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On the Issue of the Peculiarities of the Formation and Modernization of the State Environmental Policy of the Russian Federation and the People's Republic of China / К вопросу об особенностях формирования и модернизации государственной природоохранной политики Российской Федерации и Китайской Народной Республики

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Аннотация: В статье рассматриваются аспекты решения проблем охраны окружающей

среды, излагаются вопросы, характеризующие взаимодействие Российской Федерации и Китайской Народной Республики. Дается оценка принятия самостоятельных для каждого из рассматриваемых государств, а также совместных скоординированных мер, направленных на снижение и устранение негативных тенденций, связанных с деградацией окружающей среды. Описаны особенности влияния государственных природоохранных политик Российской Федерации и Китайской Народной Республики на вопросы охраны окружающей среды. Проводится анализ состояния законности в сфере исполнения экологического законодательства, эффективность правовых средств, применяемых при осуществлении прокурорского надзора на данном направлении. Приведены эмпирические, статистические и научные сведения о том, как прокуратуры Российской Федерации и Китайской Народной Республики участвуют в формировании методов и инструментов национальных природоохранных политик, которые имеют государственную природу и осуществляют свою деятельность преимущественно в правовых формах при помощи сложных механизмов правового регулирования. В предлагаемой статье проводится сопоставление действующих в России и Китайской Народной Республике концепций устойчивого развития, основанных на общепризнанных мировым сообществом экологических стандартах, получивших ратификацию в законодательстве рассматриваемых стран, анализируются проблемы и направления совершенствования российского и китайского экологического законодательства.

Ключевые слова:

Российская Федерация, Китайская Народная Республика, прокурорский надзор, меры прокурорского реагирования, сотрудничество, обмен опытом, экологическое законодательство, деятельность природоохранных органов, природоохранная политика, окружающая среда

Global changes in the modern world's economic situation dictate the growing interest of state and public institutions in solving environmental problems, and this trend is clearly visible both in the Russian Federation and in the People's Republic of China.

Despite certain successes in the field of nature conservation, several factors currently reduce the effectiveness of environmental protection activities by authorities and the public both in Russia and in the PRC. These include the shortcomings of legal regulation in the environmental sphere, insufficient efficiency of state environmental authorities' activities, low level of ecological culture of the majority of the population, and acceleration of degradation of components of the natural environment due to the introduction of new technologies of anthropogenic impact and many other negative factors.

Environmental protection activities by the state (both in broad and narrow senses) and the public (non-state elements of national political systems), both in Russia and in the People's Republic of China, can be considered a conscious, purposeful, active, and systematic system of actions of authorities in the field of environmental protection, which is determined by the ecological situation and gradually formed under the influence of natural, cultural, historical and other conditions in each of the considered political and territorial entities.

Russia and China, unique, on the one hand, independent and original, and on the other hand, universal from the point of view of global globalization and internationalization, are both forming scientifically based approaches to legal regulation and public administration in the field of ecology and nature management.

The primary purpose of the proposed study is not the scientific disclosure of concepts and a detailed description of categories such as "environmental policy," "the implementation of environmental legal policy," and "activities of the Prosecutor's office within the framework of environmental policy implementation," followed by a clear definition of the role of the prosecutor's office in these institutions. The strategic objective of the presented work is to involve in the scientific circulation of primary empirical data on the practice of legal regulation, public administration (in a broad sense), and objective data on the results of law enforcement activities of the Russian Federation (which is more accessible to a Russian researcher) and the People's Republic of China (which is extremely difficult for a Russian researcher), ensuring the actual need for the formation of a complete understanding the previously existing and the emergence of new key trends in the development of the integrated use of various tools and mechanisms designed to ensure the ecological well-being of not only the peoples of Russia and the People's Republic of China, but also the peoples of other states affected by the current environmental situation in the territories under consideration. The purpose of the proposed publication is to identify the main evolutionary patterns of the mechanisms of legal regulation and state power of Russia and the People's Republic of China for subsequent operation with the latest legal domestic and foreign materials.

In modern conditions, the preservation and restoration of natural ecosystems are reasonably perceived by both the Russian and Chinese states as one of the key strategic tasks, receiving consolidation in the current legislation as a national priority.

Characteristic of many environmental problems, the property of cross-border nature necessitates the study of similarities and differences in the legislative regulation and practice of applying legal norms in the field of environmental law, as well as identifying areas of "interrelation and interaction of policies in the field of nature management and environmental protection" of states with a common state border [\[1\]](#).

The Russian Federation and the People's Republic of China are forming methods and instruments of national environmental policies and domestic environmental mechanisms that have a state nature and carry out their activities mainly in legal forms with the help of complex mechanisms of legal regulation.

Both Russia and the People's Republic of China, as part of their efforts to improve the environment, actively participate in international cooperation, implementing internationally recognized environmental principles approved in several international policy documents into national legislation [\[2\]](#).

The Russian Federation and the People's Republic of China, as part of the implementation of measures aimed at reducing negative trends associated with environmental degradation, are active participants in international relations, supporting generally recognized environmental principles (program provisions) formed within the framework of international programs such as "Transforming our world: the 2030 Agenda for Sustainable Development" [\[3\]](#); " World Conservation Strategy: Living Resource Conservation for Sustainable Development," which was developed at the initiative of UNEP (United Nations Environment Programme, UNEP), the Millennium Declaration adopted by General Assembly resolution 55/2 of September 8, 2000 (United Nations Millennium Declaration), etc.

It is worth noting that Russia and China are participants in the Rio Declaration on Environment and Development, approved at the UN Conference on Environment and Development in Rio de Janeiro, June 3-14, 1992, while China was one of the first countries

by the decision of the Committee of the State Council of the People's Republic of China on Environmental Protection in 1992 who decided to develop a national agenda for the twenty-first century.

This work resulted in the creation of *China's Agenda 21: White Paper on China's Population, Environment and Development in the 21st Century* [\[4\]](#), and in 1994 the State Council of the People's Republic of China approved the "Program for the 21st Century."

Russia also signed all the documents adopted at the International Commission on Environment and Development (ICEDD) meeting, which were subsequently reflected in the Russian mechanism of legal regulation and the system of instruments of Russian environmental policy.

The environmental protection measures implemented by the authorities of the two states under consideration are influenced by the conditions of foreign policy and various political threats that force Russia and China to strengthen regional international cooperation not only in the area under consideration but also in several other interrelated areas, to assume appropriate obligations and fulfill them.

As an example, international obligations are stipulated in regional international agreements, such as the Declaration on the Establishment of the Shanghai Cooperation Organization (Shanghai, June 15, 2001), the Shanghai Convention on Combating Terrorism, Separatism and Extremism (Shanghai, June 15, 2001), the Charter of the Shanghai Cooperation Organization (St. Petersburg, 7 June 2002), Declaration of the Heads of the member States of the Shanghai Cooperation Organization (St. Petersburg, June 7, 2002), etc. A similar parameter of the implementation of the environmental policy of the Russian Federation and the People's Republic of China, in our opinion, is the legal consolidation of the ecological function of the state.

The ecological function of the state finds its expression both in the Constitution of the Russian Federation and in the Constitution of the People's Republic of China [\[5\]](#).

In the legal systems of China and Russia, the development of national environmental law is inseparable from international environmental and legal concepts.

In Russian and Chinese law, environmental protection and nature management legislation are understood as a set of legal norms contained in such sources of law as regulatory legal acts and regulatory agreements regulating public relations in the organization of the rational use of natural resources and environmental protection.

The People's Republic of China is characterized by one source of law that is controversial from the point of view of scientific recognition and "unconventional" for many other legal systems—norms-programs and norms-rules of the ruling Communist Party of China (which has a special constitutional and legal status), corporate norms, which indeed represent forms of law, are represented in the mechanism of legal regulation and the legal system of the People's Republic of China, norms that have a specific impact on the development and functioning of both positive laws, the legal system as a whole, the mechanism of legal regulation, the mechanism of state power and public administration (in a broad sense) in the People's Republic of China.

We believe it is possible to agree with P. V. Troshchinsky's opinion, according to which the system of environmental legislation of the People's Republic of China began to form in the early 1980s and today includes a number of laws and other regulatory legal acts, such as

the Law of Environmental Protection of the People's Republic of China (1982), laws "On the Prevention of Water Pollution" (1984), "On the prevention of Air Pollution and control of its Condition (1987), etc., as well as by-laws establishing appropriate standards [6]. In 1984, the National Committee for Environmental Protection was established, which was entrusted with the function of coordinating environmental protection measures [7].

At the moment, in the system of legal regulation of China, there are special kinds of normative legal acts that contain such complex but nevertheless system-forming legal norms as norms-programs. Norms-programs in state influence on the problems of ecology and nature management of the People's Republic of China are contained mainly in the normative legal acts of the State Council of the People's Republic of China.

According to the information in official sources, more than ten large-scale environmental protection projects are being implemented under the auspices of the State Council of the People's Republic of China and the State Administration for Environmental Protection, most of which were launched in 1995–1998. These include monitoring the environmental situation in the basin of seven major Chinese rivers (Liaohe, Yellow River, Huaihe, Haihe, Yangtze, Zhujiang, and Sungari) [8], development and implementation of measures to clean highly polluted water bodies (Lakes Taihu, Chaohu, Dianchi) [9], control of air pollution in cities [10], monitoring and prevention of the spread of acid precipitation [11], reduction of industrial and solid household waste [12], erosion control, and some others [13].

On behalf of the State Council of the People's Republic of China for consideration of the 2nd session of the 13th convocation of the National People's Congress (the highest state authority), a report was presented on the implementation of the economic and social development plan for 2018 and on the draft economic and social development plan for 2019, which set tasks for the intensification of the development of ecological civilization [14].

The indicated decision is a reference point characterizing the features of the formation and modernization of the People's Republic of China's state environmental policy.

Modern China is taking systematic measures to implement a sustainable development strategy, including efforts to establish effective interaction between economic development and environmental improvement, ensuring the construction of a "beautiful China."

China is committed to creating and improving the economic system of green, low carbon, and recycling development, carrying out measures aimed to save water; activities within the framework of the "one hundred thousand-ten thousand" program: central supervision of the 100 most energy-intensive enterprises, provincial supervision of 1,000 enterprises with relatively high energy intensity, urban supervision with respect to the remaining 10 thousand energy-intensive enterprises; intensification of the protection of ecological systems; improvement of the system for restoring the potential of arable lands, steppes, forests, rivers and lakes; taking measures to protect the ecological system of the Qilianshan Mountain range area to implement a program for the resettlement of local residents; implement a comprehensive ordering of national resources; intensify work on the restoration and improvement of geological to activate the reform of the ecological civilization system; to stimulate institutional innovations of the state pilot zones for the development of ecological civilization and exemplary zones of advanced development of eco-civilization; reforming the environmental monitoring system; improving the system of ownership of assets in the form of natural resources; dissemination of ideas of a "green" lifestyle; introduction of green technologies that contribute to prosperous lives for the

population; expansion of "green" consumption; actively respond to climate change; creation of the All-China carbon trading market management system, according to which the development of appropriate infrastructure is subject to implementation; and continued development of international cooperation in this area.

According to the assessment of the National Greening Committee representatives at the 9th China Forum on International Environmental Competitiveness, held in the city of Hulong Buir (Northern China), China's environmental competitiveness has increased due to the continued growth of environmental indicators [\[15\]](#).

The Communist Party of China's announcement (hereinafter referred to as the CPC) of a course to create an ecological civilization in China (the task announced at the 18th CPC Congress, which, as it seems, is part of the state ideology of modern China) suggests that "the country will follow the concept of respect for nature and include the construction of ecological civilization in all economic processes, politics, culture, and society, will form the image of space, industry structure, mode of production and lifestyle, contributing to the conservation of resources and environmental protection [\[16\]](#).

Commensurate with the program guidelines of the ruling party (Communist Party), as reflected in the decisions of the State Council of the People's Republic of China, the State Administration for Environmental Protection, taking into account the specifics of the provisions of the current legislation of China, the People's Prosecutor's Office of the People's Republic of China carries out its activities, the main function of which (defined in Article 134 of the Constitution of the People's Republic of China) is the supervision of compliance with the rule of law.

With regard to the purposes of this publication, we believe it is possible to propose under the term "environmental policy of the Russian Federation and the People's Republic of China" to understand a mechanism based on certain international norms, as well as national environmental legislation, principles, and strategic targets for environmental protection and environmental management in each of the States under consideration, representing an interdependent system of methods and tools for environmental management, relations through which the activities of authorities in the environmental sphere are implemented, along with general social and industrial processes, to achieve an optimal level of environmental safety in Russia and China, to a certain extent influencing the state of global ecological safety.

The features of the modernization of the state environmental policy of the People's Republic of China include the latest software installations regulated in the Resolution of the 20th National Congress of the Communist Party of China on the report of the Central Committee of the 19th Convocation, where in the strategic concept of public administration, it was noted that it is necessary to promote green development and the harmonious coexistence of man and nature. At the same time, the concept of "green mountains and emerald waters are an invaluable treasure" should be firmly approved and implemented, development plans should be developed based on the high position of harmonious coexistence of man and nature, close attention should be paid to the protection of mountain areas, river, and lake environments, forest areas, arable lands, steppe covers and sandy soils as a whole, adhere to a systematic approach to their improvement, plan work on regulating the production structure, combating pollution, and protecting the environment and responding to climate change in a unified manner [\[17\]](#).

The PRC Prosecutor's Office's main function is defined in the PRC's Constitution. Thus,

according to Article 134, the People's Prosecutor's Office of the People's Republic of China is a state body overseeing compliance with the rule of law. In addition, supervision of compliance with the rule of law is entrusted to local prosecutors in accordance with Article 136 of the Constitution of the People's Republic of China. With regard to the topic under consideration, it can be concluded that the primary function of the Prosecutor's Office of the People's Republic of China within the framework of the implementation of environmental policy is the supervision of compliance with laws (prosecutor's supervision of the implementation of environmental legislation).

Other functions of the People's Republic of China's Prosecutor's Office within the framework of the implementation of environmental policy are enshrined in the Law of the People's Republic of China of July 1, 1995, "On State Prosecutors," where several articles regulate that the state prosecutor performs the following duties and functions: 1) supervises the execution of laws, 2) acts as a public prosecutor on behalf of the state, 3) conducts a direct investigation of criminal cases accepted by the People's Prosecutor's Office, and 4) performs other duties and functions [\[18\]](#).

The objects of prosecutorial supervision in the PRC seem to be public relations, the regulation of which is enshrined in such regulatory legal acts as the PRC Forest Law [\[19\]](#), the PRC Steppe Law, the PRC Fisheries Law, the PRC Water Law [\[20\]](#), and many others.

In the Russian Federation, the basis of environmental legislation is the Federal Law "On Environmental Protection" of January 10, 2002, No. 7-FZ; Federal Law of March 14, 1995, No. 33-FZ "On Specially Protected Natural Territories"; Water, Forest, Land Codes of the Russian Federation; Federal Law of May 4, 1999. No. 96-FZ "On the Protection of Atmospheric Air"; Federal Law No. 174-FZ of November 23, 1995 "On Environmental Expertise," and many other regulatory legal acts of environmental orientation.

The prosecutor's offices of Russia and China use certain tools with regulatory and legal formalization to influence problematic areas of public relations in environmental protection and nature management.

The prosecutor's offices of Russia and China carry out large-scale preventive activities, participating in the implementation of the environmental policy of the respective states. The preventive activities of the prosecutor's offices in Russia and China are based on a modern analysis of the state of the environment and trends in offenses in the field of environmental management.

Given the impossibility of fully restoring many of the natural components in case of their loss, the preventive activities of the prosecutor's office in the implementation of the ecological function of the state is an important prerequisite for the successful development of the Russian Federation and the People's Republic of China in the 21st century. For example, the authorities of Russia and the People's Republic of China's joint activities to counter violations of forest legislation, which constitute the main array of environmental offenses in Russian regions close to the border with the countries of the Asia-Pacific region, is subject to mandatory accounting (and, consequently, mandatory inclusion in the list of preventive measures to reduce the crime rate in the sphere of the timber industry) the fact that the territorial proximity with foreign states, consumers of Russian wood is one of the key conditions contributing to the preservation of an increased level of forest crime in these territories (for example, more than half of the cases of illegal logging registered in Russia are detected in the Irkutsk region, where illegal logging of forest plantations is more than 90% in the structure of environmental crimes) [\[21\]](#). The presence in the territory of Russia

and China of a large water body, the Amur River, which is a common natural heritage of the two countries, also creates prerequisites for combining the efforts of the authorities of the two states to ensure environmental well-being within the area of this reservoir and adjacent territories.

It should be noted that the People's Republic of China, for its part, is taking measures to ensure protective measures in ecology and nature management. According to the REGNUM news agency, with reference to the print edition of the Chinese Xinhua news agency, the Minister of Ecology and Environment of the People's Republic of China, Li Ganjie, made a statement in September 2019 that interim results of the implementation of the law on environmental protection, updated in the direction of tightening the rules and regulations contained therein in 2015, were summed up in China. In just 2018, according to official data, 186 thousand administrative penalties were imposed in the country for environmental offenses against 83 thousand similar penalties applied four years earlier, before the law's adoption in its current version. The total amount of penalties imposed last year amounted to 15.3 billion yuan (which is 7 times more than in 2014 [\$2.15 billion]). The Minister also noted that over the 70 years of the PRC's existence in the country, it was possible to create legislation that covers the protection of all natural environments (air, water, soil, etc.), as well as regulate the activities of nuclear and other hazardous facilities from an ecological point of view [\[22\]](#).

As features of the formation and modernization of the Russian Federation and the People's Republic of China's state environmental policy, it can be noted that geopolitical factors bring China and Russia together. Still, the value-oriented determinants underlying the national specifics of legal regulation and public administration, as well as cultural traditions, differ, and the genesis of the formation and functioning of state mechanisms, authorities, tools, means and methods of its implementation, as well as legal techniques and methods of public administration. There are features of fundamental research in the field of formation of strategies and tactics of legal regulation, legal impact, public administration, and the implementation of the results of the scientific and technical process in the practice of law enforcement. There are features of the mobilization of forces to perform the most important environmental tasks and of the development and implementation of applied scientific research in eliminating and preventing environmental pollution.

The basis for the formation of environmental legislation and law enforcement practice in Russia and China in the modern era should be an integrated approach that provides for the regulation of both relations directly related to environmental protection and regarding the rational use of natural resources, as well as including an analysis of problematic issues of international cooperation, control and supervisory activities of authorities in this area to increase the effectiveness of Russian and Chinese environmental policy.

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Результаты процедуры рецензирования статьи

Рецензия скрыта по просьбе автора