On the Current Situation and Improvement of the Legislation of Nature Reserves in China

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Abstract: In China, the proposal and construction of nature reserves has gone through a history from scratch, from small to large, from single to comprehensive journey. So far, China's nature reserves have initially formed a national network of nature reserves with complete types, reasonable planning and sound functions net. However, with the changes of the times, China's original relevant nature protection laws and regulations can no longer adapt to the development of the times, and it seems to be lagging after. Whether it is central legislation or local legislation, its shortcomings are gradually prominent, and it is necessary to improve the overall system construction and finish in legislation. Good classification systems, balancing the interests of protected areas and local communities and building inter-ministerial processes for more effective coordination and communication management.

Keywords: Nature Reserves; Legislative System; Current Situation; Improvement.

1. The Development Status of the Legal System of Nature Reserves in China

1.1. Status Quo of Nature Reserves in China

In 1956, China's National People's Congress passed a proposal to establish nature reserves. In Zhaoqing, Guangdong Province, China's first nature reserve, Dinghushan Nature Reserve, was established. Since the late 70s and early 80s of the 20th centuries, China's nature conservation has developed rapidly. By the end of 2017, China had built 2,750 nature reserves of different types and levels. Most of the terrestrial natural ecosystems in the country have been established as representative nature reserves, the species of wild animals and plants under national key protection and most of the important natural relics have been protected in nature reserves, and the wild populations of some rare and endangered species have gradually recovered. The wild population of giant pandas has reached more than 1800, and the number of species such as northeast bird, northeast leopard, Asian elephant, and crested parrot has increased significantly. Among them, 24 nature reserves such as Changbai Mountain and Jiuzhaigou have been listed by UNESCO in the "International Mission Biosphere Conservation Regional Network", and Wuyi Mountain and Zhangjiajie have been included in the World Cultural Heritage List.

1.2. Current Status of Legislation on Nature Reserves in China

1. Constitution. As the fundamental law of the country, the Constitution makes the most authoritative provisions on all fundamental affairs of the country. There is a natural origin of the law. Article 9 of the Constitution stipulates that "the State shall ensure the rational use of natural resources, protect precious animals and: Plant. Prohibition of any or individual using any means to encroach upon or destroy natural resources" provides a constitutional basis for the legislation of nature reserves in China.

2. Environmental Protection Law provisions. China revised and promulgated the Environmental Protection Law in 1989 and revised it in 2014. It is the most important comprehensive environmental and resource protection law in China. Certain areas shall be designated in accordance with law for protection of representative natural ecosystems, natural concentrated distribution areas where endangered species of wild animals and plants are cherished, and natural relics of special significance, where the objects of protection are located.

3. The Wildlife Protection Act provides: In 1988, China promulgated the Wildlife Protection Law, which was revised in 2004.

According to the provisions of the Wildlife Protection Law, the competent wildlife department under the State Council and the governments of provinces, autonomous regions and municipalities directly under the Central Government shall designate nature reserves in areas where key wild animals live and breed.


The people's governments of prefectures and municipalities directly under the Central Government, typical forest ecological areas in different natural zones, forest areas where precious animals and plants breed, and other natural forest areas with special protection value, such as natural tropical rainforests, shall designate nature reserves and strengthen protection and management.

5. Nature reserve regulations. In 1994, the State Council issued the Regulations on Nature Reserves, which were revised in 2017. It's about Comprehensive regulations for nature reserves. The "General Provisions" section provides an overview of the purpose, scope and principles of the implementation of the regulations; The part of "Nature Reserve Construction" elaborates on the establishment procedures, site selection, level and naming of nature reserves; The "Management of Nature Reserves" section punishes the management bodies of nature reserves and the public management of nature reserves and the methods of punishment for violations of regulations. The implementation of the Regulations has promoted the further development of nature reserves.
2. The Main Problems in the Current Legal System of Nature Reserves

2.1. There are Shortcomings in Administrative Legislation

The current laws and regulations are difficult to meet the current urgent needs of environmental protection and sustainable economic and social development, and the purpose of the legislation on nature reserves is not clear, which cannot realize the objective needs of comprehensive protection. Article 1 of the Regulations stipulates that in order to strengthen the construction and management of nature reserves and protect the natural environment and natural resources, it is formulated.

These Regulations. As the purpose of the legislation, this article has two limitations: (1) the scope of protection it defines is not clear, the content of protection is too narrow, and it does not summarize biodiversity, national ecological security and other aspects. (2) It does not highlight other purposes other than the protection of the natural environment, and fails to reflect environmental protection from the purpose. The pluralism and ultimate value pursuit of protection, that is, to ensure national ecological security, achieve harmony between man and nature, and promote comprehensive and sustainable economic and social development. (3) The classification of protected areas is not scientific. The scope of protection is too narrow, and the current Regulations do not provide for the classification of nature reserves. According to the "Principles of Nature Reserve Committee Type and Level Classification" China's nature reserves are divided into 3 types, this classification method is not only out of touch with the internationally recognized classification method, cannot be in line with international standards, but also overlap and overlap, and more importantly, does not incorporate advanced nature conservation management systems, such as natural parks.

2.2. There are Deficiencies in Management

The Regulations stipulate that the main administrative departments of nature reserves shall be the competent administrative departments of nature reserves, including the competent administrative departments of environmental protection under the State Council and local people's governments at or above the county level who are responsible for the protection of nature reserves. The Regulations adhere to the management system combining comprehensive management and sub-departmental management, and the State Council is the chief administrative officer of environmental protection. The management department shall be responsible for the comprehensive management of nature reserves nationwide, and the relevant administrative departments of forestry, agriculture, geology and mineral resources, water conservancy and marine affairs under the State Council shall be in charge of relevant nature reserves within the scope of their respective duties. Yunnan's Shuangbanna National Nature Reserve covers an area of about 240,000 hectares, mainly protecting forest ecosystems and treasures such as tropical rainforests. Rare animal and plant species resources, with ecological value. However, the inspection found that in 2013, the protected area management bureau illegally leased the construction land of the management and protection station located in the experimental area to Yexiang Spring Drinking Water Co., Ltd., which has illegally drawn water in the core area of the reserve since 2013 to produce bottled water, and did not stop production until the on-site inspection. In March 2017, the Jinghong Environmental Protection Bureau ordered the Lida scrap metal processing plant in the experimental area to stop production and construction and dismantle the relevant equipment, and the local government reported the rectification situation and claimed that it had been banned and rectified in accordance with the law in February 2018. However, it was verified that the plant was actually converted into a scrap metal processing plant in violation of the law, during the on-site inspection in August 2018. In production. The Menglun Xingshun rubber wood processing plant in Mengla County, most of which is located in the experimental area of the protected area, produced illegally in 2012 and prepared an environmental impact assessment report in 2014, but the environmental impact assessment report did not mention the plant's encroachment on the protected area, and the Mengla County Environmental Protection Bureau approved it without verification. In the actual operation of rights, it is easy to lead to the dispersion of management rights.

2.3. Lack of Public Participation Procedures

China's current legislation on nature reserves does not fully reflect the basic principles of public participation in the protection and management of nature reserves. Existing environmental legislation contains provisions for public participation, but they are too principled and abstract and lack enforceability. Moreover, the legal status of citizens and organizations is not clear, and the form of public participation is relatively simple. Therefore, it is difficult for citizens to recognize their relationship with environmental protection, so that it undermines the enthusiasm of citizens to participate in the protection of nature reserves, making it difficult to realize the public participation system. However, in general, there is a lack of public participation mechanism in the entire protection management and supervision system, especially in the legislation does not give full play to the active role of the indigenous peoples of the reserve in the construction and development of nature reserves, the practice of environmental protection in China proves that the public is an important force in environmental supervision and management, therefore, it should be considered by the public in legislation, including the role of environmental protection organizations in the protection of nature reserves.

2.4. Land Tenure in Nature Reserves is Unclear

The relationship between State and collective ownership of land and between land ownership and use rights is not clear. The intersection of tenure relationships between different types of land makes land tenure in nature reserves unclear. The land in nature reserves is nominally owned by the State, and the State Council exercises land ownership on behalf of the State. Actually, land. Under the actual control of the local government, the local government develops the land of the nature reserve through the exercise of land management rights. The law expressly stipulates that the State Council exercises land ownership on behalf of the state, but in fact, the right to the use of state-owned land enjoyed by governments at all levels and their ministries is equivalent to the ownership of state-owned land. Liaoqing Liaohekou National Nature Reserve, located in Panjin City and Jinzhou Linghai City, has a unique wetland ecological landscape, with nearly 300
species of birds, especially 80,000 hectares of reed swamps, which play an important role in raising wild animals, conserving water sources, flood prevention and discharge. However, the inspection found that there are still 2,752 production wells in the reserve, of which 813 are located in the core area and buffer zone, and 63 were planned to be withdrawn in 2017, but only 17 were actually withdrawn, and some oil wells were seriously polluted during production; Chengtong Ecotourism Development Co., Ltd. has built a number of reed field production facilities in the reserve, and leased the wetlands of the reserve at 15 yuan per mu for shrimp and crab farming; Illegally constructed tourist landscape roads and oilfield operation roads frequently pass through the protected areas, resulting in aggravated the problem of wetland fragmentation. The Department of Management of Nature Reserves manages and operates both and engages in profit-making activities while exercising administrative powers. Therefore, state-owned land in nature reserves has become one of the main sources of sectoral interests.

3. The Legislation on Nature Reserves is Perfect

3.1. Strengthen the Establishment of the Legal System in Nature Reserves

Promote the revision and formulation of the Regulations on Nature Reserves, the Measures for the Supervision and Management of Forestry Nature Reserves, and the Measures for the Management of Construction Facilities in National Nature Reserves, comprehensively review the relevant laws and regulations of provincial nature reserves, and accelerate the construction of one district and one law. Improve the legal system and ensure that there are laws and regulations to follow. The first step in improving the legal system of environmental reserves is to reflect ecological laws and interests on the basis of the Regulations on Nature Reserves. The Nature Reserve Law was formulated based on legislative principles such as fair distribution and adaptation to local conditions. It is very necessary to upgrade the regulations of nature reserves into law and formulate a unified and perfect Nature Reserve Law. Therefore, a legislative model based on the Nature Reserve Law and supplemented by administrative regulations, local regulations and rules will be constructed.

3.2. Improve the Management System

With reference to the practice of targeted poverty alleviation, nature reserves will be archived and established, and accountability will be strengthened, and whoever causes problems will be responsible. Further strengthen information disclosure and public participation. We should handle the past work well, and protect and build the future. There are 463 national nature reserves and 2750 nature reserves in our country, which is a national treasure that must be cherished. In the process of legislation on nature reserves, it should be rationalized

The management system of nature reserves, the current multi-ministry management is conducive to giving play to the management enthusiasm of various ministries. However, it has also created the problem of excessive dispersion of human and financial resources. In order to avoid the situation of fragmentation and unclear authority, the competent authority of nature reserves should be delegated to the Ministry of Environmental Protection, the powers and responsibilities should be clarified, and the Ministry of Environmental Protection should set up a special management bureau, and the staff should be included in the establishment of the corresponding environmental protection agency, and the management authority of the protected area should be clearly authorized to exercise the management right of various resources, and at the same time formulate a management charter to comprehensively protect the ecological environment of the nature reserve. Strengthen the state's financial investment in nature reserves, so that the functions of nature reserves can be truly and effectively brought into play. It is necessary to strengthen management, strengthen the management of core areas in accordance with the "Regulations on Nature Reserves," and increase daily patrols. Strengthen supervision, vigorously crack down on the destruction of wild animals and plants, and strictly prohibit the destruction of protected areas by human activities. Solidly promote the rectification of ecological and environmental problems in nature reserves, strictly abide by the bottom line of the law, strictly handle procedures, strictly pursue responsibility and accountability, continuously improve the sky-ground integrated monitoring platform of nature reserves, ensure that prevention and control are in place, investigation and punishment are in place, rectification and reform are in place, and continuously improve the quality of the ecological environment of nature reserves in China. Strengthen projects involving the construction of nature reserves of the Access Review. The site selection and route selection of construction projects shall avoid nature reserves as much as possible, and if it is indeed impossible to avoid due to major infrastructure construction and natural conditions and other factors, environmental impact assessment and other systems shall be strictly implemented, and relevant approval procedures shall be handled in accordance with law. Establish a regular supervision system and a working mechanism for problem interviews in nature reserves, promote the construction of a three-level supervision platform between the State Forestry Administration and the province and the national nature reserve, and strengthen the management of nature reserves in various places. Establishment of institutions and team building for management and law enforcement.

3.3. Clarify Land Tenure Relationships

The problem of land tenure conflicts in nature reserves in China is serious. The main reason is the immediate conflict of economic interests, the contradiction between protection and development. On the surface, economic backwardness creates a contradiction between protection and development, but at a deeper level, it is actually caused by the mixing of land management rights and land ownership. The government hopes to adopt the self. However, the establishment of protected areas benefits from the central government, and at the same time uses the dominant position of land management rights and de facto land ownership to participate in market economic activities and compete with the interests of the government. The legal restrictions on land rights have not had a public welfare effect, but have indirectly become a way for developers and local governments to reap benefits. The land of nature reserves shall be mainly owned by the State, and their land use rights shall be assigned to the management bodies of nature reserves. Where the land of a nature reserve does not belong to the State, the person applying for the establishment of a nature reserve may transfer the right to the use of the land to the nature reserve management agency.
through requisition or purchase. For collective land for which the State cannot obtain land ownership, or for state-owned or collectively-owned land for which the management body of nature reserves cannot obtain the right to the use of the land, some restrictions may be imposed on the manner and intensity of the user’s use of the land by reference to foreign management agreements, and necessary compensation may be given according to the damage to the interests of the land-use right holder.

In short, it is necessary to achieve the overall goal of improving the legal system of nature reserves. It is necessary to deepen institutional reform, actively promote legislation, and optimize the spatial distribution of nature reserves. It is believed that with the joint efforts of all sectors of society, the construction of China's nature reserve system with national parks as the main body will surely achieve brilliant results in the future. As an important carrier for promoting ecological civilization, building national ecological security barriers, and building a beautiful China, it will play an active role in the future.

**References**


