

Construction of "Moderate Codification" Legislative Model of Environmental Law

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ABSTRACT

At present, China's environmental legal norms have presented a "point-like type", not forming a good branch legal structure system, many problems have been produced in the concrete application, this article through the analysis of a typical country's environmental law codification mode, combining the present situation of our environmental rule of law, concluded that our country can be realized "the appropriate legal system", That is, the conclusion of the "double law source" mode of environmental law of "ecological environment code + single law". At present, China's academic circles have reached a consensus on the "moderate codification" model for the codification of ecological environment code, but there are still differences on the understanding of the "moderate codification" theory. This paper holds that the "moderate codification" of ecological environment code includes the following two aspects: the moderation of the normative content and system, and the moderation of dynamic process. The following assumptions are made for the framework of China's ecological environment code under the mode of "moderate codification": adopting a "total-division" structure, including general provisions, pollution prevention and control, natural ecological protection, green and low-carbon development, and ecological environmental responsibility.

KEYWORDS

Codification; Moderate Codification; Ecological and Environmental Code.

1. INTRODUCTION

Legislative mode refers to the method, structure, style and form[1] adopted by a country's legislation. Through sorting out the existing environmental legislation mode, there are mainly the following types: single act mode, the combination of basic law and single act mode, and the codification mode. Codified legislation mode refers to the legislative mode[2] in which the national legislature promulgates a code covering all the legal norms of the department. Since ancient times, there has been a tradition of codification in China. With the promulgation of the Civil Code, codification discussions have emerged in many fields. Since the founding of New China, due to the frequent occurrence of environmental problems, corresponding environmental laws and regulations have been formulated to regulate them. A sufficient number of environmental legislative documents can provide information for the formulation of environmental codes. However, there are corresponding difficulties in the application process. As the conditions for codification of environmental law in China gradually mature, in order to achieve the goal of building a "beautiful China", the task of codification of environmental code came into being. At present, China's environmental law circle has reached a consensus on the "moderate codification" mode of ecological environment code codification, but there are still differences on the specific understanding of "moderate codification" mode.

2. INVESTIGATION AND REFLECTION ON EXTRATERRITORIAL ENVIRONMENTAL LEGISLATION MODEL

From the perspective of foreign environmental codification models, there are three main models, namely "formal" environmental codification model represented by France, "substantive" environmental codification model represented by Germany and "moderate codification" environmental codification model represented by Sweden.

2.1. Study on the Mode of Extraterritorial Environmental Legislation

2.1.1. Formal Code Model of French Style

Codification of environmental law arose in common law countries in continental Europe, which has a long history of codification dating back to the Roman law era. Among them, the Code of Hammurabi and the Code of Justinian represent a compilation codification concept, which simply organizes existing legal norms according to certain classification standards and order. As long as the written normative laws can be called codification, which is essentially equivalent to the "compilation of laws", it can also be called the "compilation" mode, rather than the systematic creation and expression of the law to make it a new logical and rigorous system.

After the 1950s, with the rapid recovery of economy, France was faced with a series of environmental problems. In order to deal with the increasingly serious environmental problems, the French government issued a series of environmental protection laws and regulations, but these environmental laws and regulations were chaotic and difficult to be effectively applied. Under such circumstances, France codified the environmental code. In 2000, the French Environmental Code was formally promulgated. The code consists of seven volumes, under which there are parts, chapters, sections, sub-sections and sections, showing the structure of "total-fractions"[3]. The codification of the French Environmental Code is divided into two stages. The first stage was in 1980, when an environmental code appeared in France. The environmental code is a purely formal compilation, which only compiles the existing environmental laws into categories. The second stage was in the late 1980s, when the codification divided the code into two parts: laws and regulations. Parliament was responsible for codifying the legal part, while the government was responsible for codifying the regulatory part. Later, the government could also amend the legal part by decree.

France's formal codification integrated the existing environmental laws and regulations, and the difficulty of codification eased the application of environmental laws and regulations to a certain extent. At the same time, the internal codification was not closed, and it could be supplemented and revised as the actual situation changed. However, from the perspective of legislative technology, the internal logic system of the codex in this mode is lacking, there are still overlapped legal rules, and the application is not clear enough. The scope of the code is limited to the authority of the French Ministry of Environment, there is no inter-departmental linkage, and laws related to environmental issues are not included. For example, the forest-related laws and regulations appear in the form of single laws and are managed by other government departments, which cannot regulate environmental issues as a whole.

2.1.2. German-style Substantive Code Model

The substantive code model is a process in which the legislature re-enacts and promulgates laws. In this process, it emphasizes the planning based on the form structure, combination mode and creation procedure, and then codifies the code involving important social relations by setting strict conditions. In terms of content, codification should study the gains and losses of national, social, national and national interests. Technically, it should consider the purpose, method, logical system, structural types and conceptual terms of codification[4]. Germany has a tradition of codification, and the German Civil Code is known as the most perfect code in the world and has been imitated by other countries

around the world. Influenced by the traditional concept of the code, Germany has always held a rigorous attitude in the process of compiling the environmental code. It has made a lot of research and preparation for the compilation of the environmental code in the early stage, committed to pursuing the stability and comprehensibility of the environmental code, hoping to make it highly systematic.

Germany's industrial development has always been in the leading position in the world, but it is also accompanied by serious and complex environmental problems. Just like France, Germany has also introduced a large number of separate environmental laws and regulations to solve environmental problems. In the process of application, these separate environmental laws have been adjusted and overlapping, lacking systematic and coordination, resulting in a large number of conflicts. The implementation effect of the law is not ideal.

Germany's codification was divided into four phases, resulting in four drafts. The first phase produced the "Professors' draft", which was prepared by a panel of environmental law professors commissioned by the German Environment Agency, but which did not take[5]The second stage produced a more scientific "Committee of Experts" draft involving academics, government officials and other theoretical and practical fields, but it was also not adopted[6]53. The third phase of the "draft government legislation" met with opposition from many parties, including federal departments and local governments. The fourth phase of the "parliamentary draft" added the legislative bodies of local governments to the main body of the environmental code, trying to smooth the passage of the code, but it also failed to pass due to opposition from some local governments. The fourth draft Environmental Code is divided into the following five parts: General provisions, water management, nature conservation, radiation and non-electronic radiation control, and emissions trading[6]55.

There are two reasons why the draft of the German Environmental Code has not been adopted. The first reason is that Germany has chosen the wrong codification model. In the process of environmental codification, it has always pursued a stable and comprehensive code, thus ignoring the characteristics of environmental law. Environmental law, as a new legal sector, still has many basic problems that have not been truly answered. Based on the characteristics of environmental problems, more environmental problems may appear in the future. The closure of substantive environmental code will lead to some new environmental problems that cannot be regulated by the code, and there will be a problem of high legislative cost if such environmental problems are to be incorporated into the code. Re-amending the code will make the law lose its stability. The codification of environmental code cannot be overly stable and comprehensive, nor can it be stable and comprehensive. The second reason is political. There are vertical and horizontal conflicts of interest between the central and local authorities, as well as between the central departments. For example, the Federal Ministry of Transport proposed that the environmental protection measures in the draft would affect the improvement of local transport networks.

2.1.3. Swedish-style Moderate Codification Model

The Swedish Environmental Code came into force on January 1, 1999, and its codification process was very smooth. It did not go through the tortuous codification process like Germany and France, neither adopted the substantive model with higher requirements in German style, nor simple compilation of existing environmental legislation like France, but was based on pragmatism. Choosing to adopt the "framework code + single act" model, while achieving codification and maintaining the relative openness and flexibility, this way can not only quickly promote the codification process, but also timely respond to the problems in real practice in a timely manner, the content of the single act into the environmental code regulation at the lowest cost at the right time.

The framework code adopts the "total-component" mode to systematize the 15 individual environmental laws that have been promulgated and implemented, which is divided into seven parts, the first part is the general provisions, and the second part to the seventh part is the sub-provisions. In the General provisions part, the principles and systems in the common parts of the single Act are

condensed and extracted to form the basic systems and principles of the general provisions. The contents that cannot be stipulated in the specific provisions are temporarily stipulated in the general provisions, which are regulated by the single Act first, and at the same time, the principles stipulated in the general provisions of the environmental Code must be complied with, and then incorporated into the specific provisions when the time is ripe in the future. In addition, some contents that cannot be concretized are refined by relevant government departments in the form of authorization. The sub-provisions are: regional protection and animal and plant species protection, special provisions on specific activities, review of cases and matters, regulations on supervision, fees and access permits, related[7]27-189 to environmental crimes, confiscation provisions and environmental penalties, environmental compensation.

The Code does not adopt the traditional codification method of dividing according to the field of adjustment, but based on the function of the system, forming a "prevention-control-relief" system structure. The Code attaches importance to coordination with other departmental laws. The special chapter of the environmental court provides for connection with relevant judicial procedure laws through clear legal provisions, and the provisions of administrative punishment are connected with those of the criminal law. While providing independent environmental crimes, the provisions of the criminal Code are applied through quasi-applicable provisions[7]147.

2.2. Reflection on Extraterritorial Environmental Legislation Model

The author believes that Sweden's "moderate codification" model is the best choice in line with the current national conditions of our country. Moderate codification can reduce the difficulty of codification, overcome the rigidity of the substantive code model, maintain openness and flexibility, solve the new problems in practice in time, and avoid the drawbacks of formal code "nominal", so as to make the environmental law efficient implementation. In exploring the realization of building an "environment-friendly society", meeting the ecological requirements of "five in one", and practicing the concept of "Two Mountains", this codification model can finally incorporate the environmental legal problems that constantly arise and solve into the ecological environment code, so that the code can achieve a balance between "should" and "reality" in the concrete thousands of social situations. The rights and interests related to the environment can also be condensed into rights in the code naturally through a lot of practice, from the entity to the abstract, from the characteristics to the commonality, such as environmental rights. Therefore, the rights, obligations, concepts or concepts that have not yet formed a common theory or a "knowledge community" can be buffered by the Swedish model of "framework code + separate law", hoping to feed the ecological environment code by extracting and summarizing the changing social life practice.

3. THE LEGITIMACY OF "MODERATE CODIFICATION"

The legitimacy of "moderate codification" is also why China's ecological environment codification should choose the moderate codification mode. After analyzing the advantages and disadvantages of the "substantive" mode and the "compilation" mode, the domestic academic circles have basically reached the consensus of adopting the Swedish "moderate codification" mode to codify the ecological environment code, and also put forward the need to pursue the "substantive" code as the long-term goal[8]. The author also agrees to adopt this model to codify the ecological environment code. This model is the best choice in line with China's current national conditions, which can reduce the difficulty of codification, overcome the rigidity of the substantive code model, maintain openness and flexibility, timely solve new problems arising in practice, and avoid the drawbacks of formal code "nominal", so as to effectively implement environmental laws and respond to the ecological requirements of "five in one". And realize the goal of building a "beautiful China".

3.1. Overcome the "Inflexibility" of Substantive Code

Substantive codex requires a high level of legislative technology and legal development. Environmental law, as a new legal discipline, has the characteristics of interdisciplinary, and it is very difficult to codify substantive codification. In addition, due to the uncertainty of environmental issues, there will be more new environmental issues in the future, and substantive codification will make the law unstable, but will increase the difficulty of law application, and frequent revision of the code will increase the legislative cost. The current development level of environmental rule of law in China is far from meeting the requirements of codification of substantive environmental code.

Just as the Japanese scholar Hoji Kanshige said, the codification of the code is made for the sake of doing things cheaply, and there is no need to codify all of a law into one code[9]The substantive code model seeks to make the environmental code more comprehensive. However, as our society continues to evolve, it is impossible for an environmental code to cover all areas of environmental law. There will be more new environmental laws in the future. Excessive pursuit of substantive codification will make environmental law lose its vitality and fossilize it.

The use of moderate codification mode can keep the openness of the ecological environment code, use the form of single law to timely regulate new environmental problems, and respond to the call of the environment in a timely manner. When the time is ripe, the single law will be incorporated into the ecological environment code, so as to make the dynamic development of the ecological environment code and keep the advanced content of the ecological environment Code at all times. To overcome the "rigidity" of the substantive codex model.

3.2. Avoid "Nominal" Formal Codes

Although the formal code integrates and summarizes the existing legal norms, it retains the existing legal norms relatively completely, and is a mode to ensure the smooth transition of the legislative mode. However, its disadvantages are also obvious. Simply summarizing individual laws makes their content system chaotic and lacks logical connection with each other. This kind of code only facilitates the enforcement officers and the public to quickly find relevant laws, but does not change the original legal norms in essence, nor can it promote the development of legal education and scientific research. Law learners can not systematically master professional knowledge to carry out relevant research and promote the development of law.

The use of moderate codification mode can make the logic system of ecological environment code more harmonious, innovation in content, innovation in environmental law system and objectives.

4. THE THEORY OF "MODERATE CODIFICATION" OF ENVIRONMENTAL LAW AND THE EXPRESSION OF THE CODE

4.1. Theoretical Propositions of "Moderate Codification"

As the academic circles have basically reached a consensus on adopting the "moderate codification" model and the codification of ecological environment code has been put on the legislative agenda, in order to solve prominent problems in the field of environment as soon as possible, it is necessary to conduct deeper theoretical research on "moderate codification" as soon as possible to provide theoretical support for the codification of ecological environment code. As for the definition of "moderate codification", there are different opinions in the academic circle. Lu Zhongmei believes that "moderate codification" essentially means that the environmental code adheres to the rationalist scale in terms of concept and system, realizes the moderate adjustment range of the code under the guidance of basic concepts, and realizes the strict[10]The mode of "moderate codification" does not require all environmental legal norms to be incorporated into the environmental code, nor does it

want to ban all individual environmental laws, but to extract and summarize the common basic values, principles and systems of these environmental legal norms, and establish a framework system with basic tolerance and comprehensive coordination to form an environmental code in the field of environmental law. At the same time, it is necessary to continue to preserve the environmental law[11]Zhang Zitai believes that the codification of China's environmental law should be a dynamic and moderate codification, in which "dynamic" should be gradual and phased, and "moderate" should be judged and selected[12] according to the reality and development of environmental laws and norms. According to Li Zhiping, moderation includes four aspects[13]Cao Wei believes that moderation is the moderation of the scope of adjustment, the moderation of the system, and the perfect development[14]115-116 of "moderation". To sum up, the author believes that "moderate codification" mainly includes the following two aspects:

First, "moderate codification" is the moderation of the normative content and system. In the early stage of codification of ecological environment code, based on the current development level of China's environmental law, we can moderately reduce the positioning and standards, incorporate mature environmental law theories into the code, and first standardize the theories that are still evolving and not finalized with a single law. The moderation of the system is determined by the moderation of the content of the code and the rigor of the internal style. Although the moderation level of the system can also be moderately reduced, it is still necessary to clarify the moderation standard of the system to avoid excessive "codification of the law". Cao Wei pointed out that the moderation of the system includes the moderation of the external system and the moderation of the internal system. The task of the systematization of the external system is to effectively integrate the current environmental legal norms, eliminate the confusion and conflicts between laws, and make them coordinated and unified. The task of the internal system is to construct a set of unified and complete value system for the code, including unified basic values, objectives, etc., which actually refers to the codi[14]123-127fication of basic principles.

Second, "moderate codification" is moderate in the dynamic process. In the future, there will certainly be new environmental problems that need to be included in the ecological environment code regulation, and a balance should be made between the stability and dynamics of the code, that is, the problem of "re-codification" and "codification" should be solved. The revision of the Codex will inevitably affect the whole body. In order to avoid the stability of the Codex being affected by frequent amendments to the Codex of ecological environment, it is necessary to "re-codify" when the time is ripe. The Swedish Environmental Code has been revised every year since its promulgation, and this approach will not be followed in the future. If we do not revise the ecological environment code for a long time, we just blindly use the environmental law to regulate the emerging problems, which will lead to the limitation of the law, and the excessive "codification" of the code will make the ecological environment code be shelved, and the final result of the gradual abandonment of the code will return to the era of the single law without the code. The author believes that one of the solutions is to realize "re-codification" by means of legal interpretation, which can learn from the interpretation method of German legal commentary, which will not destroy the stability and authority of the code, but also improve the legal loopholes and system of the code of ecological environment. The second solution is to "re-codify" the ecological environment code by referring to the amendment method. The previous legal amendments in China led to the reordering of legal provisions, but the amendment method does not change the serial number of the original legal provisions, which can reduce the damage to the structure of the code.

4.2. System Construction of Ecological Environment Code under the Mode of "Moderate Codification"

According to the experience of codification at home and abroad, the style structure of ecological environment code in China should adopt the structural framework of "general provisions - specific provisions". The legislative technology can draw on the practical experience of foreign environmental

codes in step by step and open, and the reasonable views of domestic scholars, and combine with the practical needs of China's environmental rule of law, and complete it one by one according to the principle of easy first and difficult later. For example, the "Professor's draft" of the German environmental code adopts the legislation of general provisions first, and then carries out the legislation of specific provisions according to the general provisions. China's "Civil Code" is also the first to formulate the "General Provisions of Civil Law", the second step is to fully integrate the sub-draft. According to the above experience, the general provisions of China's environmental code should be compiled first, and the mature parts should be included first in the compilation of the sub-provisions, and the immature parts should be regulated by the environmental law first. This will not only reduce the resistance to passage, but also ensure the quality of the code.

(1) The General provisions. The first step is to compile the general provisions of the ecological Environment Code. The General Provisions of the ecological environment Code has the role of leading the various provisions of the ecological environment Code and the environmental law. It needs to adopt the legislative technology of "extracting common factors", that is, the method[15] of "abstracting and concentrating the commonality of environmental laws and norms", which can avoid the duplication of the contents before and after the environmental code. For some environmental problems that may occur in the future, we can first establish forward-looking legislative ideas and basic principles by means of abstract legislation, and put them in the general provisions to reserve space for future legislation, waiting for future deletion and adjustment to improve the code.

At present, the academic community has different opinions on the specific content of the General provisions. Wu Weixing believes that the general provisions need to include the general provisions, basic principles, public rights and environmental supervision and management. At present, there is no special law on the liability for ecological environmental damage, and its content should first be included in the environmental legal liability chapter of the General Provisions. When the time is ripe, it will be incorporated into the ecological environmental liability. Other immature environmental legal liabilities and environmental judicial systems can adopt this approach to adapt to the practical requirements of environmental law and meet the requirements[16] of "moderation" of the ecological environment code. Wang Canfa believes that the content of the general provisions should be composed of the purpose, basic principles, basic systems, the main body of environmental legal relations and its rights (forces) obligations, and environmental standards[17]10. Zhang Zitai thinks that the General provisions can be designed as the following framework, which can be divided into preamble, basic principles, basic systems, basic responsibilities, capital costs, education and publicity[18]. Lu Zhongmei advocated that the basic purpose, basic principles, ecological environment governance system and basic legal system of the code should be clarified with the concept of sustainable development[8].

Among the modes of compiling General provisions abroad, Sweden's General Provisions, which is divided into six chapters, has practical reference significance for our country. The first chapter defines the purpose pursued by the environmental Code and the scope of application of the code, the second chapter is the general rules followed by the review, the third chapter is the basic content of the management of land and water, the fourth chapter is the special provisions of the management of land and water resources in a specific region, the fifth chapter is the environmental quality standards, and the sixth chapter is the environmental impact report and other decision guidance data. It can also draw on the general provisions of the draft German Environmental Code, which include: common objectives, basic principles, and other cross-disciplinary law related content[6]55.

Under the background of moderate codification, the author considers that the general provisions of China's environmental code should be divided into four chapters, the first chapter is the general provisions, the content of this chapter should clarify the legislative purpose, adjustment scope, basic purpose and basic principles of the code, and the relationship between the environmental code and separate environmental laws and other department laws; The second chapter is the national environmental protection obligations, the first section of the chapter is the national environmental

protection responsibilities, this section mainly introduces China's basic national policy of environmental protection, the state's provisions on the legislative, law enforcement and judicial personnel's environmental protection powers and responsibilities, the state's protection of citizens' environmental protection rights and interests and the relationship between the state and local in the field of environmental protection, etc. The first section can be further subdivided into the second section of The State Council and its ministries and commissions of environmental protection powers and responsibilities, the third section of the local government of environmental protection powers and responsibilities two parts[19]; The third chapter is the subject of environmental rights and their rights and obligations. According to the subject, it is divided into the development and utilization subject and the general public's rights and obligations. Chapter four is the basic system, such as environmental impact assessment system, "three simultaneous system" and so on.

(2) The section of rules. The second step is to screen the content that should be included in the section on the basis of the writing of the general section. At present, there is a great dispute about what content should be included in the section in our academic circles. Wang Canfa believes that the specific provisions should include pollution prevention, ecological protection, natural resources, renewable energy and comprehensive utilization of resources and legal responsibilities[17]10. Lv Zhongmei and Wang Jin believe that the provisions of the environmental Code should include pollution prevention, natural ecological protection, green and low-carbon development and ecological environmental responsibility[20]. Pollution prevention, natural ecological protection and green and low-carbon should correspond to the three goals of social sustainable development, ecological sustainable development and economic sustainable development respectively. Zhang Zitai thinks that China's environmental code should include five parts: pollution prevention, natural resources, ecological protection, conservation of regional natural and human environment, and comprehensive management and regulation of environmental resources.

To sum up, the author thinks that we should learn the system of the Swedish environmental Code, and arrange it in the order of "risk prevention - process control - damage relief". The Swedish Environmental Code follows this logic and is arranged in the order of "nature protection, pollution prevention and control, environmental dispute settlement, law enforcement supervision, punishment and environmental damage relief"[21]. The selection of the specific contents of the sub-provisions should also follow the basic idea of "appropriate codification", and the sub-provisions should be arranged as follows:

(1) Pollution prevention and control. The compilation needs to systematically integrate the environmental law related to pollution prevention and control, and the following two points should be noted in this process: First, there is a close connection between pollution prevention and control and natural ecological protection, both pursuing the protection of ecological value, but there are also specific differences. The codified pollution prevention and control compilation pays more attention to the protection of the ecological value of the "overall environment", while the natural ecological protection compilation pays more attention to the protection of the ecological value of the "resource elements", so it is necessary to adopt a moderate connection path in the compilation. Do a good job in distinguishing and connecting[22] the two; Second, it is necessary to choose a reasonable style structure, not only to achieve the overall protection of "environment", to overcome the disadvantages of focusing on a single "environmental element" in the past single act mode, but also to type all kinds of "environmental pollution". After the extraction of general provisions, traditional pollution such as water pollution, air pollution, soil pollution, environmental noise pollution, solid waste pollution and Marine environmental pollution are included in the "key pollution", and non-traditional pollution such as radioactive pollution, light pollution and thermal pollution is included in the "new pollution". In addition, it is necessary to use the backstop clause in order to timely judge the new "other pollution" in the future.

(2) Natural ecological protection series. This part is closely related to the pollution prevention and control part, but there are differences, which have been explained above and will not be described

here. The adaptation should systematically integrate the content of regulating the destruction of natural resources and the protection of natural resources in the development and utilization of natural resources, and the legal norms on the economic value of the development and utilization of natural resources should not be included, and should be regulated by separate laws of other departments. The following two points should be noted in the compilation process: First, natural resources law in the traditional sense is the protection of a single "resource element", while traditional ecological protection focuses on the ecological protection of all "resource elements" in a few specific areas. In codification, it is necessary to expand the respective scope of the two and properly handle the relationship between them. To form the basic pattern that the general provisions of "resource elements" protection and the special provisions of "regional protection" complement each other; Secondly, the traditional regional ecological protection focuses on the protection of a few species in the region, while the codification of ecological environment needs to pay attention to the security and stability^[23]98 of the ecosystem as a whole. To sum up, the codified code should systematically integrate relevant laws and regulations on biodiversity protection and nature reserve protection. Some immature legislation, such as national park legislation, can be regulated by a single law first. The specific structure design is as follows: In general, there are three basic systems of planning, regionalization and information, "resource elements" ecological protection, "regional" ecological protection, "regional" ecological diversity protection, funds and benefit-sharing mechanism^[23]105.

(3) Green and low-carbon development. The existing green and low-carbon development system in China's environmental legal system has the following problems: First, the content of this series plays the function of "green value-added" in the process of realizing sustainable development, which belongs to the new legislative field, many system ideas are still blank, and need to be further studied and improved in the future; Second, there are many duplications in the current legal system on green and low-carbon development, such as "Renewable Energy Law", "Energy Conservation Law", "Clean Production Promotion Law" and "circular economy Promotion Law", and the latter two laws have a low degree of application, weak operability, and mostly oath meaning. In view of the above situation, the following two points should be done in the green low-carbon development compilation: First, the existing mature system should be selected and selected, and the universal and general provisions should be systematically integrated. Such content should be based on principle and general provisions because of the complex interest relationship, and the specific content should be left to the individual law to be detailed^[20]; Second, immature and non-universal systems in emerging fields, such as the relevant systems in response to climate change, can be advocated in the code, and the specific content will be stipulated^[24] by the separate law. The specific contents of the Code can be arranged in the following order: general provisions, promotion of circular economy, green circulation, and response^[19]29 to climate change.

(4) Ecological environmental responsibility, the design of the compilation needs to pay attention to choice, can not simply pile all the legal liability provisions on this, need to adopt the idea of classification compilation, while doing a good job of connecting with other legal norms. First, regarding the ecological environmental administrative responsibility, in addition to the corresponding environmental administrative legal responsibility for the pattern of environmental administrative violations in each part (general provisions, pollution prevention and control, natural ecological protection, green and low-carbon development), the general provisions of the environmental administrative responsibility should be stipulated in the general provisions of the part; Second, on the ecological environment civil liability, in the general provisions need to be in addition to tort liability related to the ecological environment civil liability provisions here, and at the same time with the Civil Code to do a good job, the "Civil Code" principle provisions can be made here more specific provisions, expand and absorb new specific civil liability bearing rules; Third, as for ecological environmental criminal liability, it is mainly to apply the Criminal Law through the transfer of cohesion provisions, and it is also possible to consider setting up environmental administrative criminal law in the future; Fourthly, the relevant contents of ecological environmental responsibility

investigation and cohesion mechanism should be stipulated to build a comprehensive ecological environmental dispute settlement mechanism[25]30 from non-prosecution to litigation.

5. CONCLUSION

In the age of codification, when the time is ripe for codification, the mode of "moderate codification" of environmental law scientifically integrates the environmental legal norms scattered in various separate laws, so as to improve the systematicness of the ecological environment code while maintaining the openness of the ecological environment code. However, at present, there are still disputes about the connotation of the theory of "moderate codification" and the system structure of the ecological environment code under the mode of "moderate codification". This paper defines the theoretical connotation of "moderate codification" and puts forward corresponding views on the system structure of the ecological environment code. While realizing the "moderate codification" of environmental law, it is also necessary to solve the problems of "codification" and "codification", hoping to provide theoretical support for the subsequent codification of ecological environment code, so that the dual law source model of environmental law "ecological environment code + individual law" can be well adapted to the current situation of environmental rule of law in China.

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