for state environmental obligations, and integrating environmental rights, duties, and ecological order into the constitutional framework. On the other hand, it provides political legitimacy and jurisprudential grounding for establishing the independent status of environmental law, facilitating its transition from policy dependence to institutional self-consciousness.

As a component of the Constitution’s preamble, the concept of ecological civilization necessitates an environmental legal system with a complete, self-justifying structure, enabling it to directly undertake the function of national ecological governance in the form of departmental law (Secondary Branch of Law). Against this backdrop, the ongoing codification of the ecological and environmental code represents a practical opportunity and institutional practice for demonstrating the independence of environmental law.

Codification is not merely a technical project of norm compilation but also a theoretical project of restructuring the legal system. The construction of an environmental code presupposes systematic independence and logical unity, a precondition that can only be met if environmental law is recognized as an independent legal branch. The systematic codification of the environmental code essentially entails the “systematization” of environmental legal norms, requiring its value orientation, basic principles, and normative logic to form a coherent whole. Based on the inherent relationship between codification and an independent legal department, the codification process itself serves as both institutional proof of environmental law’s independence and the mechanism for the actual formation of its independence.

The environmental legal system established through codification will elevate ecological interests from fragmented regulation to an integrated order, providing a solid rule-of-law structural foundation for the independence of environmental law. The article concludes with a clear fundamental judgment: Environmental law should be, and inevitably is, an independent legal branch. Its independence lies not only in possessing a unique regulatory object, value concepts, and basic principles but also in its capacity to undertake an irreplaceable institutional function within the socialist legal system with Chinese characteristics. The codification of environmental law will form a value order centered on ecological interests and a normative system based on obligations, thereby institutionally completing the transformation from an administrative appendage to an autonomous system. This will endow environmental law with the capacity for self-interpretation and self-justification. Looking ahead, the establishment of environmental law as an independent branch will have multiple positive impacts. At the legislative level, active advancement of the codification of the ecological and environmental code should be pursued, integrating existing norms concerning pollution prevention, natural resources, and ecological protection into a logical and hierarchical legal system. At the theoretical level, efforts should be accelerated to build an autonomous knowledge system for environmental law with Chinese characteristics, establishing a “discourse system” for environmental law centered on ecological interests and holism, and transitioning from empirical research to systematic jurisprudential construction. At the practical level, the specialization of environmental justice should be further enhanced, potentially through specialized environmental courts, to form an environmental judicial system equipped with specialized knowledge and adjudication philosophies. Through these avenues, the independence of environmental law will receive institutional confirmation within the rule of law in China.

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Conflicts of Interest

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