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Pluralism of the purpose of environmental public interest litigation

Yu Lin

Abstract

This paper analyses the pluralism of the purpose of Environmental Public Interest Litigation (EPIL) based on the significance of the theory of the purpose of EPIL, a fundamental question to establish a complete system of EPIL. Based on the illustration of the characteristics and significance of EPIL, building a pluralism of EPIL has four purposes: environmental equity, environmental justice, good environmental governance and harmonious development.

Key-words

Environmental public interest litigation/pluralism/environmental equity/environmental justice/good environmental governance

Pluralism of the purpose of environmental public interest litigation

Yu Lin*

SUMMARY: 1. Introduction. - 2. The significance of the theory of the purpose of EPIL. - 3. The theory of the purpose of EPIL is pluralistic. - 4. Conclusion

1. Introduction

The study of the purpose of Environmental Public Interest Litigation (EPIL) has a fundamental and overall perspective. As basic and preconditioned research, it not only has theoretical value but also has great practical significance. An explicit theory of the purpose of EPIL can guarantee the consistency of legislation and amendment, and avoid conflict between laws, thus safeguarding the coordination and authority of the EPIL legislation system. This article elaborates on the purposes of EPIL including environmental equity, environmental justice, good environmental governance and harmonious development, and discusses reasons for the pluralism of the purposes of EPIL.

As a legal tool, Public Interest Litigation (PIL) can affect decisions and activities of public interest by the government and court through empowering individual, organization and community rights by law. Environmental Public Interest Litigation (EPIL) particularly means PIL in the field of environmental protection which protects environmental public interest through litigation. It is very different from traditional litigation which is normally filed by the person whose interest is directly damaged and represents a departure from traditional judicial proceedings, as litigation is not

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necessarily filed by the aggrieved person. Recently, EPIL has expanded quickly around the world, but its specific rules and procedures differ widely from country to country and region to region. Generally speaking, EPIL cases represent grievances and injustice of the environment and society. They are often used strategically as part of a wider campaign on behalf of disadvantaged and vulnerable groups in society.[1] EPIL started in the United States in the 1970s, albeit with a different terminology.[2] From the Clean Air Act Section 7604, "Citizen Suits",[3] through the 1970s and to the present day, the U.S. Congress has passed more than 20 important federal environmental laws. Most of the laws include EPIL clauses. These include Article 505 of the Clean Water Act 1972, Article 12 of the Noise Control Act, Article 11 of the Endangered Species Act 1973, Article 1449 of the Safe Drinking Act 1974, the Energy Policy and Protection Act of 1975 (namely Article 335 of the Act), Section 7002 of the Resource Conservation and Reproduction Act of 1976, Section 20 of the Toxic Substances Control Act, Section 215

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[1] Christoph Scwarte (FIELD): *PUBLIC INTEREST LITIGATION (PIL)*, see at: http://www.environmental-mainstreaming.org/documents/EM%20Profile%20No%203%20-%20Public%20Interest%20Litigation%20(6%20Oct%2009).pdf

[2] Citizen Suits in the United States.

[3] *42 U.S.C.*
United States Code, 2013 Edition
Title 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 85 - AIR POLLUTION PREVENTION AND CONTROL
SUBCHAPTER III - GENERAL PROVISIONS
Sec. 7604 - Citizen suits
(a) Authority to bring civil action; jurisdiction
Except as provided in subsection
(b) of this section, any person may commence a civil action on his own behalf—
(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of (A) an emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation,
(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator, or
(3) against any person who proposes to construct or constructs any new or modified major emitting facility without a permit required under part C of subchapter I of this chapter (relating to significant deterioration of air quality) or part D of subchapter I of this chapter (relating to nonattainment) or who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of any condition of such permit.
The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties (except for actions under paragraph (2)). The district courts of the United States shall have jurisdiction to compel (consistent with paragraph (2) of this subsection) agency action unreasonably delayed, except that an action to compel agency action referred to in section 7607(b) of this title which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 7607(b) of this title. In any such action for unreasonable delay, notice to the entities referred to in subsection (b)(1)(A) of this section shall be provided 180 days before commencing such action.

of the Dangerous Liquid Pipeline Safety Act of 1979, the Super Capital Act of 1980, the 310-item, the 1986 “Contingency Plan and the Community Right to Information Act”, all of which have made similar provisions for citizen suits. The lawsuits contained in these laws are not exactly the same, but their content is not that different either. Courts' interpretation of these terms is generally consistent. In a nutshell: any person can file a citizen suit on his own behalf, can sue anyone who violates provisions of this law, or can sue the Director of the Environmental Protection Agency by accusing him of an inability to perform his responsibility. These substantive lawsuits on citizen suits are in line with the “Regulations on Civil Procedure in the Federal District” (especially Article 17) and together constitute a complete set of EPIL systems.

In addition, EPIL has progressed in other countries: India, Japan, Germany etc., along with China which finally established EPIL in law in 2012. In India, EPIL or Social Action Litigation (SAL) is one of the judicial ways of approaching the Supreme Court and High Courts, regardless of individuals or organizations that are unable to approach the court for relief due to their disadvantageous situation. These litigations allowed them to field suits under writ jurisdiction through their constitutional and other legal rights. The constitution of India (1950, Article 32) empowers the Supreme Court and Article 226 empowers the High Courts to enforce environmental protection through citizen suits by any public citizen or by any Non-Government Organizations (NGOs) for the prevention of environmental damage. In 1986, the first instance of regulating citizen suit provisions in the lower courts in the Environment (Protection) Act occurred. According to Section 19 of the Act, citizens could file a polluter suit to the Judicial Magistrate Court because of illegal polluting activities. After notifying the State Pollution Control Board, anyone can file a suit, as long as it is within sixty days. Hitherto, the subject of citizen suits is only the government. Then, other similar provisions in different Acts have been regulated by amendment, such as Section 43 of the Air Act (1981) and Section 49 of the Water Act (1974), by way of amendment. The other point about all these provisions with regulated information disclosure is that all relevant environmental information for the pollution control boards needs to be

disclosed to the person who wants to prosecute the polluter.[4]

In Japan, the rapid development of industry caused severe pollution in the 1960s. Minamata disease, which was a type of mercurial poisoning caused by wastewater of industrial pollution and Yokkaichi asthma, which was a serious disease caused by air pollution, are two examples of pollution damage which led citizens to fight for their rights by civil movements. These incidents had triggered the antipollution movements among citizens nationwide that led local governments to set up the regulatory measures for pollution. As a result, in 1967, the central government enacted the Basic Law for Pollution Control and was followed by other pollution control laws (Morishima, 1999).[5] The law advocates that environmental countermeasures should be aimed at reducing environmental pollution and building a sustainable society to leave a good environment for the inheritance of future generations and at the same time promote international cooperation to preserve the global environment.[6]

In Germany, EPIL is applied under the strict proviso that only organizations formally recognized by the environment sectors are admitted to start an EPIL, under the Federal Natural Protection Act and associated provisions. To be officially admitted, organizations should work on environmental protection for at least three years with the goal of protecting their ecological interests. An eligible organization could initiate EPIL against the state government for decisions or plans which have had a negative influence on nature, aiming to prevent environmental damage and protecting nature conservation areas.[7]

Before 2012 China did not have any clauses about EPIL in law until the amendment of the Civil Procedure Law stipulated EPIL,[8] then the amendment of

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[4] See http://www.environmentallawsofindia.com/public.html

[5] Addinul Yakin: *State, Institution, and Environmental Governance: Special reference to Indonesia, Malaysia, and Japan,* March 2005, Conference: Country workshop and Seminar on the Results of API Fellowship Program 2003/2004, At LIPI Jakarta, Indonesia.

[6] See Xie Wei: *Research on Environmental Public Interest Right,* China University of Political Science and Law Press 2016, p. 219.

[7] Christoph Scwarte (FIELD): *PUBLIC INTEREST LITIGATION (PIL),* see at: http://www.environmental-mainstreaming.org/documents/EM%20Profile%20No%203%20-%20Public%20Interest%20Litigation%20(6%20Oct%2009).pdf

[8] *Civil Procedure Law of the People's Republic of China Article 55*: For conduct that pollutes the environment, infringes upon the lawful rights and interests of vast consumers or otherwise damages the public interest, an

Environmental Protection Law also stipulated EPIL in 2015.[9]

Compared with traditional environmental tort litigation based on personal and property rights, EPIL is a new type of litigation. Plaintiffs of EPIL have rights to file a lawsuit for objective behaviours with environmental pollution and ecological damages, even though plaintiffs are without a direct, specific relationship with objective behaviours. The essence of EPIL lies in the protection and relief of damages of public interests through litigation procedures and mechanisms. Compared with traditional lawsuits, it has the following characteristics:

(a) The extensiveness of the plaintiff qualification. Individuals, enterprises, institutions, groups and organizations can all file EPIL with the aim to protect environmental public interests, according to provisions of laws once environmental damage has happened or even when there is just the probability of environmental damage occurring.

(b) The specificity of the litigation object. Any legal system is designed to adjust the corresponding interests, while traditional litigation aims to protect the private interest. As a legal system, EPIL regulates and protects the environmental public interest in litigation.

(c) The dual purpose of litigation. One is to punish and stop illegal actions, and the other is to prevent new illegal actions occurring; in other words, EPIL has preventative ability so that the environmental public interests can be effectively protected.

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authority or relevant organization as prescribed by law may institute an action in a people's court.
Where the people's procuratorate finds in the performance of functions any conduct that undermines the protection of the ecological environment and resources, infringes upon consumers' lawful rights and interests in the field of food and drug safety or any other conduct that damages social interest, it may file a lawsuit with the people's court if there is no authority or organization prescribed in the preceding paragraph or the authority or organization prescribed in the preceding paragraph does not file a lawsuit. If the authority or organization prescribed in the preceding paragraph files a lawsuit, the people's procuratorate may support the filing of a lawsuit.

[9] *Environmental Protection Law of the People's Republic of China Article 58*:
For an act polluting environment or causing ecological damage in violation of public interest, a social organization which satisfies the following conditions may institute an action in a people's court:
(1) It has been legally registered with the civil affairs department of the people's government at or above the level of a districted city.
(2) It has specially engaged in environmental protection for the public good for five consecutive years or more without any recorded violation of law.
A people's court shall, according to the law, accept an action instituted by a social organization that satisfies the provision of the preceding paragraph.
A social organization may not seek any economic benefit from an action instituted by it.

2. The significance of the theory of the purpose of EPIL

The theory of the purpose of EPIL belongs to the basic and prerequisite issues in the theoretical research of EPIL. The German scholar Jerling believes that the production of each legal rule stems from some purposes, namely, an actual motive.[10] The theory of the purpose is the cornerstone of the construction of a specific legal system and the basis of theoretical research. With explicit purposes, we can conduct better and wider research. From the point of view of litigation theory, civil litigations, criminal litigations and administrative litigations have an explicit theory of the purpose of litigation. Although hundreds of schools of thought contend this, there is no doubt that the study of various disciplines is based on the basic research of the theory of the purpose of litigation, thus it is self-evident that the study of the purpose is important and necessary.

Without the study of the purpose of litigation, there is no prosperity for the research of the entire procedural law; without the guidance of the purpose of litigation, many problems in procedural law studies will not be solved. The theory of the purpose of litigation is the basic element for the construction of litigation and the core of other theoretical issues in litigation. EPIL should develop the theory of the purpose of EPIL which is suitable for its own development according to its own characteristics, rather than directly apply the theory of the purpose of the traditional three major litigations.

The different perspectives of the theory of the purpose create different systems and different legal interpretations. When legislators enact and revise regulations, they must have explicit purposes and value orientation as standards that come from the well-developed theory of the purpose of litigation. In reality, if we just viewed laws as a tool, it will be difficult to establish the most general rules which adapt to society. Therefore,

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[10] Quoted in E. Bodenheimer: *Jurisprudence, Legal Philosophy and Legal Methods*, China University of Political Science and Law Press, 1999, p. 109.

when we study the theory of the purpose of EPIL, we should avoid only considering the value of tools. Instead, we should consider the different systems created for different purposes. The interpretations of the law are close to the purpose of laws and guided by different purposes, positions, methods, and conclusions of legal interpretations will present different forms. In cases where there are laws that are not regulated, legal interpretation is required. Legal interpretation will not only affect the application of the law, but also have a profound impact on future legislation. To be specific, when EPIL encounters situations that require interpretation in practice, different purposes will lead judges to make different legal interpretations. It follows that the study of the purpose of EPIL plays an essential role in the interpretation of EPIL, which is conducive to the unification and accuracy of EPIL interpretation.

The theory of the purpose is an important part of the integrity of EPIL disciplines. The practice has proved that the judicial activities of EPIL must be disorientated without the guidance of the theory of the purpose. Furthermore, it is impossible to solve problems arising from judicial practice. At present, China is promoting the revision of the EPIL system positively and proposing revised plans and proposals, that all require a set of systematic theory of the purpose. At the same time, when there is a gap in legislation or regulations are too abstract, the theory of the purpose of EPIL will be the necessary supplement for the judicial practice, to handle cases better in the process of law enforcement.

German scholar Bernd said: "More often than not, for legal scholars, more important is not logical thinking, but rational thinking with purpose. Most problems faced by jurists involve the rationality of the solution, substantive equity or purposiveness, therefore it cannot be simply evaluated with right or wrong."[11] Clarifying the purpose of the legal system and bringing it into line with the law of the development of things, conforming to the meaning of its own existence, establishing the purpose of EPIL can effectively avoid unnecessary conflict and contradiction in the research of EPIL.

[11] Bernd Weidges: *Jurisprudence*, translated by Ding Xiaochun, Wu Yue, Law Press-China 2003, p. 134.

3. The theory of the purpose of EPIL is pluralistic

"Pluralism" itself is a term susceptible to multiple understandings - and to one big distinction: between pluralism as purely descriptive and pluralism as a good in itself.[12] The theory of the purpose of three traditional litigations can be divided into three sub-theories: monism, dualism and pluralism. The civil litigation has the theory of rights protection, the maintenance of the private law order, the dispute resolution theory, the procedural safeguard theory, and the pluralistic theory. In the theory of administrative litigation, there has been the view of the pluralism under monism. Chinese scholars generally consider that the purpose of EPIL is monism that is only to protect the public interest.

Monism means litigation has only one purpose; for example, the monism of the purpose of Administrative Litigation is to safeguard civil rights and interests. The purpose of the administrative litigation law should only be one, that is to provide administrative counterparts with a legal mechanism that can realize the right relief.[13]

The purpose of EPIL is defined as monism – "the purpose of public interest protection". [14] Scholars believe that the purpose of EPIL is to "protect the environmental public interest", which not only reflects the needs of the era of environmental protection but also suits the established context of theoretical research and practical operations.[15] The viewpoint of the monistic theory is almost thinking that the protection of rights is only one purpose, such as the protection of the rights in the theory of the purpose of civil litigation, the safeguard of legitimate rights and interests of citizens in administration litigation, and the protection of human rights in criminal litigation. In fact, all legal systems aim to protect some rights. Therefore, from this

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[12] Paul Horwitz, Positive Pluralism *Now*, 84 *U. Chi. L. Rev*. 999, 2017.

[13] See Zhang Shuyi: *Reform and Reconstruction: The Idea of China's Administrative Law under the Background of Reform*, China University of Political Science and Law Press, 2002, p. 228; Zhang Jiansheng, *Basic Theory of Administrative Litigation Law*, China Personnel Press, 1998, p. 6.

[14] Duan Housheng: Basic Thinking on Environmental Public Interest Litigation, *Chinese and Foreign Legal Science*, Issue 6, 2016.

[15] Liu Yi: Purpose of Civil Environmental Public Interest Litigation - Analysis of Interpretation to Some Issues of Applicable Law of Civil Environmental Public Interest Litigation Cases, *Journal of Chongqing University of Technology* (Social Science), 2015(2).

perspective, regardless of whether they are classified as a direct or fundamental purpose, they do not actually reflect the meaning of the purpose of litigation, because the existence of any legal system is to protect a certain right, but it is too narrow if the only one purpose of litigation is to protect some rights.

Dualism: The purpose of administrative litigation includes two aspects, one is to protect human rights or freedom, that is, to supervise administrative organs to exercise administrative powers according to law; the other is to safeguard the legitimate and fair exercise of powers by administrative organs, that is, to protect public human rights. These two aspects are the inseparable goals of administrative litigation. Citizens, legal persons or other organizations as the plaintiff pursue the protection of private human rights, the administrative organs of the defendant pursue the protection of public human rights under the legal premise;[16] the purpose of criminal litigation is a dualistic theory that is the dual-purpose theory of criminal litigation. The former theory is mostly regarding purposes as punishing crimes and safeguarding human rights, but as time has passed and discipline has developed, nowadays, there are many reasons to change the former thought to the due process and the protection of human rights.[17] Some scholars also divide the purpose of criminal proceedings into two levels: direct purpose and fundamental purpose. They think that the direct purpose includes controlling crime and protecting human rights, the fundamental purpose is to safeguard the constitutional system and the order of consolidation and development.[18] As for civil litigation, scholars think that has the dual purpose; one is settling disputes (preserving the order of society), the other is protecting civil rights (confirming the relationship of rights and obligations).[19] In the present research on the theory of the purpose of EPIL, there is no point of view of dualism.

Pluralism: In the administrative litigation, pluralism can be divided into a three-

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[16] See Liu Shanchun: *The Value of Administrative Litigation,* Law Press-China, 1998, p. 56.

[17] See Hao Yinzhong, Criticism and Reconstruction of the Dual Skopos Theory of Criminal Litigation, *Studies in Law and Business*, 2005(5), pp. 53-62.

[18] See Song Yinghui: *The Skopos Theory of Criminal Procedure*, Chinese People's Public Security University Press, 1995, pp. 84-89.

[19] Chen Gang, Weng Xiaobin. On the Purpose of Civil Litigation System, *Nanjing University Law Review*, 1997(1), pp. 190-197.

purpose theory and multi-purpose theory. The three purposes are: first, to safeguard the rights and interests of citizens and to achieve relief for citizens; second, to provide legitimate support for legitimate actions of the government and to promote the fulfilment of administrative goals; third, to solve administrative disputes, safeguarding the unity of the law and the state's overall interests, and promoting and ensuring the rule of law of the administration.[20] Regarding multi-purposes, some scholars believe that the purpose of administrative litigation is pluralism and can be decomposed into procedural justice, balance of interests, promotion of cooperation, and cost minimization of morality, and so on.[21] Among them, scholars have proposed a multi-purpose view under the leadership of Monism: solving administrative disputes is the direct or primary purpose of administrative litigation, and it is at the lowest level in administrative litigation; and supervisory administration revealing the purpose of essential characteristics of administrative litigation. This purpose is the second or intermediate level, while the protection of administrative rights and interests (the core is the protection of the relative administrative rights and interests) is the fundamental purpose of administrative litigation, and is in the highest level of administrative litigation. These three purposes are progressive, and the purpose of the lower level is also the means to achieve the higher level.[22]

There are some reasons in favour of the pluralistic theory of the purpose of EPIL: as a format of the legal system, the EPIL should have the value sought by the general law. Its purpose is the same as all laws: to achieve equity and justice, specifically to achieve equity and justice in the field of the environment. The Roman jurist Domitius Ulpianus said: “For those who intend to learn Roman law, one must first understand where the term ‘ius’ comes from. It comes from iustitia. Actually, law is an art of good and justice (Jus est ars boni et aequi.)”[23] Justice is a stable and eternal will that gives everyone the rights they deserve. Aristotle believes that law is the embodiment of

[20] Xue Gangling: *Research on Administrative Litigation Ri*ght, Huawen Press, 1999, p. 30.
[21] Hu Xiaohua: *On the Purpose of Administrative Litigation*, Chinese Law, No. 6, 2001, pp. 50-55.
[22] See Hu Weilie: *The Spurification of Administrative Litigation,* China Procuratorate Press, 2014, p. 159.
[23] Sandro Scibani: *Selected Translations of Civil Law, Justice and Law,* China University of Political Science and Law Press, 1992, p. 34.

justice. Justice is the life and soul of the law; the law without justice is nothing but a meaningless body. Among the many qualities of law, justice is the most fundamental one and is a kind of virtue. Therefore, he often regards law and justice as the concept of mutual inclusion.[24] John Bordley Rawls points out that justice is the main value of the social system, just as the truth is the primary main value of the ideology. A theory must be rejected or amended as long as it is not justice, no matter how sophisticated or concise it is. Likewise, laws or institutions must be restructured or repealed as long as they are unjust, no matter how efficient and orderly they are.[25] It can be seen that if the existing legal system is unjust it must be abolished or amended. EPIL has been established as a legal system based on the situation where humans have experienced a long and increasingly serious environmental damage, which caused the awareness of legal and environmental protection to become more and more progressive. In other words, for the sake of the survival of human and environmental protection, especially environmental public interest, EPIL has been created to achieve these goals. Therefore, for the sake of protection of the environmental public interest and accomplishment of the environmental equity and environmental justice, EPIL has become the indispensable format of the laws in the world.

Good governance includes the state government, private sectors and civil society. They play very different roles in good governance but all of them are important for sustainable development. Specifically, the state government establishes a beneficial political and legal environment, and the private sectors create jobs and wealth. Civil society generates an interaction between politics and society and encourages organizations to join in economic, social and political activities.[26] Good law and good governance are also the purposes pursued by the law, and the relationship between them is very close. The practice of the rule of law shows that it is hard to have good governance without good law. The rule of law is a concept with moral orientation; it is stricter and more complex than the rule of law. Good law is the basis of good

[24] Aristotle: *Politics,* Commercial Press, 1981, p. 342.
[25] John Bordley Rawls: *The Theory of Justice,* Chinese Social Sciences Press, 1988, p. 1.
[26] Narayan Belbase: *Environmental Good Governance in the Future Constitution of Nepal,* Policy brief - August 2010

governance, not isolated from it.[27] Good law needs to be considered from both the procedural and substantial aspects. To become a good law, the law must pursue the purposeful social values such as justice, order, freedom, security and interests. As part of the procedural law, EPIL is a necessary way to safeguard the fulfilment of citizen's environmental rights.

Baron de Montesquieu once said that the spirit of the law is also the essence of the spirit of the times; the spirit of the law is closely related to the value of the law.[28] The spirit of law represents the value basis of law, core values and meta values. The spirit of law changes with the changes in economic society and public governance models. Both equity and justice and good law and good governance are legal purposes established under the guidance of traditional legal values. Harmonious development has its unique characteristics as a new legal purpose that is different from the traditional legal values. With the development of the times, after the ethical concept of human environmental treatment has gone through the stage of focusing on human interests and extending to modern ecological interests, the "harmony" is based on the establishment of a value concept centred on global ecological interests. Harmonious development needs good governance, as for EPIL, it means achieving harmonious development between humans and nature. Good environmental governance is the fundamental step towards achieving the goal. Actually, harmonious development via governance is a long process. It is a joint governance that combines the public sectors with the private sectors, the government with social organizations and citizens.[29] The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) put forward the eight elements of good governance in the article "What is Good Governance?" They are: Consensus oriented, Participatory, Follow the rule of law, Effective and efficient, Accountable, Transparent, Responsive, Equitable and inclusive. The EPIL aims to firstly be a good law, then achieve good environmental governance based upon it. The

[27] He Zhipeng: How is "good law" and "good governance" important? – The review of the international rule of law standards. *Journal of Zhejiang University (Humanities and Social Sciences),* 2014, 44(3), pp. 131-149.
[28] Quoted from Zhang Wenxian. The Introduction of the Spirit of Harmony and the Transformation of the Rule of Law in China – From Rule by Law to Good Law and Good Governance, *Journal of Social Sciences of Jilin University*, 2010(3): pp. 12-15.
[29] Zheng Hangsheng. Social Harmony and Publicity. *Socialism with Chinese Characteristics*, 2005(1): pp. 16-18.

elements of good governance are reflected in EPIL, for instance, when the environmental public interest is damaged without protection, the law grants the citizen the right to file EPIL that is a reflection of the public participation. More specifically, citizen suits in the United States are a form of public participation. The essence is that non-official legal entities (mainly the general public, including individuals and environmental groups) file against anyone who violates environmental laws (including non-official and official legal entities) in accordance with relevant laws and authorization requirements, so the law can be effectively implemented. Citizens can be sought for legal remedy for the violation and disputes related to the environment which are not directly related to their own interests, thus it can protect the environment and improve the implementation of law effectively.

There is more than one purpose when people take action or establish rules and regulations, however, people should adjust and balance them when these purposes conflict. Therefore, the theory of monism of the purpose cannot lead all activities of the court and satisfy the needs of all people.[30] The reason for pluralism of the purpose of EPIL is that each purpose is related to each other, not either this or that, like a coin they have two sides. For example, the prerequisite for good environmental governance is that EPIL must first be a good law. Only by achieving the purpose of good environmental governance can we promote the sustainable development of society and promote the harmonious development of human and nature. Therefore, while acknowledging that the direct purpose and also the simplest purpose of EPIL is protecting environmental public interests, this article will discuss the pluralistic purposes. This is the theoretical high ground that should be occupied so that can lead the entire system to develop and improve. This article believes that the purpose of EPIL should be pluralistic, including the four major purposes of good environmental governance, environmental equity, environmental justice and harmonious development. Compared with environmental justice, environmental equity, and good environmental governance, it can be seen that the harmonious development is unique in the theory of

[30] Michael D. Bayles*: Principles of Legislation: The Uses of Political Authority （Chinese translation）* Encyclopedia of China Publishing House, 1996, p. 21.

the purpose of EPIL. "Harmony" is the highest value of development, and the governance of the modern country is the development of "harmoniousness is good".[31]

The pluralistic purpose of the civil litigation was put forward by the Japanese scholar Shindoh Koji. In his article “The Significance of the Theory of the Purpose of Civil Litigation”, he thought that the maximum value that should be achieved in the civil litigation system should be taken into consideration as the guiding principle of the interpretation theory and the legislative theory (the value that should be pursued).[32] Assuming that one should wonder then what kind of changes will occur in the nature and types of civil litigation purposes, Shindoh Koji believes that whether it is rights protection, the maintenance of private law order, or the resolution of disputes, these can all be considered as the purpose of civil litigation. However, there is a potential conflict or tension between these values based on different circumstances. Based on this understanding, he further argued that emphasising which value should depend on the situation. It is necessary to make choices based on specific circumstances; this choice is a task of the interpretation theory and the legislative theory. In other words, the theory of the purpose by Shindoh Koji began to promote the so-called Pluralism.[33] Just as Shindoh Koji promoted the reasons for pluralism, I believe that whether it is environmental equity, environmental justice, good environmental governance or harmonious development, there is an underlying tension between them. The level of importance is based on specific circumstances.

4． Conclusion

Just as “The pluralistic and relativity of values of contemporary civil litigation decided the theory of pluralism of the purpose of civil litigation”[34], in summary, the theory of the purpose is a complex issue that depends on pluralistic values in the different situation. Pluralism of the purpose of EPIL is suitable for the development and

[31] Cited from Zhang Wenxian: *Introduction to Socialist Legal Ideas,* Jurists, 2006(5): pp. 6-15.
[32] Shindoh Koji: *New Civil Procedure Law*. Translated by Lin Jianfeng. Law Press-China, 2008, p. 6.
[33] Takahashi Hongzhi, *Civil Procedure Law*. Translated by Lin Jianfeng. Law Press-China 2003, p. 9.
[34] Jiang Wei, *Chinese Civil Procedure Law Course*, Renmin University of China Press, 1994, p. 36.

improvement of the rule of law. Hence, pluralism of the purposes of EPIL includes environmental equity, environmental justice, good environmental governance and harmonious development. In general cases they are equal, it depends on different circumstances to choose one of them to be the priority purpose. EPIL is the procedural safeguard and one of the ways to achieve environmental equity, environmental justice, good environmental governance and harmonious development, and all of them are reflected in laws. The continuous development and improvement process of EPIL is the process of constantly pursuing these four purposes. Finally, the ultimate purpose of EPIL is to maximise environmental, economic and social interests.

Undoubtedly, the purpose of litigation is not only the foundation and starting points of the establishment of legal systems of litigation theory but also the essential factors and the ultimate goals of litigation practice. EPIL is the development and progress of legal systems, which is not only the era requirement of rights relief but also the important method of rights protection; this is the internal requirement of the essence of law – equity and justice. The purpose of EPIL is the basis of theoretical research; it is the theoretical foundation and the spiritual guidance for the construction of legal systems. Only clarifying the purpose of EPIL can reinforce the foundation and do further, more detailed research which can make the system of EPIL be reasonable, scientific and perfect.