Study on the Construction of a New Third-Party Governance Model for Environmental Pollution

Jianjian Mo *
Fuzhou University of International Studies and Trade, Fuzhou, Fujian, 350202, China

*Corresponding author e-mail: mojianjian@fzfu.edu.cn

Abstract. In recent years, China’s environmental pollution control focuses on public participation. As an important measure of pollution control, the marketization and specialization of pollution control is a historical trend. Some scientific research institutes and environmental protection enterprises have begun to practice the third-party governance system. Looking at the practical effect, there are many deficiencies in the current third-party governance model, mainly for the lack of promotion power of the third-party governance model, the imperfect third-party governance supervision system, and the inability to distinguish the scope of responsibility between the main body of pollutant discharge and the main body of pollution control. In this paper, from the perspective of “operation mechanism, legal relationship and central subject”, the paper creatively constructs the “three-in-one” third-party governance mode to effectively solve the problem of responsibility definition between the pollutant discharge, pollution treatment subject and the government.

Key words: environmental pollution, environmental governance, third-party governance.

1. Introduction
Marketization and specialization of environmental pollution control are the main effective measures of environmental pollution control in the new era. According to the mode of capital investment, the existing specialized environmental pollution control modes are mainly divided into three categories, including pure private capital, public-private joint venture, and the mode of putting state-owned assets into operation. As shown in Table 1, the trusteeship operation mode and entrusted governance mode of contract environmental services are mainly embodied in the private environmental pollution control category, and the government’s public power intervention type is mainly reflected. In fact, there are two types of relationship between the main body of pollution control and pollution discharge, and the relationship between the government and the main body of pollution control. However, there is a big problem in the above existing pollution management methods, and the relationship between them is relatively isolated, which can not reflect the collaborative, systematic and overall pollution control relationship. There are also some problems in the legal relationship of third-party governance, such as unclear definition of rights and obligations. Only clearly defining the relationship of rights and obligations is conducive to solving the current chaotic situation of rights and obligations of environmental pollution control.
Table 1. Carding matrix of current governance model

| Practical modes                          | Distinguishing basis                     | Distinguishing factors                                      | Relationship types                          | Modes induction                      |
|------------------------------------------|------------------------------------------|------------------------------------------------------------|---------------------------------------------|---------------------------------------|
| Trusteeship operation mode               | Ownership of pollution control facilities| All belonging to the subject of sewage discharge            | Subjects of pollutant discharge and pollution control | Modes of enterprise and enterprise    |
| Entrusted governance mode                |                                          | All or part of them belonging to the subject of pollution control |                                             |                                       |
| Franchising governance model             | Degree of government intervention by public power | More public power intervention |                                   |                                       |
| Governance mode of PUO and BOO          |                                          |                                                          | Government and subjects of pollution control | Modes of government and enterprise     |
| Purchasing mode of environmental services|                                          |                                                          |                                             |                                       |
| Management mode of entrusted operation   |                                          |                                                          |                                             |                                       |

2. Problems in the operation of the third-party in environmental pollution control

2.1. The interests of the anti-polluters cannot be guaranteed

The third-party governance of environmental pollution should embody the following three aspects: the discharge party of environmental pollution, the pollution control party and the government. In theory, the original intention of this kind of system design is to realize the mutual restriction of triangular relationship and achieve an optimal balance state. However, in actual operation, when the pollution treatment party is facing the pollutant discharge party, the pollutant discharge party often requires the polluter to advance the investment in pollution control facilities and technology in the early stage, and the anti-polluter is not active in paying the sewage charges, leading to the fracture of the capital chain of the pollution treatment enterprises, which affects the real interests of the pollution control enterprises and even leads to the closure of the pollution control enterprises. In the face of the government, the government plays two roles, one is as the investor of policy or fund, the other is as the environmental protection supervision organ. When the government is an investor, the implementation of funds and policies should be strictly followed and progress is slow. However, as an environmental protection supervision role, the administrative efficiency of the administrative organ is efficient, which leads to difficulties in the operation of pollution control enterprises.

2.2. The obligations of the polluter and the anti-polluter need to be further clarified

In the relevant treatment practice, it is found that there is a misunderstanding in the understanding of pollution control responsibility in the sewage enterprises. If the pollutant discharge enterprises think that they have paid the pollution discharge fees, then the pollution control obligations will be directly transferred to the pollution control enterprises. This is a kind of misunderstanding in nature. For example, according to the research reports on the third-party treatment of environmental pollution in Hunan and Hebei provinces by experts, it can be seen that the pollution discharge enterprises have paid the pollution discharge fees. Enterprises believe that if they implement the third-party governance mode, their obligations and pressures will be far greater than their own governance or non governance status, and if they insist on the third-party governance, they should transfer their responsibility for pollution discharge to the pollution control enterprises. The third-party governance is to transfer the pollution control behavior of the pollutant discharge enterprises to the pollution treatment enterprises, not to transfer the legal responsibility. The legal responsibility of pollution control is still the sewage discharge enterprises.
2.3. The responsibility subject of multiple secondary pollution control is difficult to determine

Environmental pollution control is a systematic project. In the process of treatment, there are many complex details. Among them, the secondary environmental pollution of environmental pollution control is one of them. Due to the scientific uncertainty of the relevant pollution control technologies adopted by the pollution control enterprises, the pollution control enterprises may produce secondary environmental pollution in the process of pollution control. In many ways, on the one hand, it may be that the pollutant discharge enterprises have changed and the chemical elements in them have changed. On the other hand, it may be caused by the scientific uncertainty of the technology adopted by the pollution treatment enterprises. The reason is very difficult to define. Naturally, according to the imputation principle of environmental tort liability, it is difficult to define this causal relationship. Definitely, the distinction of environmental pollution liability is also very difficult to define. This is also one of the reasons why the third-party governance system of environmental pollution is difficult to be accepted and effectively promoted.

3. Establishing the “three-in-one” third-party treatment mode of environmental pollution

3.1. Operation mechanism: implementing the double track operation mechanism of enterprise-enterprise and government-enterprise interaction

The ideal concrete operation of the third-party treatment of environmental pollution should be as shown in Table 2. The operation mode mainly includes the mutual operation between enterprises and enterprises, and the operation relationship between the government and enterprises. This is a dual track mechanism whose operation depends on whether the scope of obligations can be distinguished between the subjects, that is, the responsibility for pollution control between them. The third-party governance of environmental pollution is a systematic and integrated mode of environmental governance. The main body of the integrated environmental pollution control is multielement, and the relationship is certainly diversified, which is not conducive to the operation of the third-party governance mechanism of environmental pollution. It is conducive to promote the implementation of the third-party governance of environmental pollution, and the smooth and clear implementation of legal acts means the operation of the third-party governance mode of environmental pollution.

\begin{table}
\centering
\begin{tabular}{|c|c|c|c|}
\hline
Mode types & Phases of legal relationships & Subjects & Supervision subjects \\
\hline
Modes of enterprise and enterprise & Generation stage & Subject of pollutant discharge & Subject of pollution control & Government sectors \\
\hline
 & Development stage & Subject of pollutant discharge & Subject of pollution control & Government sectors \\
\hline
 & Processing stage & Subject of pollutant discharge & Subject of pollution control & Government sectors \\
\hline
Modes of government and enterprise & Generation stage & Government & Subject of pollution control & Government self-supervision \\
\hline
 & Development stage & Government & Subject of pollution control & Government self-supervision \\
\hline
 & Processing stage & Government & Subject of pollution control & Government self-supervision \\
\hline
\end{tabular}
\caption{The ideal concrete operation of the third-party mode}
\end{table}

3.2. Legal relationship: Improving the three core legal relationships of the third-party environmental pollution control

If the legal relations in these three stages can be clarified, the corresponding legal acts can also be clarified, and clearly the rights and obligations between the subjects can be clarified. This horizontal
and vertical legal relationship network is to solve the complex and changeable problems of secondary environmental pollution control, such as the three stages of legal relations under the perspective of enterprise governance mode, and the generation stage of third-party governance legal relationship. This kind of legal relationship generally exists in the relatively simple environmental pollution, that is, the legal relationship between the pollution treatment subject and the pollutant discharge subject is the legal relationship between them, which is the problem of withdrawal of legal relationship and elimination of liquidation, and their rights and obligations are relatively simple. Environment is the main body of pollution discharge and the subject of pollution control to fully perform their respective obligations according to their agreed rights and obligations. This state can exist in the short term and can also be realized in practice. Due to the dynamic and long-term nature of environmental pollution control, this kind of existence state is more rational. Therefore, the stage is extended to two stages of development and treatment to make up for its shortcomings.

3.3. Central subject: adhering to the main body of pollution control as the center
In these traditional governance modes, the only subject that cannot be bypassed is the subject of pollution treatment, so is the legal relationship of the third-party governance. The only subject that cannot be bypassed is also the subject of pollution control. The subject of pollution control should be the central and core subject in the legal relationship of pollution control. The whole legal relationship of the third-party governance is around the subject of pollution control and the subject of pollution discharge, the subject of pollution control and the subject of government, and the subject of pollution control. With the environmental protection and supervision departments, only the main body of pollution control is taken as the center. These governance modes can be classified and analyzed, which is conducive to further analysis of legal relations, the legal rights and obligations between each other, and the development and expansion of the third-party governance model of environmental pollution.

4. Conclusion
The solution to the problem of unclear rights and responsibilities should start with the legal relationship, clarify the third party subject, rights and obligations, and the object and object, and then gradually determine the corresponding specific legal relationship. Through the determination of the legal relationship to determine or set the relationship between the rights, interests and obligations between the subjects, the corresponding rights and responsibilities will be clarified and then the subject’s interests in pollution control can be guaranteed. Thus, the system can be operated scientifically and effectively, and the specialized environmental pollution control can be greatly improved.

References
[1] Zhang Feng, Research on the third party treatment of environmental pollution, Journal of Huazhong Agricultural University (SOCIAL SCIENCE EDITION), 2020: 118-123.
[2] Lu Zhikui, Lin Rongquan. Third party treatment of river basin environmental pollution: contract relationship and institutional logic. Journal of Renmin University of China, 2019, 33 (6): 150-157.
[3] Yun Jinqi, Xu Yixue, Chen Kun, fan Peipei, Tang Yandong. Exploration on the development of the third party treatment of environmental pollution in China. Environmental protection, 2019, 47(20):51-53.
[4] Tang Shaojun, Wei Yu. Definition of tort liability of third party treatment of environmental pollution. Journal of Chongqing University (SOCIAL SCIENCE EDITION) 2019, 25(1):141-151.
[5] Li Jinyu, Guo Zhida, Bai Yuanyang. Study on the principal agent model of the third party treatment of environmental pollution. Environmental protection science, 2019, 45 (3): 21-24.